SON of Texas, Mr. RUDD, Mr. WALKER, Mr. DAN DANIEL, and Mr. JOHN T. MYERS):

H. Con. Res. 78. Concurrent resolution expressing the sense of Congress in opposition to the grant of blanket amnesty or pardon for Vietnam related draft or military absence offenses; to the Committee on the Judiciary.

By Mr. PRESSLER:

H. Con. Res. 79. Concurrent resolution expressing the sense of the Congress that the President should not transmit to the Congress any recommendations with respect to rates of pay for Members of Congress; to the Committee on Post Office and Civil Service.

H. Con. Res. 80. Concurrent resolution to disapprove the determination of the President denying import relief under the Trade Act of 1974 to the U.S. honey industry; to the Committee on Ways and Means.

By Mr. PRESSLER:

H. Res. 152. Resolution disapproving the pay recommendations transmitted to the Congress by the President which related to Members of Congress; to the Committee on Post Office and Civil Service.

By Mr. STUDDS:

H. Res. 153. Resolution providing monetary allowances for toll-free telephone service for telephone calls to the district offices of Members of the House, and for other purposes; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

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

By Mr. ADDABBO (by request):

H.R. 2367. A bill for the relief of Mauritz A. Sterner; to the Committee on the Judiciary.

H.R. 2368. A bill for the relief of Samuel H. Williams of Saint Albans, N.Y.; to the Committee on the Judiciary.

By Mr. LEGGETT:

H.R. 2369. A bill for the relief of Natividad Casing and Myrna Casing; to the Committee on the Judiciary.

H.R. 2370. A bill for the relief of Mary Anne Siguenza Come; to the Committee on the Judiciary.

By Mr. O'BRIEN:

H.R. 2371. A bill for the relief of Antoine Dessolis; to the Committee on the Judiciary.

By Mr. RANGEL:

H.R. 2372. A bill for the relief of Milo E. Chisholm, Elfreda V. Chisholm, and Norma V. Chisholm; to the Committee on the Judiciary.

By Mr. ROGERS (by request):

H.R. 2373. A bill for the relief of Miguel Guillermo Correa; to the Committee on the Judiciary.

H.R. 2374. A bill for the relief of Olga Lucia Calad de Correa; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII:

34. The SPEAKER presented a petition of MCI Telecommunications Corp., Washington, D.C., relative to requesting an investigation of alleged improper political activities of the American Telephone & Telegraph Co., and the Bell System Co.'s, which was referred to the Committee on Interstate and Foreign Commerce.

SENATE—*Monday, January 24, 1977*

(Legislative day of Wednesday, January 19, 1977)

The Senate met in executive session at 2 p.m., on the expiration of the recess, and was called to order by Hon. SPARK M. MATSUNAGA, a Senator from the State of Hawaii.

PRAYER

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

O God, whose rulership transcends all earthly powers, whose law is supreme and in whose will is our peace, guide we beseech Thee, all who bear the responsibilities of government in this land. Sanctify our love of country that our patriotism may be transformed into service to all mankind. Be with the President of this Senate on his mission across the continents carrying the good will and hopes of this Nation to many peoples and many nations. Grant him safe travel, good health, and wisdom in all his actions. Bestow Thy blessing upon all Members of this body, granting unto them grace and wisdom to be effective legislative craftsmen for the well-being of the whole Nation.

Through Him who showed us the way of the Servant. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., January 24, 1977.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. SPARK M. MATSUNAGA, a Senator from the State of Hawaii, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

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

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Thursday, January 20, 1977, be approved.

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

EXECUTIVE SESSION

The ACTING PRESIDENT pro tempore. The Senate having recessed in executive session Thursday last, the session is resumed in executive session.

Mr. ROBERT C. BYRD. Mr. President, I ask that the clerk report the nominations placed on the Secretary's desk in the Coast Guard and in the National Oceanic and Atmospheric Administration.

NOMINATIONS ON THE SECRETARY'S DESK—COAST GUARD AND NOAA

The second assistant legislative clerk proceeded to read sundry nominations in the Coast Guard for appointment to the grade indicated.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominations be considered and confirmed en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

The second assistant legislative clerk proceeded to read sundry nominations in the National Oceanic and Atmospheric Administration for appointment in the grade indicated.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominations be considered and confirmed en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

(All nominations confirmed today are printed at the conclusion of the Senate proceedings.)

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

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

Mr. ROBERT C. BYRD. Mr. President, I yield to my distinguished senior colleague 2 minutes of my time.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

LOWERING THE THERMOSTAT

Mr. RANDOLPH. Mr. President, I am appreciative to the leader for providing me this opportunity to call attention to something that perhaps might seem insignificant, but which I believe is important.

I carry with me from committee to committee and in the Senate Chamber this thermometer, that I hold in my right hand. The temperature in the Senate today, as we begin our session is 76 degrees. President Carter has mandated that thermostats in Federal buildings be set at 65. This would be 10 degrees cooler than our Chamber.

Of course, a little later, with vocal warmth and body heat, the 76 degrees will perhaps rise to 80 degrees.

Members will remember that last year and the year before I carried this thermometer on the Hill, and will continue to do so, after today—I hope with good grace—to call attention to the overheated conditions in the Senate Office Buildings and in the Capitol itself.

We hope there can be cooperation and compliance with this goal. We can

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conserve energy and be comfortable in our work.

Mr. ROBERT C. BYRD. May I say to my colleague that the appropriate personnel are being instructed on the Senate side of the Capitol to take action to conform with the President's request.

Mr. President, I reserve the remainder of my time.

Mr. RANDOLPH. I commend the leader, Mr. ROBERT C. BYRD, for this action.

ORDER FOR RECOGNITION OF SENATOR HATFIELD TOMORROW

Mr. BAKER. Mr. President, I have a unanimous-consent request of the distinguished senior Senator from Oregon for a special order for 15 minutes tomorrow.

Mr. ROBERT C. BYRD. Mr. President I ask unanimous consent that after the two leaders or their designees have been recognized under the standing order on tomorrow, Mr. HATFIELD be recognized, as in legislative session, for not to exceed 15 minutes.

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

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, might I ask the distinguished majority leader, is it his intention now to proceed immediately under the unanimous-consent agreement, to the consideration of the confirmation of Mr. Califano?

Mr. ROBERT C. BYRD. Yes. May I say to the distinguished Republican leader, I am ready to yield back my time under the standing order if the Senator would wish to do so, and the Senate will then proceed on the nomination.

Mr. BAKER. Mr. President, I have no request for time as if in the morning hour. I yield back the remainder of my time under the standing order.

The ACTING PRESIDENT pro tempore. The leadership time has been yielded back.

APPOINTMENT BY THE VICE PRESIDENT

The ACTING PRESIDENT pro tempore. The Chair, on behalf of the Vice President, pursuant to the provisions of title XX, United States Code, sections 42 and 43, appoints the Senator from Washington (Mr. JACKSON) and the Senator from Rhode Island (Mr. PELL) as members of the Board of Regents of the Smithsonian Institution.

SECRETARY OF HEALTH, EDUCATION, AND WELFARE

The ACTING PRESIDENT pro tempore. Under the previous order of the Senate, the Senate will now proceed to the consideration of the nomination of Joseph A. Califano, Jr., of the District of Columbia, to be Secretary of Health, Education, and Welfare. Time for debate on this nomination is limited to 2 hours, to be equally divided and controlled by the Senator from Louisiana (Mr. LONG) and the Senator from Tennessee (Mr. BAKER).

The Chair recognizes the Senator from Louisiana.

Mr. LONG. Mr. President, I yield myself such time as I may need.

President Carter has nominated for the post of Secretary of Health, Education, and Welfare Joseph A. Califano, Jr., a man whose background and capabilities fully qualify him for that job. He has enjoyed a highly distinguished career both within and outside of Government. During the administration of President Kennedy, he served in a number of capacities within the Defense Department including a term of General Counsel of the Army. Under President Johnson, Secretary-designate Califano was the President's major adviser on domestic affairs.

In accepting President Carter's invitation to take on the responsibility of running the Department of Health, Education, and Welfare, Mr. Califano has set for himself a formidable task. That Department has more than 140,000 employees, and it is responsible for well over a third of the entire Federal budget—some $160 billion. Simply on this basis of its mammoth size and the diversity of its programs, the Department of Health, Education, and Welfare is frequently called "unmanageable."

In his appearance on January 13 before the Committee on Finance, Secretary-designate Califano convincingly indicated that he does not share this pessimistic view. He is a man who has both the capability and commitment to manage the Department.

While size and complexity may be the most immediately striking characteristics of the Department of Health, Education, and Welfare, they are not its most important characteristics. The reason why that agency has so many employees and spends so much money is that Congress has entrusted to it some of the most vital responsibilities which Government today has undertaken on behalf of the people whom the Government serves. Virtually every American is personally and deeply affected by one or more of the programs which this Department oversees. Thus, while it is important that the Department of Health, Education, and Welfare have at its head a man of managerial competence, that ability is not enough. The Secretary of Health, Education, and Welfare must also be a person of compassion and commitment—a person who sees the job not merely in terms of running one of the biggest agencies in Government, but also in terms of carrying out faithfully and humanely the mission of dealing with the health, education, and welfare needs of the American people.

On the basis of his record and on the basis of his appearance before the Committee on Finance on January 13, I am convinced, and a majority of the committee is convinced, that Joseph A. Califano, Jr., should be confirmed as Secretary of Health, Education, and Welfare. He has the necessary ability to manage the Department well, and he has the necessary commitment and character to see that his administration of that Department is not only efficient but also effective. I think his attitude toward the task before him was well expressed in his words to the Committee on Finance:

> The opportunity to lead this Department is the opportunity to help to do the noblest work of a civilized nation—to help educate the young, to help improve the health of our citizens, and to help provide the income security to enable the old, and the poor, and the disabled to live their lives in human dignity and with peace of mind.

Mr. President, the Committee on Finance conducted a hearing on the qualifications of Joseph A. Califano, Jr., to be Secretary of Health, Education, and Welfare and subsequently voted, with one dissenting vote, in favor of approving that nomination. I urge the Senate to confirm the nomination of Mr. Califano.

Mr. BAKER. Mr. President, I yield myself such time as I may require.

Notwithstanding that the remarks I am about to make are in support of the nomination of Mr. Califano, I have yielded myself the time to do that and I ask unanimous consent that at the conclusion of my remarks I may transfer control of the time in opposition to the distinguished junior Senator from Oregon (Mr. PACKWOOD).

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

Mr. CURTIS. Mr. President, will the Senator give me 1 minute when he gets through?

Mr. LONG. Mr. President, I suggest that the time be charged to those who favor the confirmation.

Mr. BAKER. Mr. President, I have talked to Senator PACKWOOD about it and there is no difficulty in that respect.

Mr. President, today the Senate turns its attention to the nomination of Joseph A. Califano to be Secretary of Health, Education, and Welfare. The Califano nomination was reported from the Finance Committee by a vote of 15 to 1 and is scheduled for consideration during this legislative day, pursuant to a unanimous-consent order limiting the time of debate to 2 hours.

Mr. President, I have known Joe Califano for many years. I count him as a personal friend; I esteem him as a distinguished lawyer; I admire him as a skillful and capable Democratic politician. He served as a trusted adviser to former President Lyndon Johnson for many years. Many of the programs which Secretary Califano will be called upon to administer were born of his originality. I believe Joe Califano has the courage, the conviction, the strength, the compassion, the realism, and the understanding to be a great Cabinet officer and to serve with unique distinction as Secretary of this Department. I trust that the Senate will confirm him by an overwhelming vote and I extend to him in advance my congratulations.

Mr. President, I have a request for 1 minute from Senator CURTIS. I yield control of the time to the Senator from Oregon with the understanding he might accommodate our distinguished colleague from Nebraska (Mr. CURTIS).

Mr. PACKWOOD. Yes. I yield a minute to the Senator from Nebraska.

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

Mr. CURTIS. Mr. President, I shall support this nomination. In doing so, I want to state my feelings about the matter.

I believe that the responsibilities on the President of the United States, regardless of who he may be, are so great and so heavy in the discharge of that office—the most powerful office in the world—that he is entitled to a Cabinet of his own choosing.

I believe the free selection of that small group of intimate advisers and helpers should belong to the President.

I do not believe that I should interpose my judgment as to their qualifications. In some instances I might very well disagree with them. I might very well believe they are not a wise choice or not the best choice.

Nevertheless, the general rule that I choose to follow is that for the Cabinet—and this does not apply to other officers—that I shall grant that right to the President to have a Cabinet of his own choosing.

I thank my distinguished colleague.

The ACTING PRESIDENT pro tempore. The time of the Senator from Nebraska has expired.

The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I ask unanimous consent to have printed in the RECORD a letter to Senator WILLIAMS from the National Abortion Rights League questioning Mr. Califano's views on abortion, not opposing him, but questioning his views on abortion; together with a list of other organizations having the same questions; and a letter from the Women's Lobby of January 21, 1977.

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

NATIONAL ABORTION RIGHTS ACTION LEAGUE,
Washington, D.C., January 14, 1977.

The National Abortion Rights Action League presented testimony before the Senate Labor and Public Welfare Committee on January 13, 1977. The attached testimony in the form of a letter to Committee Chairman Senator Harrison A. Williams, Jr. outlines our opposition to the anti-abortion statements by Secretary-designate of DHEW, Joseph Califano.

The following organizations join NARAL in taking issue with the discriminatory remarks made by Mr. Califano regarding public funding for abortion:

Religious Coalition for Abortion Rights.
National Organization for Women.
National Women's Political Caucus.
Coalition of Labor Union Women.
Democratic National Committee Women's Caucus.
Democratic Farm Labor Feminist Caucus.
National Organization of Non Parents.
Planned Parenthood/World Population.
Alan Guttmacher Institute.
National Black Feminist Organization.
Washington Women's Representative.
American Civil Liberties Union.
Women's Lobby.

NATIONAL ABORTION RIGHTS ACTION LEAGUE,
Washington, D.C., January 13, 1977.

Hon. HARRISON A. WILLIAMS, Jr.,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR WILLIAMS: As you undertake the confirmation hearings upon the appointment of Joseph Califano, Esquire, as Secretary of Health, Education and Welfare, there are certain concerns which we believe must be openly expressed.

It has become clear that Mr. Califano is personally deeply opposed to abortion for his own moral and religious reasons and opposes federal funding for all abortions. What is not clear, however, is what effect Mr. Califano's personal beliefs may have upon official government policy regarding funding of abortion services for the disadvantaged of this country. Our concerns about the conflict between Mr. Califano's personal views and policy decisions he will be called upon to make in his official capacity are threefold in nature.

Mr. Califano's strong commitment to civil rights in guaranteeing the same civil liberties to all Americans regardless of race, religion, or economic status has long been recognized. This is in direct conflict, however, with his apparent willingness to openly discriminate against indigent women by denying them access to legal abortion services readily available to other women. It is unthinkable that someone who has fought for the rights of the underprivileged could now be blind to the discriminatory nature of his statements against funding abortion services for the poor.

Secondly, it is surprising that a leading civil rights attorney would make such emphatic statements knowing that federal courts have consistently held that withholding of funds for abortion services is unconstitutional when funding is available for prenatal and delivery care. These courts have determined that such prohibitions are discriminatory and in violation of the equal protection clause of the Constitution. To us, such prohibitive actions are coercive in that pregnancy, is a condition which requires medical treatment regardless of the outcome. Therefore, the poor are not allowed a choice and are unable to fully exercise their constitutionally guaranteed right to choose abortion.

Thirdly, because of the inherent conflict between Mr. Califano's own beliefs and the current government policy in providing Medicaid reimbursement for abortion, it is imperative that he be publicly able to distinguish clearly between these two opposing interests. It would be deeply disturbing to see a Secretary attempt to undermine or restrict current policy solely upon the basis of moral and religious beliefs not shared by the majority of the American public.

We hope that Mr. Califano will be cognizant of these apparent inconsistencies and will attempt to examine all aspects of the issue carefully as it affects the entire nation, with its many different moral and religious persuasions.

President-elect Carter has often referred to his hope of minimizing the need for abortion through improved contraceptive and family planning services. It is our sincere hope that the religious convictions of Mr. Califano leading him to his opposition to abortion will not block his enthusiasm in promoting Governor Carter's concern that all those who need and desire family planning services be able to receive them.

These are matters which deeply affect the lives of millions of Americans. We believe they merit frank and open discussions.

Sincerely,

KAREN MULHAUSER,
Executive Director.
CAROL WERNER,
Legislative Director.

WOMEN'S LOBBY, INC.,
Washington, D.C., Jan. 21, 1977.

DEAR SENATOR: The Women's Lobby is opposed to Joseph Califano's nomination as Secretary of Health, Education, and Welfare because he is unalterably against federal funding for abortions. Twice last year the Senate voted against the Hyde Amendment, incontrovertible evidence of broad Senate disagreement with his views.

300,000 Medicaid abortions are performed each year. Califano would force these women to bear unwanted children or resort to back alley abortions. The cost of an abortion is $150; that of a live birth $600. It costs $1,000 per year for a poor child. These women depend on you for their health care.

The Supreme Court will not have time to consider the constitutionality of the Hyde Amendment in this term. Therefore, when appropriations will next be considered, funding of Medicaid abortions will once more become problematical. In addition, the Carter administration has promised some sort of National Health Insurance package by the end of the year. In both instances, the Secretary of HEW would be in a powerful position to affect a poor woman's access to the right to an abortion as guaranteed by the Supreme Court, through his recommendations.

We urge you to vote against the confirmation of Joseph Califano. It is vitally important to all women, rich or poor.

Sincerely,

CAROLINE BODE,
Director of Abortion and Health Projects.

Mr. PACKWOOD. Mr. President, I would normally share the view of the Senator from Nebraska about not voting against a Cabinet nominee, giving the President the Cabinet that he wants.

I feel so strongly about this issue, however, of legalized abortion, that I cannot bring myself to vote for Mr. Califano—and it is solely because of that issue.

When he appeared before the Finance Committee, I questioned Mr. Califano very closely on this subject.

To review the law before we get into this, I mean the current law, the Supreme Court decision standing at this moment has legalized abortion.

In addition to that, there is now pending in the courts, the resolution of the so-called Hyde amendment which was inserted in the Labor-HEW appropriation bill last year, barring the use of any Federal funds for abortion. That issue has not yet been resolved by the Supreme Court.

But in questioning Mr. Califano, I asked him some questions and I want to read those specifically into the RECORD, with his answers:

Senator PACKWOOD. "What would your recommendation be as far as authorizing similar types of amendments [i.e. similar to the Hyde Amendment restricting the use of Federal funds for abortions] to appropriation legislation next year? . . .

Mr. CALIFANO. It would be exactly what Governor Carter's would be, that he repeatedly said during the campaign. We would recommend that Federal funds not be used to provide abortions.

Senator PACKWOOD. In the Medicaid or any other Federally funded program?

Mr. CALIFANO. That is correct.

Mr. President, what that means, first, is no Federal money in any of the foreign aid appropriations would be used for abortions, no money for medical research if it involved research on abortion, no money to the veterans' hospitals for abortions.

Even in States where abortions were legal before the Supreme Court decision, no federally funded program of any kind shall be allowed to use any money for abortions if Secretary-designate Califano and President Carter have their way.

To quote further from the hearings:

Senator PACKWOOD. I want to be sure that

what you are saying is laid out clearly. If you had a choice—not a law—but you have a choice to make a recommendation, your recommendation would be that no Federal funds will be used for those 250,000 or 300,000 poor women, medically indigent, mostly minorities, who could not otherwise afford abortions?

Mr. CALIFANO. That would be my position. That would be my recommendation and the position of the Carter Administration.

Senator PACKWOOD. What we are saying, as far as the Carter program goes, with all the Planned Parenthood facilities, all the homes for unwed mothers, all the decent facilities to take care of them, if that woman wants to have an abortion and is poor and cannot afford it, tough luck.

Mr. CALIFANO. Senator, what I am saying is that we should reduce those cases to the greatest extent possible.

Senator PACKWOOD. Still, tough luck, as far as Federal help is concerned.

Then I changed to the subject of the actual constitutionality of legalized abortion and I asked Mr. Califano as follows:

Senator PACKWOOD. Is it your position that you are opposed to an amendment to overturn the Supreme Court's position?

Mr. CALIFANO. I oppose any amendment.

Senator PACKWOOD. You would leave the Supreme Court decision which says that a woman as a matter of right can have an abortion?

Mr. CALIFANO. I would leave that standing.

* * * * *

Senator PACKWOOD. The conclusion comes down to this. You are personally opposed to any Constitutional amendment to change the decision, leave it as it is, the woman has a right to an abortion.

If the woman is poor and has no other access to an abortion, she will not get Federal funds for it?

Mr. CALIFANO. Federal funds are not appropriate for it, to use Federal funds for an abortion, for women rich or poor.

I cannot emphasize the passion that Mr. Califano displayed in the answering of these questions. I cannot emphasize how often he indicated that his position and that of President Carter are identical on this issue.

At the end of the cross-examination, there were some who support my position on legalized abortion who came up to me and congratulated me for having painted Mr. Califano into a corner. I shook my head and said, "No; he was not painted into a corner, he went there voluntarily." Because in his testimony before the Finance Committee, and before the Labor and Public Welfare Committee in his other nomination hearing, any time he wanted to avoid a question, he did. Any time he was not prepared to answer, he did not. But when it came to the issue of abortion, he was waiting to answer, willing to answer, wanting to answer; and so passionately, so vigorously, that I think it is impossible that Mr. Califano, as Secretary of Health, Education, and Welfare, will be able to fairly administer the laws involving abortion, assuming that the Supreme Court says women in this country continue to have a right to an abortion, and that they continue to have a right to Federal funds to help them.

With feelings that passionate—and he is sincere—I think it unwise to have a man in the Cabinet position most sensitive to this issue of abortion.

For that reason, I will oppose his nomination.

Mr. GRAVEL. Will the Senator yield?

Mr. PACKWOOD. Yes.

Mr. GRAVEL. Mr. President, I was not there at the hearing, the beginning of it, when the question was posed. I was there when a line of questioning was posed by colleagues on our side of the aisle.

As I recall his response with respect to abortion, he said that he personally disagreed with them. I could understand that. But he also said he would obey the law of the land.

Maybe my colleague is aware of something I am not aware of.

However, I share the same view as that of the distinguished Senator from Oregon, and I have a great deal of respect for the leadership he has shown in this area. I feel very strongly about this matter. I went to the hearings with some very strong views.

I heard Mr. Califano's response, that he held a personal view; and he is entitled to hold that personal view. But when he stated, with respect to Federal policy, that in his position as Secretary of HEW he would follow the law of the land, I was assuaged with respect to the difference between my views and his.

I wonder whether the Senator from Oregon will elucidate for me where he undoubtedly parts company with me in this regard.

Mr. PACKWOOD. First, I suppose we are far enough removed from Cabinet officials who were violating the law of the land so that we do not find it necessary to ask a Cabinet official, "Will you uphold the law of the land?"

I can understand why they all have said, "Yes, I will enforce the laws."

I hope that the trust in our Government will increase rapidly enough so that this kind of answer will not be necessary.

What bothered me was the passion in his statements, his feeling, his vivid description of his innermost feelings, that within whatever discretion the law allowed, he would bring the weight of his office, the weight of his personality, and the weight of President Carter's prestige to limit abortions in any fashion possible. That bothered me, first.

Mr. GRAVEL. Did he say that?

Mr. PACKWOOD. Oh, yes, very clearly.

He is opposed to the use of any Federal money. It is his personal opinion.

I asked him about the situation, if the Hyde amendment is found to be constitutional, and we are in a position to add this restrictive language to every kind of authorization or appropriation bill that comes along, be it medical research, foreign aid—if there is the discretion to make that recommendation. He will push that. He will attempt to stop Federal funds for any purpose in which abortion is related.

Of course, we do not know the outcome of the Hyde case, because it is now before the court

I hate the thought of having somebody in that position who is going to speak on behalf of himself and on behalf of the administration and at every opportunity urge Congress to pass restrictive anti-abortion legislation.

Mr. GRAVEL. That, of course, is a policy position. I certainly cannot fault Mr. Califano.

My colleague may be right in the interpretation of a passionate statement. It is a very passionate subject. We had 40,000 people here over the weekend to prove how passionate it was, and still is.

I do disagree with him, but he says that he is going to obey the law of the land. People may disagree with capital punishment, but if a person is in charge of execution, he can step away from the job or follow the law. In his case, he has given us assurance that he will follow the law of the land. If that law becomes ambiguous in many areas, it will not be only he who will be vigilant in this process, but so will the Senator from Oregon and I. I think it is incumbent upon us to see that the law is very precise and that it is interpreted by the judiciary in the way we feel it should be. We should keep passing laws until we get that interpretation. But I do not think we can disqualify a person of the caliber of Mr. Califano. I was very impressed with the rest of his responses. In fact, I was impressed with his candor.

He was party to the Great Society; yet, he was the first one to recognize that this has led us into some difficulties. He was not glib with his answers.

So I think we have a mature individual who, as a matter of conscience, answered the Senator from Oregon in a very honest and straightforward fashion. I would be more suspicious if he gave the Senator a very political answer and then the Senator knew privately the view that Mr. Califano held.

Mr. PACKWOOD. I say to the Senator from Alaska that last year there was a matter that never got to the Senate floor; but twice, as I recall, committees turned down nominees of President Ford. In one case it was the nomination of Joseph Coors to the Board of Directors of the Public Education Broadcasting System. He was turned down because he was regarded as too philosophically conservative. I thought it was a mistake.

In the Committee on Banking, Housing and Urban Affairs, on which I serve, we turned down former Representative Ben Blackburn to be a member of the Federal Home Loan Bank Board, mainly because of his racial views and racial statements. It was not a question of competence. We felt that a man who feels that strongly should not rise to the dignity of having his nomination sent by the committee to the floor of the Senate.

So it is not unusual for Members of the Senate to look at a nominee and consider only whether he is going to uphold the law. I hope they all will. But we just find his personal views so out of touch, so persona non grata, and so irrelevant to what is going on today, that we cannot find him a suitable appointee. That is the way I feel about Mr. Califano

Mr. GRAVEL. I respect the view of the Senator from Oregon, who is a very fine Member of this body. On exactly the same pattern of questions, I can only say that I fall on the opposite side. I think it happens frequently in this body.

Mr. Califano, as a matter of moral belief, is entitled to hold some very strong views that may be at variance with my views, particularly with respect to abortion. I am persuaded that when he appeared before us and when he paid a courtesy call in my office—as I am sure

he paid to my colleague from Oregon—he responded to the questions in an honest and straightforward fashion, as I am sure he responded to the Senator.

I am impressed by Mr. Califano's humility, by his recognition that he does not have all the answers, by his recognition of what the major problems are in our society today, in the fact that he is going to proceed in a very deliberate and very open fashion to address himself to those problems.

I hold the same views as does the Senator from Oregon, very strongly, that the poor should be entitled as a matter of right to the same privileges as those who are better endowed financially in our society.

Perhaps the record in the future with respect to Mr. Califano might warrant my changing my mind. I do not think so. On that premise, I will support him very strongly and very aggressively and enthusiastically. I think he can provide leadership in the difficult office of Secretary of HEW.

I respect the views of the Senator from Oregon, who I respect very deeply. I thank him for yielding to me.

Mr. PACKWOOD. I thank the Senator from Alaska. He and I have fought many battles on the same side, and I know we will do so again in the ensuing Congress. He holds his views as sincerely as I hold mine. I regard him as a friend.

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

Mr. PACKWOOD. I yield to the Senator from New York 3 minutes.

Mr. JAVITS. Mr. President, I have the same problems with this nomination as does the Senator from Oregon.

The ameliorating difference is very much like that of the Senator from Alaska.

I see my colleague from New York sitting in the manager's chair, and I congratulate him. He perhaps feels the same way.

In any case, Mr. Califano has so many advantages over that disadvantage that I shall vote for the confirmation of his nomination. I heard him thoroughly. I respect his views. They are sincere on the issue of abortion. I could not disagree with him more.

We have faced the struggle on the floor of the Senate because of the distortion which is involved in thinking that we are legislating something. We are preventing a curbing of individual human rights—to wit, the right of a woman to decide what will happen to her.

The Supreme Court has decided very effectively, and I think appropriately, the issue of the public interest which arises at a given point in a pregnancy and has laid down appropriate rules to deal with that particular contingency.

I believe that we have an opportunity to get an excellent Secretary of Health, Education and Welfare and to stand our ground with respect to this individual human right of abortion as it has been defined by the U.S. Supreme Court.

In every other respect, Mr. President, I find him an admirable candidate. He is the first one who perceived the true limits of the alleged counterfeiting and cheating in welfare as being confined to a very limited class, while we threatened to be unjust to the overwhelming majority of those who really need it—those who could not manage themselves, the handicapped, the blind, infants, and so forth. That was very perspective. He is a very able man.

I believe he will manage a good department. He will be humane, and at the same time he will be hardheaded.

We shall work with him a great deal in the Committee on Labor and Public Welfare, where I have the honor to be the ranking member at this time, and I look forward to it.

So, Mr. President, I commend him to the Senate, on balance, even though I thoroughly disagree with him on the subject of abortion; and I will fight him tooth and nail, whatever position he may take to seek to hinder or hamper the individual human right which is involved in that particular issue.

Mr. DOMENICI. Mr. President, will the junior Senator from New York yield me 5 minutes, to speak in favor of Mr. Califano?

The PRESIDING OFFICER. Does the Senator from New York yield?

Mr. MOYNIHAN. I yield.

Mr. DOMENICI. Mr. President, I thank my good friend from New York.

At the outset, I regret to say that I have very opposite views from the distinguished Senator from Oregon. I greatly respect his convictions and his views and those of the senior Senator from New York on this issue. But I could not agree more with those who support Mr. Califano wholeheartedly, for I do not think there are any disabilities expressed here in his testimony, and I reviewed that carefully, also.

I find it difficult to oppose him on the question of abortion both insofar as he personally disagrees with abortion and on the point that he would not recommend the use of Federal funds to finance abortions if the Hyde amendment were stricken down by the courts, because I summarized in these next two or three sentences what I think he has said.

Here is what I believe has been said about this nomination by its opponents; when the heated rhetoric is stripped away, this is what they are really saying.

This man agrees with the majority of Congress, No. 1, which passed the Hyde amendment. This man agrees with the position on abortion expressed by the immediate past President of the United States, Gerald Ford. This man agrees with the position expressed by our new President, President Carter, and by a large number of Americans.

So, it seems to me that this nominee's personal views could not interfere with the proper discharge of the law of the land because he has said that. And so long as he says that, how could we deny this man an appointment when he agrees with the majority of Congress that passed the Hyde amendment, when President Ford, the outgoing President, agreed precisely with his views, and when our new President agrees precisely with his views?

It seems to me that it is indeed rhetoric to attack him on this particular issue.

Mr. President, I have a rather detailed statement, but I wish to exchange views on this subject particularly with my good friend from Oregon, because I do believe that having been here for 4 years in this Senate we are confusing the exercise of a right, when we speak of abortion, and the concept of equal access to rights.

What we seem to be saying is that because our Supreme Court determines that there is a right somehow or another this institution, directly or indirectly, is compelled to pay for the exercise of that right.

And I find that a very strained interpretation of the constitutional concept of rights in this country, where I think we are libertarian but not egalitarian where everyone is supposed to have equal access.

I will ask: Are there not many who claim that freedom of the press is exercised by a small group? And for those who say rich people can get abortions I would say, do rich people not own the press? There are those saying that because it is a right we have to pay for the exercise of the right so that it will be equally available to all. I do not find that to be part of the American doctrine of equal rights.

It appears to me that this body for 4 years has played ostrich, because the Supreme Court ruled that this was a right, we had a medicaid program in place and we assumed that we would wash our hands of it and let it take its normal course.

The right thing would have been to conduct hearings immediately after that and let this institution, the institution representing the people, determine whether or not we wanted to pay for the exercise of those rights under an ongoing kind of omnibus medical program. And we have yet to do that.

We stand here and say he is going to violate a law. He is talking about how well we give people access to a right, which is a continuing problem in America, and we do not stand on our feet and fund every denial of a right by paying for its exercise.

So it appears to me that the issue is not whether Mr. Joseph Califano is suited for the position. In all other respects he is an admirable man. His testimony is significant on the idea of commitment and concern for the goals and objectives of the Department of HEW. I do not believe we have one iota of business in turning him down because of the way he feels about this subject when no one here has ever conducted a full hearing on what the taxpayers' dollar ought to be spent for in terms of the practice of that right which has many overtones, moral and otherwise, that many are concerned about.

How can we deny him that when, as a matter of fact, as I said before, the outgoing President is for it, the new President is for it, and as a matter of fact, if one wants to count heads, the majority of Congress is for it?

I support the nomination of Joseph Califano to be Secretary of Health, Education, and Welfare.

I have listened to the arguments of my colleague from Oregon and have completely reviewed the transcript of exchanges between the nominee and my colleague during the committee hearings.

If we intend to oppose this nomination, I believe we must do so on the strength on an impairment so central to the discharge of the Secretary's duties as to constitute a barrier to adequate performance. We should oppose this, or any other, nomination on the basis of a matter essentially decided by the American people, by the Congress, and by the executive branch.

I find it difficult to oppose Mr. Califano on the question of abortion, both insofar as he personally disagrees with abortion and as he would not recommend the use of Federal funds to finance abortions if the Hyde amendment were stricken down by the courts.

Here is what has been said about this nomination by its opponents when the heated rhetoric is stripped bare: This man agrees with the majority of Congress, which passed the Hyde amendment; this man agrees with the position on abortion expressed by the immediate past President of the United States, by the new President of the United States, and by a large number of Americans; and, this nominee's personal views will not interfere with his proper discharge of the law of the land, regardless of what that law may turn out to be.

In sum, we have before us a man fully qualified by past experience, by intelligence, by integrity, and by commitment. He happens to disagree with some of my colleagues on a question of the most serious moral nature. He happens to believe as I do, although I would oppose him, despite our similar feelings, if he were sufficiently deficient in those skills and attributes central to the job President Carter has offered him.

But, he symbolizes the truly deep tension that now characterizes the American people on the question of abortion. He has no wish to impose his views on others. He will carry out the law of the land. He recognizes the ambiguity of feeling even among some proponents of abortion.

Above all, Mr. Califano has shown a moral sensitivity that may be the prime requisite of his proposed post.

For a moment let me address the specific question of Federal funding on abortion. The Supreme Court has said that American women have a right to abortion. But, the court has not said that the Federal Government, that is, the taxpayers of this Nation, must fund that right.

We hear today that fatal extension of the argument of equal rights, the libertarian argument upon which this Nation was founded, to an argument of equal result—the egalitarian argument. This Nation has embarked tentatively upon a crusade for equal results among all citizens that those who founded this Nation would find curious, at best. I can find little historical justification for the argument that without equal access to a right, one of the strangest of phrases ever uttered, one does not have that right. A right exists regardless of its use. And equal results as a national goal smacks of totalitarianism and a tyranny of social planners; while equal rights and freedom to exercise those rights seems to adhere to the Constitution.

Has this Government taken to subsidization of the first amendment rights of free speech, freedom of religion, and freedom of petition?

Is not the logical extension of this egalitarian argument that soon the Government should mandate public subsidy for printing presses, radio transmitters, and television towers for all citizens who believe their rights to full free speech abridged by failure to have such devices? Are we to next subsidize buses to various churches on the grounds that those who cannot get to church are being deprived of their rights to a free expression of their religious views? Shall we next offer taxpayers' moneys to help print petitions of grievances?

Surely the very absurdity of such thoughts mitigates against the notion of equality of result, as opposed to equality of opportunity and equality of rights.

Mr. President, I close by merely noting that in every important facet of his career, Mr. Califano has shown himself as excellent choice for the post of Secretary of Health, Education, and Welfare. Until this Congress shows by majority vote that it disagrees with him on his views, I would recommend that we reject the current objections to him and confirm him posthaste.

I thank my good friend from New York.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from Oregon is recognized.

Mr. PACKWOOD. Mr. President, let me, if I might, put the remarks of my good friend from New Mexico in perspective.

First, the Hyde amendment, per se, has never passed the Senate. Every time we had a straight up and down vote on it, it failed overwhelmingly, and only in conference between the House of Representatives and the Senate, where we had the entire HEW appropriation bill to consider, did the Senate finally give in. But every time we had a chance in the Senate to vote on the pure Hyde amendment it was turned down, and turned down overwhelmingly. Do not talk about that being the majority view in the Senate.

As for the majority view in the country—and I am not going to get into an argument about public opinion polls—every public opinion poll taken in the last 2 years shows the majority in favor of legalized abortion. I do hope, however, that we rise to a higher standard in this body than just the whims of current public popular opinion. But if we are going to go on that popular opinion, popular opinion favors the position of legalized abortion and does not oppose it.

As far as Mr. Califano obeying the law, he did say he would obey the law. I assume he will obey the law. I hope he will obey the law because if I thought he would not, I would vote against him on that basis alone.

If anyone would come before the Committee on Finance or any other committee and say, "No, I do not think I would obey the law," he ought to be turned down. That is the minimum that he can say.

All I am saying is that when we get to the subject of abortion, regardless of what the Supreme Court may decide on the Hyde amendment, if there is any room for tilting one direction or another on abortion, after the Hyde amendment is decided, Mr. Califano is going to tilt against it as strongly as he can and recommend against it as long as he can.

The Senator from New Mexico talked about rights, and whether just because you have them should the Federal Government fund them.

It is an interesting argument.

The normal position that this Congress has taken over the years is that the poor should not be deprived of at least the privileges, or call them the rights, that others have in this Nation, have because they cannot afford it. So we set up legal assistance, welfare, and medicaid to provide them medical assistance because they are too poor to have adequate medical help of their own. We say no one should be denied medical help because they are poor, because, basically, all Americans have a right to medical help. But, aha, for abortion that is different.

We all sit in this body and vote to give the poor money to protect themselves against a variety of oppressions, to give them money to insure that they can protect the rights that the rest of us take for granted. And if on any issue we were to stand in this body and say, "Oh, well, the poor are entitled to their rights but, too bad, we are not going to vote the money for them to protect those rights," we would be booed out of this Chamber. We would be shamed by every editorial writer in this Nation, and rightly so—until we come to abortion, and then you say that is a right the poor are all entitled to, but there is no obligation for the Federal Government to vote money for them to obtain that right.

I find that argument a solarism. If the Senator from New Mexico and others want to follow that with consistency, I shall vote against them and admire their consistency. I have yet to see anyone else in this Chamber consistently say, "No, we are not going to vote money for the poor to protect their rights."

I reserve the remainder of my time.

Mr. HUMPHREY. Mr. President, I applaud President Carter's nomination of Joseph A. Califano, Jr., to be Secretary of Health, Education, and Welfare.

Mr. Califano served ably as top White House staff aide to President Lyndon B. Johnson, and was the Chief Presidential Adviser on Domestic Issues during 1965–69. Previously, he had filled important and complex assignments in the Department of Defense.

In the White House, he initiated a major program to rationalize the budgeting and planning process of the Government and he gained invaluable experience in the problems and complexities of executive branch reorganization. He clearly demonstrated a creative mind in his efforts to stimulate programs to help the handicapped, the sick, and the disadvantaged.

More recently, he has expressed a serious interest in matters relating to the family, an issue of growing national concern and importance. While expressing his personal views of concern about certain health programs administered by HEW, in the course of recent committee

hearings on his confirmation, Mr. Califano also affirmed his commitment to upholding and enforcing relevant laws on these programs.

Mr. President, I believe that Joseph Califano is well prepared to assume the highly important job of Secretary of Health, Education, and Welfare, by his excellent experience in Government, by his educational background, and especially by his temperament for administering the vast scope of agencies and programs which will come under his responsibility. I shall vote to confirm his nomination.

Mr. PERCY. Mr. President, I intend to cast my vote for the confirmation of Joseph A. Califano as Secretary of Health, Education, and Welfare with one note of concern.

In his confirmation hearings, Mr. Califano stated and reiterated his very strong opposition to the use of Federal funds for providing abortions. His testimony further indicated that the Carter administration would work actively, initiating action if necessary, to bar abortions under all Federal health programs, including any national health insurance plan that is enacted, if the law permits. Where the law permits federally financed abortions, Mr. Califano would enforce the law.

Mr. Califano's position raises two serious questions. First, has Mr. Califano taken care to separate his personal views from his public policy decisions? Understanding the depth of feeling surrounding the issue of abortion, Mr. Califano's personal convictions on this matter are to be respected. As Secretary of Health, Education, and Welfare, however, Mr. Califano has the responsibility to insure that his personal convictions do not interfere with public policy decisions that affect the well-being of the people he is charged to serve.

Second, has Mr. Califano fully thought through the implications of his position for the poor. His position, in effect, would deny to the poor what is available to the nonpoor as a result of a decision by the Supreme Court. As Secretary of Health, Education, and Welfare, administrator of the Nation's social programs, Mr. Califano has a special need to be sensitive to the needs of those least able to help themselves.

On this one important issue I have confidence that Mr. Califano will do justice to his confirmation by keeping an open mind on this issue so that equity and justice will be served.

This is the only reservation I have about Mr. Califano in this position of immense responsibility. I have known him for years and look upon him as one of our Nation's most gifted and dedicated public officials. I look forward to working closely with him and helping him to the extent of my ability in his new capacity in the Carter administration.

Mr. JAVITS. Mr. President, I am in profound disagreement with Secretary-designate Califano with respect to the right of individual women as a matter of free choice and without regard to their economic status to seek abortion under the Supreme Court's decision as to time.

When Mr. Califano appeared recently before the Labor and Public Welfare Committee, of which I am ranking minority member, I questioned him closely about many social issues, including his position, which I oppose, against the use of Federal funds for abortion.

Mr. President, I ask unanimous consent that such appropriate portions of the transcript of proceedings by the Committee on Labor and Public Welfare at the hearings on the nomination of Joseph A. Califano, Jr., to be Secretary of Health, Education, and Welfare be printed in the RECORD at this point.

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

TESTIMONY

Senator JAVITS. Now, finally, on the matter on which you are said to have a hang-up, which you testified to this morning, to wit: abortion, and any Federal money being used for that purpose.

I know how controversial it is, and I am not going to debate the issue with you. That would not be neither here nor there. But insofar as the law allows just because you could afford to go to a Park Avenue doctor doesn't mean you can have it, and if you can't doesn't mean you should not have it, nor is it in the public interest that there be such discrimination for social or economic reasons—as the Supreme Court tells us, this is a legitimate matter within the decision of the individual prospective mother, and social policy should accord with the law.

Now, I know what you testified—that you would see that the law is obeyed; but I do believe that we should question you on that. You're a lawyer, and a very good lawyer, and there is one way of leaning into a statute, and there is another way of leaning against it.

You're going to be the top man, and it's going to be a very hard role for you, because of the depth of your feeling. I know what you have already said, so tell us whatever you can, in all decency and conscience, as to your ability to objectively carry out the law, and not be holding back or anything like that, in fairness to those who don't agree with you.

Mr. CALIFANO. Senator, let me speak to that and also make clear my views on that subject. I have thought about this matter seriously, and over an extended period of time. I have no question about my ability to enforce the law, whatever the law is. If courts order that we are constitutionally required to provide the Federal funds for abortions, or if the Congress decides to change the law passed last year, and provide such funds, I have no qualms of conscience about enforcing that law vigorously, as vigorously as I intend to enforce all the laws that I am charged with, whether it is Title 9 or Title 6 or any other statute.

I recognize what a searing and difficult issue abortion is. I understand the views of various people on this issue and the depth with which they hold them. There are strongly held positions on all sides.

I have thought about it, and I would not have gone and even been interviewed by Governor Carter had I not been prepared to enforce a law allowing federal funding and if that is what the law becomes.

My own personal view, which is the same as Governor Carter's—and we come to the problem from entirely different cultural, social and religious backgrounds—is as follows as best and as clearly as I can set it forth.

That abortion is wrong, that Federal funds should not be used for abortion, but that alternatives should be sought vigorously to prevent abortion situations—alternatives ranging from improving our programs for teenage pregnancies, to foster care, day-care, family planning, a broad sex education, improved and facilitated adoption procedures, and what have you.

This is a free country in which every man and woman is free to express their views, and in which we are constantly seeking to legislate or adjudicate morality and fairness. If the courts of this country and the legislatures of this country decide that Federal funds should be provided for abortion, I will enforce those laws just as I will enforce every other law.

Senator JAVITS. And as a lawyer, in deep conscience, do you feel you could do that without, as I say, leaning against them because of your personal views?

Mr. CALIFANO. Absolutely, Senator. I would not sit here before this Committee if I did not feel that way.

Senator JAVITS. My last question goes to the fact—or leads to the question of conflicts of interest.

Apparently you have represented clients who have challenged the idea of using animal testing for various Pure Food and Drug purposes, and that, again, has worried a lot of people; at least that's the charge. It may not be valid, but that's what you're here to tell us—and in other ways, you know, have challenged the operation of the Pure Food and Drug Act, representing chemical companies, pharmaceutical companies, et cetera.

You know, I was a big business lawyer long before I was a Senator; I know exactly what that situation is. Everybody is entitled to a lawyer; that does not necessarily mean you agree with the client.

But now you're going to be in a very different cast, and I think the public is entitled to be satisfied. But again, you can be completely objective. We have no particular hostages to these people, or anything else, that you do your job in a decent way, and again that you won't lean against this because of your past experience.

Mr. JAVITS. Mr. President, I am satisfied that his personal views on this issue will not prevent him as Secretary from following the law respecting abortion as laid down by the U.S. Supreme Court. On balance, therefore, and in view of his other strengths and experience, I shall vote for his confirmation.

My position on abortion, which I have stated many times, is clear: I fully support the decision of the Supreme Court leaving this difficult decision to the individual woman who must bear the responsibility under the timing established by the Court. Because I believe in individual freedom and because I support voluntarism and reject social coercion with respect to this issue, I have proposed amendments not to inhibit any hospital or any individual who, because of his convictions, felt that they did not want to have anything to do with abortion. But, at the same time, this same freedom of choice relates to the enfranchisement of women who have been subjected to conditions which began in the most abject slavery and have gradually developed a freedom to be themselves and to have their own lives and to make their own decisions and to develop in the way in which they wish.

To deny abortion to any woman—particularly of the poor—would set us back generations to the Dark Ages—and be rank discrimination.

Mr. President, I know, because I was born in and lived the early part of my life in the slums of New York City. I have seen the deformations, the deaths, the

peritonitis which come from kitchen-table operations by families who simply cannot have another child, and never even had the means to prevent it from being conceived. That represents the kind of desperation which is inhuman, Mr. President. That is why the Supreme Court decided as it did, and I am with that decision.

The Supreme Court, in an exercise of great wisdom, has made a fair definition here of what is the law and what is not the law, what States may prevent and what they may not prevent. It is a compromise. It does not go all the way with either side. It tries to accommodate the national law to the exigencies of the national situation.

It is unconscionable, in my view, that a woman who is poor and, therefore, dependent on Federal funds for health care, should be denied the freedom of choice available to others who are fortunate enough to have private means to pay, and I must oppose such gross discrimination along economic lines.

Mr. President, I hope that my colleagues will join me in supporting the nomination of Mr. Califano. I wish him the best success in carrying out the social policies that are so vital to the Nation and particularly to the disadvantaged, who properly look to the Government for leadership toward change. The task he assumes is a difficult one that will challenge his many talents. I shall hope to assist him, but I shall be monitoring vigilantly, as my distinguished colleagues Senators PACKWOOD and HATHAWAY have stressed, to insure that he keeps an open mind and vigorously enforces the law of the land for all women, regardless of their economic status.

Mr. SCHMITT. Mr. President, in my view, President Carter is entitled to have persons in whom he has complete confidence as members of his Cabinet. However, I do wish to express some reservations about Joseph A. Califano, Jr. to be Secretary of Health, Education, and Welfare.

During the Finance Committee's confirmation hearings I had an opportunity to question Mr. Califano and hear his answers to numerous questions on a variety of matters. Mr. Califano clearly has the background and experience appropriate to the issues that are the responsibility of Health, Education, and Welfare and I will vote to confirm him. However, it was not made clear from his testimony that he presently has an up-to-date understanding of either the needs for efficient management of the Department or the great concerns of the American people about the over-regulation of their lives as a consequence of the activities of that Department. I sincerely hope that Mr. Califano's first priority as the new Secretary of HEW will be to recommend to the President and Congress a management structure for his Department that will eliminate the problems of inefficiency and over-regulation that individual citizens and local officials are experiencing.

Mr. WILLIAMS. Mr. President, I am delighted to have this opportunity to speak in support of the President's nomination of Joseph A. Califano, Jr. to be Secretary of Health, Education, and Welfare.

On January 13 the Committee on Labor and Public Welfare held a lengthy hearing to meet with the nominee and discuss some of our common areas of concern. And I am pleased to report that Mr. Califano demonstrated that in this most difficult of Cabinet assignments the President has made the best possible choice.

Mr. President, it is the Secretary of Heath, Education and Welfare who is vested with the authority and responsibility to act as an advocate of the needs of the people of this Nation who would otherwise have no place else to turn. The Secretary of this great Department must represent a constituency as broad as the Nation itself—including 66 million children and young people 22 million senior citizens, 23 million persons with physical and mental handicaps, 26 million poverty-stricken, and the millions who have suffered disadvantages as members of minority groups. And it is this Secretary who must work to assure that it is these people who come before any other interest or institution if our society is to meet the goals which were established for our Nation some 200 years ago.

It is my view—and I believe it is a view shared by most of my colleagues—that Mr. Califano fully understands the enormity of the task before him. And, of greater importance, I believe that Mr. Califano has the wisdom, compassion, and enthusiasm to responsively and responsibly fulfill his new mission.

Mr. President, Joe Califano is not new to the intricacies and the tough decision-making needs of running the Government. From 1961 to 1965 he served in various policymaking positions in the Department of Defense including the jobs of General Counsel of the Department of the Army and Special Assistant to the Secretary and Deputy Secretary of Defense. And, in 1965 he was appointed as Special Assistant to President Lyndon Johnson who charged him with developing the President's legislative program. He served there until January 20, 1969, and in addition to his enormous day-to-day responsibilities he worked on many special problems including the Northeast power failure, the water drought in the Northeast, labor-management relations, balance of payments, and numerous urban issues.

Joe Califano has also known that he can bring fairness and balance to the decisionmaking process. In perhaps one of the most difficult periods in the history of the Democratic Party, from 1971 through 1972, he served with distinction and evenhandedness as general counsel for the Democratic National Committee. And he further demonstrated his commitment to this approach in response to heavy questioning about the controversial issues of busing and abortion. Although Mr. Califano may differ with some of us in his personal views on specific matters, his overriding philosophy is very clear. In response to Senator HATHAWAY and Senator JAVITS he stated unequivocally:

> I do not think I should go around imposing or even trying to impose my personal, moral or ethical views on anyone else. . . . I would not have gone and even be interviewed by Governor Carter had I not been prepared to enforce the law . . .

Mr. President, I have every confidence that Joe Califano will be one of the finest Secretaries the Department has had since its creation two decades ago. His response to every question posed by the members of my committee showed him as a man of great compassion. He has made clear that he intends to make his decisions based on the interests of all the people of the United States. Indeed, his own words best sum up the need for us to swiftly act on his confirmation:

> I call this the "people's department"; I consider the opportunity to serve there the greatest opportunity of my life. The opportunity to lead the Department is the opportunity to do the noblest work in this civilized nation—to help educate the young, to help improve the health of our people, to help provide income security to enable the old, the poor, and the disabled—the vulnerable Americans—to live their lives in human dignity and with peace of mind.

Mr. BROOKE. Mr. President, I have met with Mr. Joseph Califano and studied the committee hearings on his nomination to be Secretary of Health, Education, and Welfare with great care. As ranking minority member of the Senate Labor-HEW Appropriations Subcommittee, I have been very encouraged by Mr. Califano's grasp of HEW programs and by his expressed willingness to work closely with Congress not only in funding and implementing programs but in formulating them as well. His concern for the least fortunate in our society is impressive. However, I am disturbed by Mr. Califano's strong opposition to Government financing of abortions.

The Supreme Court has ruled that within certain limitations a woman has the right to an abortion. However, when a woman does not have the money for an abortion, that right becomes moot. The lower courts have recognized this. They have also steadfastly ruled that the Government must not discriminate against women who, for one reason or another, feel that they must choose abortion. The lower courts have thus ruled that when the Government chooses to finance maternity care, it cannot then refuse to finance abortion services. This is crucial for the many poor women who can afford abortion only because of the availability of medicaid funds.

I have fought to assure that Federal funds would be available for abortions for poor women. To have done otherwise would have been a denial of constitutional rights. Therefore, I can only be disturbed by a policy aimed at denying those funds, a policy which would go even further by refusing in the future to cover abortions under national health insurance. To claim that funds other than those from the Government would be available for abortions is specious. But this is now the policy, the insensitive policy I feel, of the Carter administration. If it were not Mr. Califano espousing this policy for the new administration, it would simply be someone else.

Mr. Califano, however, has categorically promised to uphold the law regarding Federal financing of abortions and we are now awaiting the Supreme Court decision as to what that law is. Therefore, despite my strong disagreement with Mr. Califano about Federal policy

on Federal funding of abortions, I will vote for his confirmation based on that promise. I shall, however, continue actively to fight to insure a woman's freedom of choice, and hope that the administration and Mr. Califano will come to see the wisdom and necessity of this stand.

Mr. RANDOLPH. Mr. President, I support the nomination of Joseph A. Califano, Jr., to be Secretary of the Department of Health, Education, and Welfare. HEW is the largest spending agency of Federal Government; it is the "people's" department which deals with human problems in thousands of ways.

HEW is so large and comprehensive in its administration of the many laws we in Congress have passed to cope with people problems that it has been called "unmanageable." I do not feel this is true. It is the responsibility of the Congress and the HEW Secretary to work together to trim the unworkable programs and give new emphasis and direction to those vital programs which can and do reach people and help those in need of services.

If HEW is to be efficiently managed, Joseph Califano is the person to do it. His affirmative response to the question of manageability during hearings in the Committee on Labor and Public Welfare was most gratifying. Some might say that it is historic irony that Mr. Califano, who was so closely involved in the conception and execution of "Great Society" programs during the Johnson administration, must now be burdened with administering the burgeoning bureaucracy spawned in the 1960's. He freely admits to the challenge, and looks forward toward alining HEW to the true intent of the programs created.

Joseph Califano was born in a close-knit ethnic neighborhood of Brooklyn. He recalls that his mother, a schoolteacher, taught in the area now known as Bedford-Stuyvesant. He knows the conditions and problems of the ghetto, and particularly the chaotic events that drained these neighborhoods of vitality and hope. "We had schools of excellence then," he says, "and I am hopeful that we can once again achieve a high quality of learning in our schools system."

During his earlier service as Special Assistant to the Secretary of the Army, Mr. Califano served as a member of the President's Appalachian Regional Commission. He is sensitive to, and aware of, the special needs in health, education and other social services to the disadvantaged in rural areas as well as in major urban areas.

I was particularly pleased with Mr. Califano's testimony before our committee when he expressed "grave reservations," about replacing certain narrow categorical aid programs under HEW with block grants.

As chairman of the Subcommittee on the Handicapped, it is most gratifying to know that he believes, as do I, that certain categorical programs are necessary in order to assure direct benefits to those who are too often overlooked in our zeal to serve special interest groups, those needy persons without special clout or pleading such as the blind and physical, or mentally handicapped.

I look forward to working closely with Mr. Califano toward our mutual goal of supporting the basic human needs of the American people. I believe his pledge of close cooperation in policymaking and performance during the new Carter administration will give true meaning to those too-frequently abused and derided words, health, education, and welfare.

Mr. BAYH. Mr. President, it is with great pleasure that I express my support of Joseph Califano to be Secretary of Health, Education, and Welfare. I know Joe Califano well, I have known him for many years, I am proud to call him a friend, and I am looking forward with great hope to his tenure as Secretary of HEW.

There are few persons in our country that have the knowledge and expertise in the field of domestic policy as does Joe Califano. Serving as a Navy legal officer, with liaison responsibility between the Pentagon and the White House from 1955 to 1958, was only the beginning of Mr. Califano's long and illustrious career in Government. One need not reiterate all the ways in which this outstanding American has served his country. One need only recall his service as Special Assistant to former Secretary of Defense Robert McNamara, as well as his position as Chief Presidential Adviser on Domestic Issues to former President Lyndon Johnson, to realize that Mr. Califano will make an outstanding member of the Cabinet.

During the years that Mr. Califano served as Domestic Adviser to President Johnson, he participated in the reorganization of the Office of Management and Budget, and in the formulation of the Department of Transportation. One of President Carter's promises to the American people is to reorganize the executive branch of the Government. Given Mr. Califano's background in Government and his work for reorganization, he appears to be the perfect choice for Secretary of Health, Education, and Welfare. For this particular executive agency needs great attention in the reorganization of the executive branch. And Joe Califano is the right man in the right job at the right time.

I know the Secretary-designate shares with our President a concern for revamping the complicated and burdensome process by which we presently administer our welfare programs. I offer my support of Mr. Califano with the firm belief that he will make every effort possible to establish a more equitable and efficient method of aiding those Americans who, unfortunately, are unable to care for themselves and for their children. It is my firm conviction that such reorganization should proceed in a manner so as to achieve greater consolidation of the presently fragmented welfare system. For it is only through some form of federalization of these programs, that our State and local governments can realize essential fiscal relief and benefits can be balanced among different regions.

I am also sure that Mr. Califano will recognize the need for this administration to take positive steps in the area of medical research. There are few greater priorities than the protection of our citizens from deadly and crippling diseases. I look forward to the day when the Department of Health, Education, and Welfare will once again seek the proper level of funding for medical research in such fields as cancer, heart disease, and the many other diseases that attack, cripple, and/or kill thousands of our citizens every day.

However, I must make it quite clear that I do have one serious reservation concerning this nomination. My reservation has to do with Mr. Califano's stated position before the Finance and Labor and Public Welfare Committees on the use of medicaid funds for abortions. I found Mr. Califano's comments before these committees to be deeply distressing.

The issue of medicaid funds for abortions is not an issue which can be easily resolved merely because of one's own personal views for or against abortion. The issue is much deeper. It involves the very core of a constitutional guarantee of equal protection to those poor and indigent women who are dependent for medical assistance upon the Federal Government.

I understand that Mr. Califano has given his commitment to enforce the law of the land. If the Supreme Court rules positively on the issue of medicaid funds for abortion, Mr. Califano has indicated that he will see that the programs of the Department of Health, Education, and Welfare will carry out their legal mandate. I know Joe Califano has too great a respect for the Constitution to do otherwise. And I further know that he has the kind of respect and admiration for his country and its people that is needed in order for any man or woman to occupy an office in the President's Cabinet.

It is with great pride and considerable confidence in him that I wholeheartedly support the nomination of Joe Califano to be the next Secretary of Health, Education, and Welfare.

The PRESIDING OFFICER. Does the Senator from Louisiana yield back the remainder of his time?

Mr. LONG. Mr. President, I have no more requests for time. I am prepared to yield back the remainder of my time.

Mr. PACKWOOD. Mr. President, I am prepared to yield back the remainder of my time.

I do want the yeas and nays.

Mr. LONG. Mr. President, have the yeas and nays not been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. LONG. Then I yield back the remainder of my time.

Mr. PACKWOOD. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

The question is, will the Senate advise and consent to the nomination of Mr. Joseph A. Califano, Jr., of the District of Columbia, as Secretary of Health, Education, and Welfare?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senators from South Dakota (Mr. ABOUREZK and Mr. MCGOVERN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Nevada (Mr. LAXALT) is necessarily absent.

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

The result was announced—yeas 95, nays 1, as follows:

[Rollcall Vote No. 7 Ex.]

YEAS—95

Allen	Goldwater	Morgan
Anderson	Gravel	Moynihan
Baker	Griffin	Muskie
Bayh	Hansen	Nelson
Bellmon	Hart	Nunn
Bentsen	Haskell	Pearson
Biden	Hatch	Pell
Brooke	Hatfield	Percy
Bumpers	Hathaway	Proxmire
Burdick	Hayakawa	Randolph
Byrd, Harry F., Jr.	Heinz	Ribicoff
Byrd, Robert C.	Helms	Riegle
Cannon	Hollings	Roth
Case	Huddleston	Sarbanes
Chafee	Humphrey	Sasser
Chiles	Inouye	Schmitt
Church	Jackson	Schweiker
Clark	Javits	Scott
Cranston	Johnston	Sparkman
Culver	Kennedy	Stafford
Curtis	Leahy	Stennis
Danforth	Long	Stevens
DeConcini	Lugar	Stevenson
Dole	Magnuson	Stone
Domenici	Mathias	Talmadge
Durkin	Matsunaga	Thurmond
Eagleton	McClellan	Tower
Eastland	McClure	Wallop
Ford	McIntyre	Weicker
Garn	Melcher	Williams
Glenn	Metcalf	Young
	Metzenbaum	Zorinsky

NAYS—1

Packwood

NOT VOTING—4

Abourezk	Laxalt	McGovern
Bartlett		

So 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 (Mr. METZENBAUM). Without objection, it is so ordered.

CLOTURE MOTION

The PRESIDING OFFICER. One hour having passed since the Senate convened, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a closed debate upon Senate Resolution 18, expressing the sense of the Senate relating to opposition to Presidential pardon for Vietnam era draft evaders.

Jesse Helms, Clifford P. Hansen, Malcolm Wallop, Harrison H. Schmitt, Orrin G. Hatch, Strom Thurmond, Carl T. Curtis, Bob Dole, Peter V. Domenici, John C. Danforth, Milton R. Young, William L. Scott, Paul Laxalt, Richard Stone, Robert P. Griffin, Jake Garn, Richard G. Lugar.

CALL OF THE ROLL

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair now directs the clerk to call the roll to ascertain the presence of a quorum.

The assistant legislative clerk called the roll and the following Senators answered to their names:

[Quorum No. 5 Leg.]

Allen	Gravel	Muskie
Anderson	Griffin	Nelson
Baker	Hansen	Nunn
Bayh	Hart	Packwood
Bellmon	Haskell	Pearson
Bentsen	Hatch	Pell
Biden	Hatfield	Percy
Brooke	Hathaway	Proxmire
Bumpers	Hayakawa	Randolph
Burdick	Heinz	Ribicoff
Byrd, Harry F., Jr.	Helms	Riegle
Byrd, Robert C.	Hollings	Roth
Cannon	Huddleston	Sarbanes
Case	Humphrey	Sasser
Chafee	Inouye	Schmitt
Chiles	Jackson	Schweiker
Church	Javits	Scott
Clark	Johnston	Sparkman
Cranston	Kennedy	Stafford
Culver	Leahy	Stennis
Curtis	Long	Stevens
Danforth	Lugar	Stevenson
DeConcini	Magnuson	Stone
Dole	Mathias	Talmadge
Domenici	Matsunaga	Thurmond
Durkin	McClellan	Tower
Eagleton	McClure	Wallop
Eastland	McIntyre	Weicker
Ford	Melcher	Williams
Garn	Metcalf	Young
Glenn	Metzenbaum	Zorinsky
Goldwater	Morgan	
	Moynihan	

The PRESIDING OFFICER. A quorum is present.

VOTE

The PRESIDING OFFICER. The question is. Is it the sense of the Senate that debate on Senate Resolution 18, expressing the sense of the Senate relating to opposition to Presidential pardon for Vietnam-era draft evaders, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

Mr. ALLEN. May we have order first, Mr. President?

The PRESIDING OFFICER. Will the Members of the Senate return to their seats and the attendants sit in the rear of the room, please?

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senators from South Dakota (Mr. ABOUREZK and Mr. MCGOVERN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Nevada (Mr. LAXALT) is necessarily absent.

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

The yeas and nays resulted—yeas 53, nays 43, as follows:

[Rollcall Vote No. 8 Leg.]

YEAS—53

Allen	Griffin	Pell
Baker	Hansen	Randolph
Bellmon	Hatch	Roth
Bentsen	Hathaway	Sarbanes
Biden	Hayakawa	Schmitt
Bumpers	Helms	Schweiker
Byrd, Harry F., Jr.	Hollings	Scott
Chiles	Jackson	Sparkman
Clark	Long	Stafford
Curtis	Lugar	Stevens
DeConcini	McClure	Stone
Dole	McIntyre	Talmadge
Domenici	Melcher	Thurmond
Ford	Metzenbaum	Tower
Garn	Morgan	Wallop
Glenn	Nunn	Weicker
Goldwater	Packwood	Young
	Pearson	Zorinsky

NAYS—43

Anderson	Gravel	McClellan
Bayh	Hart	Metcalf
Brooke	Haskell	Moynihan
Burdick	Hatfield	Muskie
Byrd, Robert C.	Heinz	Nelson
Cannon	Huddleston	Percy
Case	Humphrey	Proxmire
Chafee	Inouye	Ribicoff
Church	Javits	Riegle
Cranston	Johnston	Sasser
Culver	Kennedy	Stennis
Danforth	Leahy	Stevenson
Durkin	Magnuson	Williams
Eagleton	Mathias	
Eastland	Matsunaga	

NOT VOTING—4

Abourezk	Laxalt	McGovern
Bartlett		

The PRESIDING OFFICER. On this vote, there are 53 yeas, 43 nays. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

SENATOR PELL'S VOTE TO INVOKE CLOTURE

Mr. PELL. Mr. President, today I cast my vote in the affirmative on the question of whether the Senate should invoke cloture on Senate Resolution 18, the so-called antiamnesty resolution.

In so doing I have followed my consistent practice of voting for cloture whenever the question is before the Senate.

I wish to state, however, that in voting to bring to a close the debate on this resolution, I in no way approve of the merits of Senate Resolution 18, for I believe very strongly that the action taken by President Carter was correct, compassionate, and courageous.

Although the President did not go as far as some would have liked, and of course, disappointed many others in granting a pardon at all, I believe he has adopted a moderate and sensible approach to a complex and troubling problem.

The tragedy of Vietnam will be debated for years, in this Chamber and elsewhere. I doubt that any among us can predict what history's judgment will be. At this time, however, there is one thing we can do and President Carter said it correctly:

I think it's time to get the Vietnam War over with.

His pardon goes a long way toward fulfilling that goal.

LT. COL. RAYMOND C. SCHRUMP SPEAKS ON AMNESTY

Mr. HELMS. The Senate just voted in an unmistakable fashion on the resolution cosponsored by the able Senator from Alabama and myself with reference to amnesty for draft dodgers. The vote of 53 to 43 is impressive, Mr. President, in terms of the attitude of the Senate on this question.

As the vote was being taken, Mr. President, my mind raced back in time to 1972 when I received a call from the young wife of Lt. Col. Raymond C. Schrump, of Fayetteville, N.C.

Colonel Schrump at that time was a prisoner of war in Vietnam. I drove down to her home in Fayetteville. We sat in her yard one sunny afternoon as this lovely, dedicated lady discussed her husband who had then been a captive of the Communists for some 4 years.

I recall her saying, Mr. President:

I love Ray more than life itself. I want him home more than anything else that I have

ever wanted. But when he comes home—and I pray to God that he will—I want him to come home in honor.

You can imagine, Mr. President, how those words burned into my consciousness. I have remembered them—and Ann Schrump's courage—ever since.

Col. Ray Schrump did come home, he did come home in honor, and he is now a distinguished private citizen of my State.

This afternoon at 1 o'clock in Fayetteville, Colonel Schrump called a news conference—it is the first time in his life he has ever done so—during which he read the text of a telegram that he sent to the President of the United States this morning.

The telegram, Mr. President, speaks eloquently for itself:

4512 CAY COURT,
Fayetteville, N.C.

DEAR PRESIDENT CARTER: I am Lieutenant Colonel Raymond C. Schrump USA retired, a returned prisoner of war from Vietnam, I was so shocked by your recent decision to pardon all draft evaders that it has taken me two days to gather my thoughts and respond, America is the only country in the world that knows the true cost of freedom and that cost can only be measured in human life and personal sacrifices, how will you explain your pardon to parents and relatives of those who gave their life in defense of this great Nation and to those who only have love to keep alive their hope for a loved one listed as POW or missing in action, only God knows how many men are trying to stay alive on memories only of such a love, the men who fought in Vietnam left this country in good faith to endorse our Nation's commitment to its ally. That endorsement was not accomplished merely by a signature on a bill or a treaty but by personal sacrifice of life and freedom, now their sacrifices and endorsement has been forfeited with your pardon to those who refused to support our national interest.

It is not the men who served that should be insulted and disgraced but the leaders in our country who asked these men to serve and now will not take a stand on their behalf, some of these men died in my presence and I assure you not one repeat not one ever lost faith in his God his country or you or Mr. President his fellow man, I spent twenty four and one-half years in the service of my country with the last five years being spent in prisoner of war cages in the jungles of South Vietnam and Cambodia, I have no regrets nor do I feel that I made any sacrifices that any other American would not or has not made under similar circumstances, I do not consider myself a hero but simply an American who tried to do his duty to God, country and his fellow man under the most extreme conditions one can imagine.

I attribute my homecoming to three basic faiths, faith in my God, faith in my country and faith in my fellow man, these faiths were learned from my parents, home town, churches, schools and neighbors. Your pardon has eliminated two of these faiths, for now I have only Jesus Christ to turn to. Your pardon is an insult and a disgrace to every American who has died, been maimed, wounded or served his country during war or peace, you have also belittled the decorations they have received for conspicuous bravery, the late President Kennedy stated "ask not what your country can do for you but what you can do for your country," it is statements like this that rally America and it is pardons like yours that tear it apart. Follow your own declaration and let all Americans stand equally before the law.

My family is the only thing that has more value to me than the decorations that I have received during my military career, since your pardon these awards no longer have any value and it is for that reason I respectfully request an appointment with you at the earliest possible date so that I might return them, this is a very painful and emotional thing for me to do, but I know of no other way for me to show my opposition to your pardon of the draft evaders. I could take them to the White House and throw them over the fence but I would never lower myself to the actions of those you pardoned. I would like to have the opportunity to return them with the same dignity with which they were presented, I am of the personal belief that you will not allow me this opportunity therefore I am holding a press conference at 1 p.m., 24 January 1977 to read this telegram.

Sincerely,

RAYMOND C. SCHRUMP,
Lt. Col. USA (retired).

Mr. President, I yield the floor.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, the Senate is still in executive session.

I believe that we can work out an agreement on the nomination of Mr. Marshall, having discussed the proposal with the distinguished Republican leader and with the distinguished chairman of the Committee on Labor and Public Welfare (Mr. WILLIAMS) and with other Senators on both sides of the aisle.

Mr. President, I ask unanimous consent that on Wednesday, immediately after the Senate goes into executive session, there be a time limitation of 5 hours on Mr. Marshall, 2 hours under the control of Mr. WILLIAMS, 3 hours under the control of—

Mr. BAKER. If the Senator will yield, normally under the control of the distinguished senior Senator from New York.

Mr. JAVITS. Will the Senator yield?

Mr. BAKER. Yes.

Mr. JAVITS. I intend to yield on the time as the opponents may wish, or anyone.

Mr. BAKER. Mr. President, will the Senator yield further?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. I hope it might be understood the junior Senator from Virginia would be in effective control.

Mr. JAVITS. This is entirely satisfactory to me, assuming all the opponents——

Mr. ROBERT C. BYRD. So this would mean there would be not to exceed 5 hours on the nomination of Mr. Marshall, and 5 hours, or such time thereof as had to be consumed, would be used on Wednesday.

If the agreement is entered into, it would not be my intention to keep the Senate in much longer today.

Mr. SCOTT. Mr. President, reserving the right to object, I commend the distinguished majority and minority leaders for their cooperation in this matter so that we will have further time to prepare our remarks, and the amount of time allocated seems reasonable.

I have discussed it with a number of the opponents to this nomination and they seem to be in agreement.

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

Mr. ALLEN. Mr. President, reserving the right to object, and I shall not object, I would like to propound a parliamentary inquiry.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. Does the Senator from West Virginia yield for that purpose?

Mr. ROBERT C. BYRD. Yes, I yield.

The PRESIDING OFFICER. The Senator will state it.

Mr. ALLEN. I shall not object, but, Mr. President, it seems that we are going to be in executive session for some days, possibly, now.

I would like to propound the parliamentary inquiry that when and if——

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. May we have order in the Senate on both sides of the aisle?

Mr. ALLEN. When and if we return to legislative session, will Senate Resolution 18, the antiamnesty resolution, immediately become the unfinished business of the Senate?

Mr. BROOKE. Mr. President, reserving the right to object——

Mr. ALLEN. I merely asked a parliamentary inquiry.

If not the unfinished business, then would it be the pending business?

The PRESIDING OFFICER. If the Senate resumes legislative session and if it is outside the morning hour, then it would be the pending business before the Senate if the Senate continues to recess.

Mr. ALLEN. Mr. President, we have adopted a motion that the Senate proceed to the consideration of this matter not in the morning hour but generally. How would the Chair make such a ruling? Such consideration is not confined to the morning hour.

The PRESIDING OFFICER. If the next legislative session of the Senate follows an adjournment in legislative session, it would not come down automatically until the end of the morning hour as the unfinished business.

Mr. ALLEN. Yes, but at the end of the morning hour it would again be before the Senate if it is in legislative session.

The PRESIDING OFFICER. The Senator is correct.

Mr. ALLEN. I thank the Chair.

Mr. BROOKE. Mr. President, is it the majority leader's intention to have a time certain for the vote on Mr. Marhall on Wednesday?

Mr. ROBERT C. BYRD. I beg the Senator's pardon. Will he repeat his question?

Mr. BROOKE. Is it the intention of the majority leader to have a time certain for the vote on Mr. Marshall on Wednesday?

Mr. ROBERT C. BYRD. Not a time certain, but if the Senate were to come in at 10 o'clock, which I would anticipate its doing—at 10 o'clock or earlier, but I am thinking now in terms of 10 o'clock—or at least getting on the nomination by 10 o'clock, then the Senate would vote no later than 3 p.m. on the nomination.

Mr. BAKER. Mr. President, reserving the right to object, I agree that that would be the interpretation to be placed on the request. I think it should be clearly understood that we are not asking for a 3 o'clock time certain.

Mr. ROBERT C. BYRD. Exactly.

Mr. President, was the request agreed to?

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

Mr. ROBERT C. BYRD. Mr. President, I suggest that Senators not leave yet. Conceivably, there could be another roll-call vote.

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

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

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate, when it completes its business today, stand in recess until the hour of 10 a.m. tomorrow morning.

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

ORDER OF BUSINESS

Mr. BAKER. Mr. President, I have a request from the distinguished senior Senator from South Carolina to speak as in legislative session.

Mr. ROBERT C. BYRD. Today?

Mr. BAKER. Today.

Mr. ROBERT C. BYRD. How long does the Senator wish to speak?

Mr. BAKER. I think 25 minutes.

Mr. THURMOND. I thank the Senator.

ORDER FOR IMMEDIATE RECOGNITION OF SENATOR THURMOND TODAY

Mr. ROBERT C. BYRD. Mr. President, in view of the fact that all executive business has been completed for today, I ask for unanimous consent that Mr. THURMOND may proceed at this time as in legislative session for not to exceed 30 minutes.

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

Mr. ROBERT C. BYRD. I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. CRANSTON. Mr. President, will the Senator from South Carolina yield 2 minutes to me to make a brief statement?

Mr. THURMOND. Mr. President, I am pleased to yield if it is not counted against my time. I am running on a close time limit.

Mr. CRANSTON. Mr. President, I ask unanimous consent that it not be charged against his time.

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

NUCLEAR TESTING

Mr. CRANSTON. Mr. President, one of the most heartening developments to occur in years in the struggle to control nuclear weapons is announced on the front page of this afternoon's Washington Star.

In an interview with the wire services, President Jimmy Carter has called for a halt to all nuclear testing "instantly and completely" as part of a broader program to curb the dangerous spread of nuclear weapons and ultimately to eliminate them from the face of the Earth.

Mr. President, I hereby pledge my wholehearted support to the President's efforts.

In his first interview as President, Mr. Carter also expressed optimism that there will be "fairly rapid ratification" of a new SALT treaty with the Soviets. Further, he stated that the National Security Council is in agreement on the need to reduce overseas sales of conventional weapons, and he expressed confidence that a Middle East peace conference is likely to occur this year.

Mr. President, I ask unanimous consent that the article from the Washington Star be printed in the RECORD.

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

STOP ALL NUCLEAR TESTS, CARTER ASKS—SAYS SOVIET HAS SENT ENCOURAGING MESSAGE

President Carter is calling for a halt to all nuclear testing, "instantly and completely," as part of a broader program to curb the spread of nuclear weapons and ultimately ban them from the earth.

In his first interview as President, conducted yesterday for publication today, Carter acknowledged that he did not know whether the Soviet Union would agree to his proposal for a quick halt that would stop even underground testing. But, he said, "They have sent an encouraging message back."

The fledgling President, meeting in his Oval Office with four reporters for The Associated Press and United Press International, also expressed optimism that there will be "fairly rapid ratification" of a new strategic arms limitation treaty with the Soviets.

And he said his National Security Council is in agreement on the need to reduce overseas sales of American-made weapons, but that he does not anticipate "a moratorium" on such sales.

On strategic arms talks, Carter hinted that he might be willing to by-pass for later consideration a long-standing East-West debate over how to deal with the U.S. cruise missile and Soviet Backfire bomber in any new strategic arms pact. He declared: "I would not let those two items stand in the way of some agreement."

Asserting that he "very deeply" meant what he said in his inaugural address about ultimately eliminating all nuclear weapons everywhere, Carter, in his most detailed national security-foreign policy statement to date, envisioned a three-step effort aiming toward that end.

First, he said, the two superpowers would have to "put firm limits on ourselves," as the objectives of a new Strategic Arms Limitation Treaty (SALT).

Then the United States and the Soviet Union would go a step further and actually reduce their own stock-piles of atomic weapons which would, he said, "demonstrate to the world we are sincere."

From that point he would seek "reductions including all nations, even those who have a relatively small inventory now."

"I would like to proceed quickly and aggressively with a comprehensive test ban treaty," he said. "I am in favor of eliminating the testing of all nuclear devices, instantly and completely." He said this included underground testing as well.

And, the President said, the United States will use "every means available to us" to keep nuclear arms from spreading to countries that do not have them now.

Carter's apparent optimism about prospects for negotiations with the Soviets was matched by an expression of confidence that a Middle East peace conference is "very likely this year."

Asked if he would approve Palestinian representation at such a meeting, the President said the matter has not been decided but that Palestinian participation "would probably be a part of one of the Arab delegations."

In a relaxed mood, Carter spoke softly, discussing these other topics, ranging from personnel problems to a self-confessed awe at finding himself living in the home of past presidents:

"I feel quite at ease about the percentage of blacks" named to high administration posts, he said, but declared, "I wish that we could get more women, in particular, in the top levels of government.

"I am not completely satisfied with what we have done, but I am satisfied about the effort we have made," he said, promising he "will try to compensate" for not having named more women "as we go along."

He expressed no surprise at the reaction both for and against his blanket pardon Friday of Vietnam-era draft evaders who were not guilty of violent acts. Carter said: "It is something that should have been done. I was very grateful to be the one to do it."

Asked about the likely result of a Pentagon study he has ordered of the status of deserters and others not covered by the pardon, Carter said there might be an upgrading of less-than-honorable discharges given to alcoholics, mental incompetents and some others whose violation of military rules related only to their personal lives, not their military conduct.

Saying he would let most other cases be handled under existing Defense Department procedures, Carter said: "I don't have any inclination to upgrade those who received a bad conduct discharge or a dishonorable discharge. They have been tried in a military court. They have been convicted of a crime."

"Within the next week or two," he said, "I will make my first report to the American people on what we have already achieved and the time schedule for additional proposals."

He predicted that a comprehensive welfare overhaul plan will be ready by May 1 and promised a comprehensive energy proposal within 90 days. In addition, he said he will be proposing "very shortly" legislation authorizing a reorganization of the federal bureaucracy.

Scoffing at reports that he has gone too far to accommodate Congress in recent weeks, Carter acknowledged "I want to get along with Congress" and said he is "not searching for ways to demonstrate that I am obstinate in dealing with the Congress."

However, he said that "on something where I am committed because of conviction or because of a commitment to the American people, I will be very strong and very aggressive and very adamant about pursuing my position."

He expressed confidence that clashes with Congress can be minimized by consulting its leaders in "initial stages of proposed change." But, Carter said, "I am the leader of our country, elected as President. I have got my promises to fulfill and I intend to fulfill them." He defended his "economic stimulus" plan, which could cost as much as $30 billion over two years, and indicated there could be room for some give-and-take with Congress, particularly if economic circumstances should change in the next few months.

But he said, if Congress tried to drastically alter what he is proposing, "it would delay the beneficial impact of the economic stimulus package and hurt our country."

Some senators and House members have said they want to expand the jobs program Carter favors, but the President contended, "even if substantial amounts of additional money were appropriated for those programs, it would be very difficult to administer them effectively."

Carter disclosed that, at his first National Security Council meeting Saturday, members were unanimous in embracing "the necessity for reducing arms sales or having very tight restraints on future commitments" to deliver weapons to other countries.

"I have asked," he said, "that all approvals of arms sales, for a change, be submitted to me directly before the recommendations go to Congress."

The President said Vice President Walter F. Mondale, who is on a globe-circling trip this week, will be asking allies who are heavy arms exporters to join the United States in curbing the arms traffic.

Also, Carter said, Secretary of State Cyrus Vance will be visiting the Middle East in March and will ask leaders there "to hold down their own purchases of arms from us and other countries."

Discussing the U.S. role in Black Africa, Carter complimented former Secretary of State Henry A. Kissinger for spelling out a basic premise that "is a proper one." That is to let Great Britain take the lead in promoting negotiations for black majority rule in Rhodesia "and let us help when requested to do so."

He reaffirmed what he said was a very strong belief "in majority rule, which means relinquishing the control of the government by the white minorities in the countries affected."

Expressing concern about the reprocessing of spent fuel from nuclear power plants into radioactive material that can be used in nuclear weapons, Carter said, "We would like to have this put under international control."

He also voiced opposition to the building of nuclear reprocessing plants in any countries that don't already have them.

As for his reaction to his first days in the White House, Carter said:

"I haven't been disconcerted or surprised. . . . I feel good about it. I have enjoyed it so far. . . . I think I will like it very much. Good working conditions."

At the same time, Carter conceded, "I can't say that I feel completely at ease with it yet."

Moving into the White House was "awe-inspiring," he said. "I have been around just to look at and open and close the writing desk that was designed by Thomas Jefferson and built for him and used by him."

HERE'S HIS TIMETABLE

Within a week or two "I will make my first report to the American people on what we have already achieved and the time schedule for additional proposals."

By May 1, the administration will have "a comprehensive welfare proposal."

Within 90 days, "we will have a comprehensive energy proposal . . . one that has not been done in the last three or four or five years."

"We will be proposing to Congress the reorganization legislation (to revamp the executive branch of government) very shortly."

ECONOMIC AID TO VIETNAM

Mr. THURMOND. Mr. President, I wish to express my alarm at two astonishing announcements of the last 10 days. First, officials of the World Bank revealed that the Bank is sending a mission to Hanoi to study the economic conditions and needs of Communist Vietnam. The work of this mission is a preliminary step toward a program of reconstruction to be underwritten by the Bank.

Then, only a few days later, the International Monetary Fund, the sister organization of the Bank, disclosed that it has made a $35 million loan to the Hanoi regime.

I have no intention of reviving old arguments about the tragic Vietnam conflict, but the action of the IMF, and the proposed action of the World Bank, are outrageous. I fail to see what claim the present Government of Vietnam can possibly have on the generosity of the other nations of the world, especially the United States.

It has been urged that we must be compassionate in dealing with a nation that has suffered so much. Certainly, Vietnam has suffered. But who was responsible for the suffering? Regardless of what view is held of American involvement in Indochina, there is no denying that the Communist leaders in Hanoi must take a major share of the blame for lengthening and intensifying the war. I would like to know how much of the $35 million already granted will be used to replace losses suffered in the infamous spring of 1975, when the Communists brutally invaded the independent nation of South Vietnam.

Are we supposed to be sorry for the sufferings of an aggressor? I might point out that compassion was not conspicuous in the conduct of the Vietnamese Communists when they were violating the peace treaty, conquering their neighbors, and subsidizing civil conflicts elsewhere.

Some may argue that any aid that goes to Vietnam will benefit not only the aggressors of the north but the victims of aggression in the south. Furthermore, they may say, denial of aid will unjustly penalize the common people, who should not be blamed for the crimes of their rulers. This point of view is naive. In the light of past performance, there is no justification at all for supposing that the Communist leaders will make a fair distribution of aid, or that it will produce any tangible benefits for the common people. For all we know, our dollars may find their way into the hands of the Soviets and the Communist Chinese, as repayment for the munitions they supplied to help kill, among others, American servicemen.

I am not proposing that this Nation should emulate the Communists' inhumanity. I am only saying that we should not reward them for it. In the first place, we should be setting a precedent that would be noticed and welcomed by violence-prone regimes in other parts of the world. We would also be throwing away the only inducement we still have to get the Hanoi government to act more moderately. For make no mistake: the Vietnamese Communists have not reformed.

Ironically, less than 1 month before the two developments to which I have referred, a coalition of former peace leaders in this country formally and publicly denounced the Vietnamese Government for its flagrant violations of human rights. These are the people who, not so long ago ,were proclaiming the moderation and wisdom of the Vietnamese Communists. Now they were admitting that they were wrong. How did the World Bank and the IMF react to charges which, under the circumstances, have to be considered highly reliable? They said, in effect, "So what?"

The United States has another strong motive to discountenance this kind of economic aid. We still have not obtained an accounting for hundreds of our servicemen missing in action in Indochina. Here again we see the kind of men with whom we are dealing. The conflict has ended, entirely to their satisfaction, and yet the anguish continues for American mothers, fathers, wives, and children, all because the Hanoi government will not let them know what has become of their loved ones.

They could do this quickly and simply. The reason they do not do it is that they regard this information as a bargaining counter they can use to extort concessions from us—including, no doubt, economic aid. They must be informed that, as far as the United States is concerned, there will be no bargaining. What sort of a bargain is it when one party promises to do something kind if the other party will stop doing something cruel? Again, it is not a matter of imitating their lack of compassion. It is a matter of forcing them to show some minimal compassion toward those among us who have been most sorely afflicted by the war.

I am well aware that the United States alone cannot block the action of the World Bank or the IMF. We do, however, provide approximately 20 percent of the financial support of these two institutions, and our opinions have to be given due deference.

Accordingly, I was deeply disappointed to read, in newspaper accounts, that the World Bank mission and the IMF loan were approved without dissent.

Mr. President, I dissent. I believe we should have strongly opposed these two moves, just as we have opposed the admission of Vietnam to the United Nations. I believe we should oppose any aid program, whether sponsored by the World Bank, the IMF, or anyone else, with so cruel and irresponsible a government. They have not come anywhere close to establishing that they are friendly or reliable. They have not even established that they are decent.

Mr. HARRY F. BYRD, JR. M. President, will the Senator from South Carolina yield?

Mr. THURMOND. Mr. President, I am pleased to yield and ask unanimous consent that the time taken by the Senator from Virginia not be counted against my time.

Mr. HARRY F. BYRD, JR. I just wanted a moment to commend the Senator from South Carolina for the remarks he has just made and to associate myself with them.

Mr. THURMOND. I thank the Senator.

THE NOMINATION OF DR. F. RAY MARSHALL TO BE SECRETARY OF LABOR

Mr. THURMOND. Mr. President, I shall support the nomination of Dr. Ray Marshall to be Secretary of Labor.

At the outset, I had significant reservations about this nomination, but I had a chance on Friday, January 21, 1977, to discuss several problem areas with Dr. Marshall. I was impressed with his candor, intellect and, in particular, his perspectives on the mission of the Labor Department. We discussed such diverse issues as veterans employment matters, the right-to-work laws, and public employee and miliary unions.

First, I am gratified that Dr. Marshall has given a high priority commitment to the problems of unemployed veterans. Last year the Congress passed legislation to create a Deputy Assistant Secretary of Labor for Veterans Employment but, frankly, that legislation was inadequate. It did not go far enough. Dr. Marshall has told me that he personally favors an Assistant Secretary of Labor for Veterans Employment. He has further assured me that the Labor Department will make new initiatives with private industry to hire veterans, and he has told me that whoever is charged with veterans employment matters in the Labor Department will have direct access to him.

Second, I am pleased that Dr. Marshall has indicated to me that he will take no part in pushing for repeal of section 14B. While he personally favors repeal of section 14B, he has told me that it is a legislative matter which should be left to the discretion of Congress, and which is not important within the scope of the Labor Department. Likewise, he has advised me that public employee collective bargaining and military unionization matters are not important within the scope of the Labor Department's mission.

Frankly, Mr. President, I was pleasantly surprised by the refreshing approach taken by Dr. Marshall in distinguishing between what may be his personal views and his official duties. Often, lesser men are unable to make the distinction.

In view of the commitments Dr. Marshall has made to me, I am pleased to support his nomination.

Mr. President, although I do not know Dr. Marshall personally, I am told that he bears a reputation for honor and integrity, that he has compassion for his fellow man, that he possesses a keen intellect, and that he is an energetic and innovative professional. Mr. President, I offer him my support and willingness to cooperate with him in his difficult Cabinet assignment.

DEREGULATION OF NATURAL GAS

Mr. THURMOND. Mr. President, our Nation is in the grips of the most serious and ominous energy shortage since the Arab embargo of the winter of 1974. The direct cause of this problem is a severe winter, but central to the shortage is not nature's wrath, it is the failure of the Congress to enact a realistic energy policy for America.

Oil imports now exceed 40 percent of our consumption. Domestic production continues to erode under the double-barreled limitations of unrealistic Federal price controls and unthinking environmental roadblocks.

Alaska oil will be available for our consumption later this year, but is 5 years late and billions more expensive than it would have been without the unwarranted delays of environmentalists.

Coal, our most abundant and versatile energy resource, is crushed between strict emission controls on burning and prohibitive restrictions on mining clean burning grades from the western reserves.

Nuclear development has been stymied by a combination of distortions, scare tactics, and outright demogoguery. The news media have played these views with great emphasis on all those who oppose nuclear energy development.

Solar energy has been heralded as the cure-all to our energy needs, but the fact is solar and other exotic energy sources are years away from significant contribution to our national energy needs.

Natural gas is the most mishandled of all our energy resources. However, natural gas prices have been controlled by the Federal Government since 1954, and the production picture has steadily deteriorated since that year.

Last year America had a relatively mild winter. Yet, more than 400 plants were closed in North Carolina, hundreds of others were closed in South Carolina and Virginia and Ohio's Gov. James Rhodes has stated his State lost 6,100 man-days of employment due to natural gas shortfalls.

This year, however, the experience is far more severe. Temperatures are averaging 12 to 20 degees colder than average. Many areas are marking their worst winters since records have been kept. Fires are claiming a destructively high toll in human and property suffering. Schools are closed in Kentucky and other States due to energy shortages, specifically natural gas shortages. Jobs are being lost, and family incomes are being sliced.

Natural gas is the energy resource most obviously in short supply.

Mr. President, the reasons rest with those Members of Congress who oppose deregulation not with the producers, the consumers, or those currently suffering the consequences of our actions.

No, we are critically short of natural gas due to five major factors.

First. Price controls since 1954 have meant natural gas has been sold for more than 20 years at below its replacement cost, driving thousands of producers out of business. In 1956, there were more than 18,000 producers drilling over 58,000 wells, while by 1971, there were only 4,000 producers drilling only 27,000 wells.

Second. Gas has been used for inferior purposes because it has been artificially cheap and clean burning. When plants using boilers in Pennsylvania found it cheaper to use gas from interstate pipelines than the coal in their own backyards, the coal industry was put out of business, and more natural gas supplies were depleted.

Third. Supplies have not been replaced simply because exploration, production, and marketing cost more than the artificially low price of the Federal controls. Natural gas wells produce less from their first day of production, so with fewer wells producing, the clear result will be diminishing supply.

Fourth. Environmental radicalism has impeded development of the vast domestic gas and oil reserves of America. Five years of delay on the Alaska pipeline, offshore drilling along the Outer Continental Shelf tied up by countless court cases and endless additional examples of energy production projects, blocked by specious environmental challenges, have all contributed to greater reliance upon natural gas and consumption of current supplies as well as further dependence upon the OPEC nations for our energy needs.

Fifth. So-called "consumer advocates," both within and outside the Congress, have fought all efforts to deregulate prices. They have created sensational false scapegoats for the problems caused by price controls, only to later ignore the truth once it has been established. Today, rather than finding solutions, they are once again hunting skeletons for blaming others.

These are the root causes for our current morass, but they tell only a part of the total problem.

Shortages of natural gas at the controlled interstate gas price of 52 cents per million cubic feet—MCF—are nothing new. They are often made up by the use of synthetic fuels costing up to $5.35 per MCF, or by the importation of liquified natural gas from Algeria at a price of $3.80 per MCF. Intrastate prices, which are currently uncontrolled, are only $2 per MCF on the average, and thus are far below the prices charged home and industrial users when the foreign and man-made products are added to the pipelines to cover shortages.

A 60-day permit from the Federal Power Commission—FPC—for industrial users to purchase natural gas at intrastate prices, and thereby to insure delivery and protect many thousands of jobs, expired recently. In hearings held by the FPC for review of a 60-day permit extension, one so-called "consumer group," the Consumer Federation of America, actually opposed this action.

If consumerism means shortages and higher prices through foreign imports and high-priced synthetic fuels, then the "Consumer Federation of America" is a consumer advocate. But I feel the consumer and the Nation are best served by realistic policies which provide adequate supplies to the consuming public at a reasonable rate of return for the producer for the service.

Industry depends on natural gas for 52.5 percent of its energy nationally. Forty one million homes are served by natural gas. Agriculture depends on natural gas for its fertilizers, herbicides and pesticides. The textile industry, so vital to South Carolina and the Nation, provides one out of every eight jobs in America, and is heavily dependent on natural gas. Other major industries require similar natural gas supplies, and are hurt by such shortages.

Current prices for natural gas are merely a fraction of equivalent energy from other sources, thus encouraging further dependence upon and use of this evermore scarce resource. This grave imbalance of energy availability for each dollar must be ended.

Decontrol of natural gas prices can no longer be questioned, but must be accomplished at once. All charges of "doom forecasting" can be cast aside, for the situation today is far worse than anyone predicted.

With the beginning of a new national administration and a new Congress, we must make the crucial decisions which will assure America's future energy needs are met responsibly and with the least possible disruption of our economy and environment. We can begin along that road by decontrolling natural gas prices.

Mr. ROBERT C. BYRD. Will the Senator yield for a request only?

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

ROUTINE MORNING BUSINESS

The Senate transacted the following routine morning business today:

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDING OFFICER laid before the Senate the following letters, which were referred as indicated:

EC–451. A letter from the Acting Secretary of Agriculture transmitting drafts of proposed legislation to amend the Consolidated Farm and Rural Development Act and Section 521(a)(1) of the Housing Act of 1949 (with accompanying papers),

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a communication from the Secretary of Agriculture transmitting drafts to amend the Consolidated Farm and Rural Development Act and section 521(a)(1) of the Housing Act of 1949 be referred jointly to the Committees on Agriculture and Forestry and Banking, Housing and Urban Affairs.

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

EC–452. A letter from the Secretary of Transportation transmitting a draft of proposed legislation relative to a Comprehensive Oil Pollution Liability and Compensation Act (with accompanying papers).

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a communication from the Secretary of Transportation relative to a Comprehensive Pollution Liability and Compensation Act be referred jointly to the Committees on Commerce, Public Works, and Interior and Insular Affairs.

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

EC 453. A letter from the Assistant Secretary of the Department of Agriculture transmitting, pursuant to law, the ninth annual report on operations under the Food Stamp Act of 1964 (with an accompanying report); to the Committee on Agriculture and Forestry.

EC 454. A letter from the Acting Secretary of Agriculture transmitting a draft of proposed legislation to amend the Soil Conservation and Domestic Allotment, as amended (with accompanying papers); to the Committee on Agriculture and Forestry.

EC 455. A letter from the Acting Secretary of Agriculture transmitting a draft of proposed legislation to amend the Agricultural Adjustment Act of 1938, as amended (with accompanying papers); to the Committee on Agriculture and Forestry.

EC 456. A letter from the Acting Secretary of Agriculture transmitting a draft of proposed legislation to amend the Food Stamp Act of 1964, as amended (with accompanying papers); to the Committee on Agriculture and Forestry.

EC 457. A secret communication from the Secretary of Defense transmitting a report entitled "Rationalization/Standardization Within NATO" (with an accompanying report); to the Committee on Armed Services.

EC 458. A letter from the Acting General Counsel of the Department of Defense transmitting a draft of proposed legislation to extend the special pay provisions for reenlistment and enlistment bonuses (with accompanying papers); to the Committee on Armed Services.

EC 459. A letter from the Acting Under Secretary of the Air Force transmitting, pursuant to law, a report on the Air Force military construction contracts awarded by the Department of the Air Force without formal advertisement for period July 1, 1975 through June 30, 1976 (with an accompanying report); to the Committee on Armed Services.

EC 460. A letter from the Acting General Counsel of the Department of Defense transmitting a draft of proposed legislation to adjust the pay of cadets and midshipmen at the U.S. Military, Naval, Air Force and Coast Guard Academies, to equalize the pay of members of, and applicants for, the Senior Reserve Officers' Training Corps while attending field training or practice cruises (with accompanying papers); to the Committee on Armed Services.

EC 461. A letter from the Deputy Assistant Secretary of Defense, Installations and Housing, transmitting, pursuant to law, notice of the construction project to be undertaken by the Navy; to the Committee on Armed Services.

EC 462. A letter from the Director of Defense Security Assistance and the Deputy Assistant Secretary for Security Assistance transmitting, pursuant to law, information concerning the Department of the Army's proposed letter of offer to sell ammunition stocks located in Thailand (with accompanying papers); to the Committee on Armed Services.

EC 463. A letter from the Secretary of the Interior transmitting a draft of proposed legislation to authorize exploration, development and production of the National Petroleum Reserve in Alaska by such ongoing governmental programs or nongovernmental entities as the Secretary of the Interior shall designate (with accompanying papers); to the Committee on Armed Services.

EC 464. A letter from the Secretary of Housing and Urban Development transmitting a draft proposed legislation to permit full implementation of the graduated payment mortgage insurance program (with accompanying papers); to the Committee on Banking, Housing and Urban Affairs.

EC 465. A letter from the Administrator of the General Services Administration transmitting a draft of proposed legislation to amend the Bank Holding Company Act Amendments of 1970 (with accompanying papers); to the Committee on Banking, Housing and Urban Affairs.

EC 466. A letter from the Acting Secretary of the Treasury transmitting a draft of proposed legislation to extend for five years the authority of Federal Reserve Banks to purchase United States obligations directly from the Treasury (with accompanying papers); to the Committee on Banking, Housing and Urban Affairs.

EC 467. A letter from the Secretary of Housing and Urban Development transmitting a draft of proposed legislation to extend the authority of the Secretary of HUD to insure mortgages or loans under HUD–FHA mortgage or loan insurance programs contained in the National Housing Act (with accompanying papers); to the Committee on Banking, Housing and Urban Affairs.

EC 468. A letter from the Acting Secretary of the Treasury transmitting a draft of proposed legislation to repeal the requirements that the amount of U.S. notes outstanding at any time remain fixed (with accompanying papers); to the Committee on Banking, Housing and Urban Affairs.

EC 469. A letter from the Acting Secretary of the Treasury transmitting a draft of proposed legislation to authorize further adjustments in the amount of silver certificated outstanding (with accompanying papers); to the Committee on Banking, Housing and Urban Affairs.

EC 470. A letter from the Acting Secretary of the Treasury transmitting a draft of proposed legislation to authorize the Treasury to invest for cash management purposes (with accompanying papers); to the Committee on Banking, Housing and Urban Affairs.

EC 471. A letter from the Assistant Secretary of the Interior transmitting a draft of proposed legislation to amend the Migratory Bird Hunting and Conservation Stamp Act (with accompanying papers); to the Committee on Commerce.

EC 472. A letter from the Secretary of Transportation transmitting a draft of proposed legislation to authorize the Secretary of Transportation to enter into a contract or contracts for experimental aeronautical satellite communications services without regard to the provisions of 31 U.S.C. 665(a) or 41 U.S.C. 11 (with accompanying papers); to the Committee on Commerce.

EC 473. A letter from the Secretary of Transportation transmitting a draft of proposed legislation to implement article VI of the Convention on the International Regulations for Preventing Collisions at Sea, 1972 (with accompanying papers); to the Committee on Commerce.

EC 474. A letter from the Secretary of Transportation transmitting, pursuant to law, a report entitled "Final Standards, Classification and Designation of Lines of Class I railroads in the United States" (with an accompanying report); to the Committee on Commerce.

EC 475. A letter from the Chairman of the Federal Maritime Commission transmitting, pursuant to law, a copy of the 15th annual report of the Federal Maritime Commission (with an accompanying report); to the Committee on Commerce.

EC 476. A letter from the Secretary of Transportation transmitting, pursuant to law, a study of Federal Aid to Rail Transportation (with an accompanying report); to the Committee on Commerce.

EC 477. A letter from the Director of the Office of Management and Budget transmitting a draft of proposed legislation to repeal provisions of law requiring the exclusion of certain Federal Government entities from the budget totals (with accompanying papers); to the Committee on Government Operations.

EC 478. A letter from the Secretary of the Interior transmitting a draft of proposed legislation to repeal portions of the Water Resources Planning Act of 1965 and to amend the Federal Non-Nuclear Energy Research and Development Act of 1974, and the Water Resources Development Act of 1974 (with accompanying papers); to the Committee on Interior and Insular Affairs.

EC 479. A letter form the Acting Assistant General Counsel for International, Con-

servation and Resource Development Programs for the Federal Energy Administration transmitting, pursuant to law, notice of a meeting related to the International Energy Program (with accompanying papers); to the Committee on Interior and Insular Affairs.

EC 480. A letter from the Assistant Secretary of the Interior transmitting a draft of proposed legislation to repeal section 317 (c) of the Federal Land Policy and Management Act of 1976 (with accompanying papers); to the Committee on Interior and Insular Affairs.

EC 481. A letter from the Under Secretary of Health, Education, and Welfare transmitting a draft of proposed legislation to simplify the procedure for making reductions in grant amounts in the case of insufficient appropriations (with accompanying papers); to the Committee on Labor and Public Welfare.

EC 482. A letter from the Under Secretary of Health, Education, and Welfare transmitting a draft of proposed legislation to consolidate the administration of certain programs of financial assistance to States for educational purposes (with accompanying papers); to the Commitee on Labor and Public Welfare.

EC 483. A letter from the Secretary of Labor transmitting, pursuant to law, the January 1977 report pertaining to fair labor standards in employment in the affecting interstate commerce (with an accompanying report); to the Commitee on Labor and Public Welfare.

EC 484. A letter from the Secretary of Labor transmitting, pursuant to law, the January 1977 report pertaining to activities in connection with the Age Discrimination in Employment Act of 1967 (with an accompanying report); to the Committee on Labor and Public Welfare.

EC 485. A letter from the Secretary of Health, Education, and Welfare transmitting a draft of proposed legislation to amend the program of financial assistance to local educational agencies in areas affected by Federal activity to eliminate entitlements based on children whose parents work but do not reside, on Federal property (with accompanying papers); to the Committee on Labor and Public Welfare.

EC 486. A letter from the Secretary of Health, Education, and Welfare transmitting a draft of proposed legislation to consolidate Federal financial assistance to the 50 States, the District of Columbia, and the territories for programs in the field of health, to focus those programs on individuals most in need of them, and to eliminate unnecessary restrictions on the exercise of State responsibility for program administration (with accompanying papers); to the Committee on Labor and Public Welfare.

EC 487. A letter from the Under Secretary of Health, Education, and Welfare transmitting a draft of proposed legislation to enable the Secretary of HEW to alter the services provided at, transfer control of, or close hospitals of the Public Health Service identified in section 818 of Public Law 93–155 (with accompanying papers); to the Committee on Labor and Public Welfare.

EC 488. A letter from the Director of the Office of Management and Budget transmitting a draft of proposed legislation to provide that the amount authorized to be appropriated to the Railroad Retirement Account each fiscal year to pay the costs of "windfall" benefits shall not exceed $250 million (with accompanying papers); to the Committee on Labor and Public Welfare.

EC 489. A letter from the Secretary of Labor transmitting a draft of proposed legislation to extend the authorization of appropriations for the Comprehensive Employment and Training Act of 1973 (with accompanying papers); to the Committee on Labor and Public Welfare.

EC 490. A letter from the Acting General Counsel of the Department of Defense transmitting a draft of proposed legislation relating to crediting amounts received for certain Reserve or National Guard Service (with accompanying papers); to the Committee on Post Office and Civil Service.

EC 491. A letter from the Secretary of Transportation transmitting a draft of proposed legislation to increase the authorization of appropriations for the revolving fund established to finance the removal of oil or hazardous substances discharged into navigable waters, adjoining shorelines, and the contiguous zone (with accompanying papers); to the Committee on Public Works.

EC 492. A letter from the Acting Administrator of the Veterans' Administration transmitting a draft of proposed legislation to authorize a program of assistance to States for the establishment, expansion, improvement, and maintenance of veterans cemeteries (with accompanying papers); to the Committee on Veterans' Affairs.

EC 493. A letter from the Acting Administrator of the Veterans' Administration transmitting a draft of proposed legislation to require that certain veterans receiving hospital care from the Veterans' Administration for non-service-connected disabilities be charged for such care to the extent that they have health insurance or similar contracts with respect to such care, or, are entitled to such care under worker's compensation; to prohibit the future exclusion of such coverage from insurance policies or contracts written under these situations (with accompanying papers); to the Committee on Veterans' Affairs.

EC 494. A letter from the Acting Administrator of the Veterans' Administration transmitting a draft of proposed legislation to limit the circumstances under which the expenses of travel in connection with medical treatment for a non-service-connected condition will be reimbursed (with accompaying papers); to the Committee on Veterans' Affairs.

EC 495. A letter from the Acting Administrator of the Veterans' Administration transmitting a draft of proposed legislation to revise and improve the program of making grants to the States for the construction, remodeling, or renovation of State home facilities for furnishing hospital, domiciliary, and nursing home care for eligible veterans (with accompanying papers); to the Committee on Veterans' Affairs.

EC 496. A letter from the Acting Administrator of the Veterans' Administration transmitting a draft of proposed legislation to terminate the education loan program (with accompanying papers); to the Committee on Veterans' Affairs.

EC 497. A letter from the Acting Administrator of the Veterans' Administration transmitting a draft of proposed legislation to eliminate certain duplications in the payment of Federal burial benefits, now payable for the same, or similar, purpose (with accompanying papers); to the Committee on Veterans' Affairs.

JOINT REFERRAL OF A COMMUNICATION

Mr. CRANSTON. Mr. President, I ask unanimous consent that a communication from the Department of Labor, EC 424, January 19, 1977, reltive to unemployment compensation, be referred jointly to the Committee on Labor and Public Welfare and the Committee on Finance.

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

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions which were referred as indicated:

POM–58. A petition calling for the consideration of a bill entitled "The Personal Income Tax Repeal, Trade Review and Social Welfare Reorganization Act of 1977; to the Committee on Government Operations.

AUTHORITY TO FILE REPORT ON NOMINATION

Mr. EASTLAND. Mr. President, I ask unanimous consent to file later this day with the Senate the Judiciary Committee's report on the nomination of Griffin Bell to be Attorney General. The report will contain additional views.

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

REPORTS OF COMMITTEES

The following reports of committees were submitted:

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

S. Res. 48. An original resolution with respect to the release of Abu Daoud (Rept. No. 95–1).

EXECUTIVE REPORTS OF THE COMMITTEE ON COMMERCE

Mr. MAGNUSON. Mr. President, as in executive session, I, from the Committee on Commerce, report favorably sundry nominations in the Coast Guard which have previously appeared in the CONGRESSIONAL RECORD and, to save the expense of printing them on the Executive Calendar, I ask unanimous consent that they lie on the Secretary's desk for the information of Senators.

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

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of January 10, 1977, at the end of the Senate proceedings.)

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. CULVER:

S. 391. A bill for the relief of Brigitte Marie Harwood; to the Committee on the Judiciary.

By Mr. CULVER (for himself, Mr. CLARK, and Mr. MAGNUSON):

S. 392. A bill for the relief of Carmichael C. Peters; to the Committee on the Judiciary.

By Mr. METCALF:

S. 393. A bill to provide for the study of certain lands to determine their suitability for designation as wilderness in accordance with the Wilderness Act of 1964, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. CULVER (for himself, Mr. RANDOLPH, Mr. CLARK, and Mr. CHURCH):

S. 394. A bill to amend title 23 to provide a comprehensive bridge replacement and rehabilitation program; to the Committee on Public Works.

By Mr. HART:

S. 395. A bill to authorize the Secretary of Housing and Urban Development to make direct low-interest loans to assist homeowners and builders in purchasing and installing solar heating (or combined solar heating and cooling) equipment; to the Committee on Banking, Housing and Urban Affairs.

By Mr. DOMENICI:

S. 396. A bill to amend part A of title XVIII of the Social Security Act to cover certain additional inpatient hospital services furnished outside the United States to individuals insured for benefits provided under such part A; to the Committee on Finance.

S. 397. A bill for the relief of Luisa C. Luang; to the Committee on the Judiciary.

By Mr. PEARSON:

S. 398. A bill to amend the Airport and Airway Development Act of 1970 to bring about increased levels of employment in the construction trades on an emergency basis, and for other purposes; to the Committee on Commerce.

By Mr. YOUNG:

S. 399. A bill for the relief of Dr. Manuel Javier Mariano and his wife, Lilia Zapanta Mariano; to the Committee on the Judiciary.

By Mr. HUMPHREY:

S. 400. A bill for the relief of Min (Kim) Bokshil; to the Committee on the Judiciary.

By Mr. EAGLETON:

S. 401. A bill for the relief of Ramesh Motwani; to the Committee on the Judiciary.

S. 402. A bill for the relief of Chao-Hsiung Chang; to the Committee on the Judiciary.

By Mr. PEARSON:

S. 403. A bill to regulate the flow of interstate commerce by establishing programs, standards, and procedures for determining responsibilities and liabilities arising out of product related injuries, and for other purposes; to the Committee on Commerce.

By Mr. ALLEN:

S. 404. A bill for the relief of Ricardo S. Flandez; and

S. 405. A bill for the relief of Chong Cha Williams; to the Committee on the Judiciary.

By Mr. PROXMIRE:

S. 406. A bill to encourage financial institutions to help meet the credit needs of the communities in which they are chartered, and for other purposes; to the Committee on Banking, Housing and Urban Affairs.

By Mr. CHURCH:

S. 407. A bill to provide that time spent by American civilians in enemy prisoner-of-war camps and similar places shall be creditable (as though it were military service) toward pensions, annuities, or similar benefits under various Federal retirement programs; jointly, by unanimous consent, to the Committees on Finance, Labor and Public Welfare, Post Office and Civil Service, and Armed Services.

By Mr. HUDDLESTON (for himself and Mr. DOLE):

S. 408. A bill to amend title 5, United States Code, to extend certain benefits to former employees of county committees established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. CURTIS (for himself and Mr. ZORINSKY):

S. 409. A bill to designate the Meat Animal Research Center located near Clay Center, Nebr., as the Roman L. Hruska Meat Animal Research Center; to the Committee on Agriculture and Forestry.

By Mr. HANSEN (for himself, Mr. DOLE, Mr. INOUYE, Mr. MATSUNAGA, Mr. MELCHER, Mr. METCALF, Mr. STAFFORD, and Mr. THURMOND):

S. 410. A bill to amend part B of title XI of the Social Security Act to assure appropriate participation by optometrists in the peer review and related activities under such part; to the Committee on Finance.

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

S. 411. A bill to encourage localities to develop strategies and to use available Federal assistance for the preservation of neighborhoods and the reclamation of existing housing stock to the Committee on Banking, Housing and Urban Affairs.

By Mr. HUMPHREY:

S. 412. A bill to provide for congressional reforms, to strengthen the role of Congress as a coequal branch of Government, and for other purposes; to the Committee on Government Operations.

By Mr. DOLE (for himself and Mr. BENTSEN):

S. 413. A bill to amend title 5, United States Code, to provide for the payment of overtime to certain personnel employed in the Animal and Plant Health Inspection Service of the Department of Agriculture; to the Committee on Post Office and Civil Service.

By Mr. THURMOND (for himself, Mr. HATCH, Mr. DOLE, Mr. HATFIELD, Mr. LEAHY, and Mr. RANDOLPH):

S. 414. A bill to require a health warning on the labels of bottles containing certain alcoholic beverages; to the Committee on Commerce.

By Mr. LEAHY (for himself and Mr. STAFFORD):

S. 415. A bill to amend the Anadromous Fish Conservation Act to include fish in Lake Champlain that ascend streams to spawn; to the Committee on Commerce.

By Mr. LEAHY:

S. 416, A bill to amend the Land and Water Conservation Fund Act of 1965 in order to increase the amount of a State's allocation which may be used for certain sheltered facilities; to the Committee on Interior and Insular Affairs.

By Mr. PROXMIIRE (for himself, Mr. GARN, Mr. BROOKE, and Mr. HUDDLESTON):

S. 417. A bill to establish a National Commission on Neighborhoods; to the Committee on Banking, Housing and Urban Affairs.

By Mr. BAYH:

S. 418. A bill to provide for the establishment of multipurpose service centers for displaced homemakers, and for other purposes; to the Committee on Labor and Public Welfare.

By Mr. HASKELL:

S. 419. A bill to test the commercial, environmental, and social viability of various oil shale technologies, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. RANDOLPH:

S. 420. A bill to provide authority to institute emergency measures to minimize the adverse effects of natural gas shortages and curtailments, and for other purposes; to the Committee on Commerce.

By Mr. RANDOLPH (for himself, Mr. ABOUREZK, Mr. ALLEN, Mr. BURDICK, Mr. HARRY F. BYRD, JR., Mr. CASE, Mr. CANNON, Mr. CLARK, Mr. GRAVEL, Mr. HASKELL, Mr. HATFIELD, Mr. HUDDLESTON, Mr. HUMPHREY, Mr. JACKSON, Mr. JOHNSTON, Mr. LAXALT, Mr. MAGNUSON, Mr. MATHIAS, Mr. MCCLURE, Mr. MCINTYRE, Mr. MORGAN, Mr. MUSKIE, Mr PEARSON, Mr. PELL, Mr. RIBICOFF, Mr. STONE, Mr. THURMOND, and Mr. WILLIAMS):

S.J. Res. 13. A joint resolution designating "Energy Conservation Month"; to the Committee on Interior and Insular Affairs.

By Mr. GARN (for himself, Mr. BARTLETT, Mr. CURTIS, Mr. DANFORTH, Mr. EASTLAND, Mr. HATCH, Mr. HATFIELD, Mr. HELMS, Mr. LUGAR, Mr. PROXMIRE, Mr. YOUNG, and Mr. ZORINSKY):

S.J. Res. 14. A joint resolution proposing an amendment to the Constitution of the United States for the protection of unborn children and other persons; to the Committee on the Judiciary.

By Mr. GARN (for himself, Mr. BARTLETT, Mr. CURTIS, Mr. DANFORTH, Mr. EASTLAND, Mr. HATCH, Mr. HATFIELD, Mr. HELMS, Mr. LUGAR, Mr. PROXMIRE, Mr. YOUNG, and Mr. ZORINSKY):

S.J. Res. 15. A joint resolution proposing an amendment to the Constitution of the United States for the protection of unborn children and other persons; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. METCALF:

S. 393. A bill to provide for the study of certain lands to determine their suitability for designation as wilderness in accordance with the Wilderness Act of 1964, and for other purposes; to the Committee on Interior and Insular Affairs.

MONTANA WILDERNESS STUDY ACT OF 1977

Mr. METCALF. Mr. President, I introduce for appropriate reference the Montana Wilderness Study Act of 1977.

This bill, with some variations, was first introduced in the closing days of the 93d Congress as S. 4066, and again in the 94th Congress as S. 393. It would require the Forest Service to conduct wilderness studies on nine areas in Montana totaling approximately 973,000 acres.

Since its original introduction, the language of the bill has been sharpened and refined. Principal objections voiced in the Washington hearings in May of 1975 focused on interim-use provisions and the bill's potential impact on timber harvesting. The first issue was resolved in conversations I had with representatives of the Gallatin Valley Snowmobile Association on the eve of the hearings. I was impressed with the group's sincerity and the validity of its arguments. I readily agreed to amend the bill to permit the continuation during the study period of those uses which, in the opinion of the Forest Service, do not do permanent damage to the land or compromise its pristine character.

The timber controversy took longer to resolve. At my request, Dean Robert Wambach of the University of Montana's School of Forestry conducted a study of timber volumes. He concluded that there was less than half the amounts claimed by both industry and the Forest Service, and that most of that was of sufficiently low grade to make harvesting undesirable. He said he preferred to see much of the total area administered in a subwilderness "back-country" category but agreed that only a wilderness study would insure that the full range of land-use policy options would be considered.

Given the findings on saleable timber, the Senate Interior Committee gave its unanimous endorsement of S. 393 in July of 1976. The bill likewise received unanimous approval of the entire Senate in August.

Although S. 393 went to the House of Representatives too late in the 94th Congress to receive its full attention, one of the study areas—the Elkhorn Mountains—was extracted and included in an omnibus national bill which was eventually signed into law. Credit for this action goes to my colleague, Senator JOHN MELCHER, who was at that time Representative Melcher, chairman of the Subcommittee on Public Lands of the House Interior Committee. With his assistance, a law was passed requiring a 2-year study of that deserving 89,000 acre area.

Mr. President, I submit that the same types of threats which led to a study on the Elkhorns are present to a greater

or lesser degree on the other nine areas. All I am asking is that the Forest Service be required to conduct hearings involving the public on each of the areas. For too long, Montanans have learned of developments impacting their State only after the major decisions have been made secretly in distant corporate boardrooms. I say that the Forest Service should be required to ask Montanans for their views on development—not after the fact or on piecemeal segments of large potential wilderness areas. I am simply asking that the owners of public lands be consulted far enough in advance of development so that all alternatives are explored.

I stress that this bill is not a wilderness bill. It is a wilderness study bill, with emphasis on the word "study." After the studies are completed, another decision would have to be made whether to introduce in the Congress one or more "instant" wilderness bills. Such a decision would come well in the future, after I have departed from the Senate and after Montanans from all walks of life have had a chance to give their views.

Mr President, before listing the areas and their acreage, I wish to emphasize two things: I am not denigrating Forest Service staff in the region for failure to date to conduct these studies. Field personnel are guided by Washington directives and budget considerations. Also, the areas listed in this bill do not exhaust those in Montana deserving of similar formal study. There are at least that many more which qualify and others could be added to the list as time passes.

The areas chosen and their approximate sizes are:

	Acres
West Pioneer Wilderness Study Area	151,000
Taylor-Hilgard Wilderness Study Area	289,000
Bluejoint Wilderness Study Area	61,000
Sapphire Wilderness Study Area	94,000
Mt. Henry Wilderness Study Area	21,000
Ten Lakes Wilderness Study Area	34,000
Middle Fork Judith Wilderness Study Area	81,000
Big Snowies Wilderness Study Area	91,000
Hyalite-Porcupine-Buffalo Horn Wilderness Study Area	151,000

They were selected on the basis of their major importance for wilderness and undisturbed wildlife habitat, watershed value, threats of logging or other development which would sacrifice their natural values without a comprehensive wilderness study, and substantial local support in nearby communities.

I ask unanimous consent that the text of the bill be printed at this point in the RECORD, and that a description of each area be printed immediately thereafter.

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

S. 393

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Montana Wilderness Study Act of 1977".

SEC. 2. (a) In furtherance of the purposes of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1132), the Secretary of Agriculture (hereinafter known as the "Secretary") shall, within five years after the date of enactment of this Act, review certain lands designated by this section, as to their suitability for preservation as wilderness, and report his findings to the President, as follows:

(1) certain lands in the Beaverhead National Forest, Montana, which are generally depicted on a map entitled "West Pioneer Wilderness Study Area; and dated April 1976, comprising approximately one hundred and fifty-one thousand acres, which shall be known as the West Pioneer Wilderness Study Area;

(2) certain lands in the Beaverhead and Gallatin National Forests, Montana, which are generally depicted on a map entitled "Taylor-Hilgard Wilderness Study Area" dated April 1976, comprising approximately two hundred and eighty-nine thousand acres, which shall be known as the Taylor-Hilgard Wilderness Study Area;

(3) certain lands in the Bitterroot National Forest, Montana, which are generally depicted on a map entitled "Bluejoint Wilderness Study Area" and dated April 1976 comprising approximately sixty-one thousand acres, which shall be known as the Bluejoint Wilderness Study Area;

(4) certain lands in the Bitterroot and Deerlodge National Forests, Montana, which are generally depicted on a map entitled "Sapphire Wilderness Study Area" and dated April 1976, comprising approximately ninety-four thousand acres, which shall be known as the Sapphire Wilderness Study Area;

(5) certain lands in the Kootenai National Forest, Montana, which are generally depicted on a map entitled "Mt. Henry Wilderness Study Area" and dated January 1974, comprising approximately twenty-one thousand acres which shall be known as the Mt. Henry Wilderness Study Area;

(6) certain lands in the Kootenai National Forest, Montana, which are generally depicted on a map entitled "Ten Lakes Wilderness Study Area" and dated April 1976, comprising approximately thirty-four thousand acres, which shall be known as the Ten Lakes Wilderness Study Area;

(7) certain lands in the Lewis and Clark National Forest, Montana, which are generally depicted on a map entitled "Middle Fork Judith Wilderness Study Area" dated April 1976, comprising approximately eighty-one thousand acres, which shall be known as the Middle Fork Judith Wilderness Study Area;

(8) certain lands in the Lewis and Clark National Forest, Montana, which are generally depicted on a map entitled "Big Snowies Wilderness Study Area" and dated April 1976, comprising approximately ninety-one thousand acres, which shall be known as the Big Snowies Wilderness Study Area;

(9) certain lands in the Gallatin National Forest, Montana, which are generally depicted on a map entitled "Hyalite-Porcupine-Buffalo Horn Wilderness Study Area" and dated April 1976, comprising approximately one hundred and fifty-one thousand acres, which shall be known as the Hyalite-Porcupine-Buffalo Horn Wilderness Study Area; and

(10) certain lands in the Kootenai National Forest, Montana, which are generally depicted on a map entitled "Mt. Henry Wilderness Study Area" and dated April 1976, comprising approximately twenty-one thousand acres, which shall be known as the Mt. Henry Wilderness Study Area.

(b) The Secretary shall conduct his review, and the President shall advise the United States Senate and House of Representatives of his recommendations, in accordance with the provisions of subsections 3(b) and 3(d) of the Wilderness Act, except that any reference in such subsections to areas in the national forests classified as "primitive" shall be deemed to be a reference to the wilderness study areas designated by this Act and except that the President shall advise the Congress of his recommendations with respect to such areas within seven years after the date of enactment of this Act: *Provided, however,* That the Secretary shall give at least sixty days' advance public notice of any hearing or other public meeting concerning such areas.

(c) The maps referred to in this section shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

SEC. 3. (a) Except as otherwise provided by this section, and subject to existing private rights, the wilderness study areas designated by this Act shall, until Congress determines otherwise, be administered by the Secretary of Agriculture so as to maintain their presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System.

(b) Nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the several States with respect to wildlife and fish in the national forests.

(c) Nothing herein contained shall (1) limit the President in proposing, as part of his recommendation to Congress, the alteration of existing boundaries of any wilderness study area or recommending the addition to any such area of any contiguous area predominantly of wilderness value, or (2) limit the authority of the Secretary of Agriculture to establish, protect, study, or make recommendations to the President and Congress with respect to additional wilderness study areas within national forests in the State of Montana.

SEC. 4. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

DESCRIPTION OF PROPOSED STUDY AREAS

West Pioneer, 151,000 acres, Beaverhead National Forest:

The West Pioneer unit is a highly scenic wildland of natural lakes and streams containing the indigenous and endangered Montana grayling and cutthroat trout. It is important elk and moose summer range. Occasional mountain goats are also seen in the area. Commercial timber is scattered and limited in volume, consisting primarily of pole-sized lodgepole pine.

In addition, in the northern part of the West Pioneer area on Effie Creek exists the world's oldest known stand of living lodgepole pine trees. Described by Mason in 1915 as being over 450 years old, the most ancient lodgepole pine in the stand now exceeds 500 years in age.

Another outstanding feature of the West Pioneers is the presence at the headwaters of Osborne and Stone Creeks of a relic stand of alpine larch (Larix lyallii), believed to be the easternmost stand of these trees in existence. Some of these trees were found by increment borer in 1972 to be more than 700 years old.

It would seem that these two outstanding biological aspects, along with the presence of the endangered grayling and cutthroat trout, would add decisive weight to the importance of the Forest Service giving the area a formal wilderness study.

Moreover, the area has been used for many years by residents and visitors alike for wilderness recreation—camping, quality hunting, fishing, hiking, backpacking, and sightseeing. This wilderness recreational use is growing rapidly each year.

Recommended for wilderness study by the Forest Supervisor, this pristine unit and the East Pioneer roadless area are the two largest and finest potential wilderness areas in the Beaverhead National Forest. Despite the fact that 75 per cent of the 2.1 million-acre Beaverhead Forest is undeveloped and roadless, the only designated wilderness acreage in the Forest is a small part of the

Anaconda-Pintlar Wilderness. In fact, although numerous outstanding opportunities exist, the entire southwestern region of Montana is virtually devoid of established Wilderness Areas. With the major Montana population centers of Butte, Anaconda, and Dillon situated in the region, this unfortunate situation must be corrected if the wilderness study process is truly to achieve the Forest Service principal objective of "locating some new wilderness areas closer to the places where people live, so that more people can directly enjoy their benefits."

Although in fact one roadless unit, the Forest Service at Regional or Washington level has incorrectly broken the West Pioneer area up into several smaller roadless areas—Bobcat Mountain, Odell Mountain, and Deer Peak—which has resulted in greatly reduced Quality Index ratings for each area. Since the Forest Service has given major importance in its analyses and selection process to size, the arbitrary fracturing of the total area into segments has adversely affected its wilderness consideration by the Chief Forester. The Forest Supervisor had properly considered the areas as one unit, and it was in this homogeneous form that the area was tentatively selected by him for further wilderness consideration and public meetings. At those meetings and on subsequent occasions, the Montana Wilderness Association, Montana Wildlife Federation, Sierra Club, The Wilderness Society, local guide and outfitting industry, Montana Fish and Game Department, and others representing in total the overwhelming sentiment of conservation-minded citizens of Montana, have continuously expressed their desire that this magnificent potential wilderness be given a wilderness study.

Taylor-Hilgard, 289,000 acres, Gallatin and Beaverhead National Forests:

The Forest Service has proposed a wilderness study of only 79,000 acres in the Hilgard areas, whereas the entire roadless area inventoried by the Forest Service in 1971 contains 289,000 acres. The greater roadless area is pristine, superb wild country that is highly deserving of a wilderness study. It is, in fact, one of the largest and finest potential wilderness areas left in Montana. At the Forest Service roadless area public meeting in Bozeman, Montana, on April 18, 1972, the entire area received overwhelming support for a study.

The eastern half of the greater area, which is contiguous to the northwestern part of Yellowstone National Park, was unfortunately excluded by the Forest Service from the proposed study, as was the northern part.

Furthermore, the greater Taylor-Hilgard roadless area has a long record of strong Forest Service and public support for a wilderness study. For many years, Gallatin conservation groups, local ranchers, the Montana Wildlife Federation, Montana Wilderness Association, The Wilderness Society, and other organizations have urged the Forest Service to study the area for wilderness purposes. The Forest Service formally recognized its great wilderness potential and widespread public support as early as 1958. In that year, Regional Forester Charles L. Tebbe wrote a letter—a copy of which is included with this report—to the Montana Wilderness Association announcing the establishment of a "hold" area of some 150,000 acres in the Taylor-Hilgard country, in addition to the adjacent Porcupine-Buffalo Horn area, in which he agreed that the Forest Service would forego roading, logging, and other development, pending completion of a wilderness study. A copy of the map, encompassing the total area which the Regional Forester agreed in 1958 to give a wilderness study, is also included.

The entire area is critically important habitat for major populations of elk, bighorn, sheep, mountain goat, moose grizzly bear and other wilderness species. It serves as a vital migation route to and from Yellowstone National Park for several of these wild animals. Parts of the roadless area represent important fall and winter range, as well as calving grounds, for elk. The bighorn sheep is officially rated as seriously reduced in numbers and vulnerable, subject to possible extinction. The grizzly is in the vanishing category. Both require a wilderness environment to survive.

The 79,000-acre Hilgard portion includes primarily the alpine Hilgard Basin and Taylor Peaks along the high crest of the Madison Range. Although spectacular and beautiful in its own right, this portion—if studied and designated by itself—would only represent a "wilderness on the rocks." The more eastern half of the greater roadless area is characterized, in general, by lower and more gentle terrain. It possesses high wilderness and wildlife values and is ecologically an essential part of the whole area. It also provides necessary natural foreground to the spectacular Hilgard and Taylor Peaks. The northern part of the area extends along the Madison crest to the undeveloped Jack Creek area.

The entire area supports a substantial guiding and outfitting industry. Thousands of visitors make wilderness use of the area each year. Timber volumes—largely lodgepole pine with some Douglas fir and Englemann spruce—are limited and scattered. No mineral or water development conflicts exist. The area encompasses a major part of the watersheds of the Madison and Gallatin Rivers, world famous for their trout fisheries and other recreational attributes. Wilderness status would give added protection to the watershed, fisheries, wildlife, and wilderness values of the scenically magnificent Madison Range.

In view of these facts and the tremendous wilderness resources involved, it would seem that the citizens of Montana and the Nation could properly expect the Forest Service to keep its longstanding commitment to conduct formal wilderness studies of both the greater Taylor-Hilgard and Porcupine-Buffalo Horn roadless areas.

Forest Service plans for an immediate timber sale on Big Teepee Creek on the extreme southeast corner of the Taylor-Hilgard area would infringe on this unit and threaten destruction of part of its wilderness potential.

OCTOBER 17, 1958.

Mr. KENNETH K. BALDWIN,
General Chairman, The Montana Wilderness Association, Bozeman, Mont.

DEAR MR. BALDWIN: I wish I could have been with you and the group of people who looked over the proposed recreation area in the Upper Gallatin early in September. I have heard that it was a very good meeting which should result in a better understanding by all concerned of the problems to be worked out if a wilderness, wild or recreation area were to be established there.

I am informed that for some years the desire of interested local people for such an area in the Upper Gallatin has been recognized and discussed, and that until such time as a comprehensive study is made, the Service would refrain from logging or road development. The record shows earlier discussions and agreements related to a much smaller area than outlined on the map accompanying your letter, and as you say, Supervisor Duvendack himself suggested the inclusion, for study, of the Porcupine-Buffalo Creek country.

The enlarged study area and the restraint on development until the study is made, have been discussed with me and my staff. We accept the proposal because you urge it, because we too are interested in delineating boundaries along proper and defensible lines, and because for the time being at least there are no pressing needs for nonrecreational developments in the area under discussion.

We must and we will get on with the study. But in the meantime, and later when we come to discuss it and act upon the findings, it must be recognized that no significance attaches to the lines as drawn, insofar as the ultimate boundary of a wild, wilderness or recreation area is concerned. We are simply going to stay out of the area with roads and logging, except as they might be dictated by some emergency situation such as fire or serious insect infestation, so that a free hand may be taken after the facts are in, in making the most of this area from a recreation and multiple-use standpoint.

Very sincerely yours,

CHAS. L. TEBBE,
Regional Forester.

Bluejoint, 61,000 acres, Bitterroot National Forest:

Bluejoint is one of extremely few undeveloped "islands" in a sea of clearcuts on the Bitterroot National Forest southwest of Hamilton, Montana.

The area is situated along the Montana-Idaho border south of Nez Perce Pass. It is contiguous on its west border to the Magruder Corridor's Hells Half Acre roadless area which adjoins the Salmon River Breaks Primitive Area. Thus, Bluejoint, Hells Half Acre, and the Salmon River Breaks could all be joined together in a magnificent primeval wilderness of more than 350,000 acres.

Bluejoint and Deer Creeks are the principal streams in the proposed wilderness study area. Tributaries of the recreationally-important Bitterroot River, they contain excellent wild trout fisheries. The area is undisturbed habitat for major populations of elk, as well as deer, bighorn sheep, and bear. The large, moist alpine meadows along the creeks furnish the elk herds with excellent summer and fall range. Prominent landmarks of the area are Razorback Mountain (8,637 feet elevation), Deer Creek Point (8,367 feet), and Razorback Ridge.

The area burned over in the 1910–1919 fires. Despite the limited volume of new growth timber, the Bluejoint area is likely to be one of the units that will be scheduled by the Forest Service for roading and logging in the future.

Its important wildlife and wilderness values, in addition to its relationship to the adjoining Hells Half Acre roadless area (which the Chief Forester has placed on his wilderness study list) fully justify a formal wilderness review.

Sapphire, 94,000 acres. Bitterroot and Deer Lodge National Forest:

The proposed Sapphire Wilderness Study Area is located along the crest of the Sapphire Range which separates the scenic Bitterroot Valley on the west from the Rock Creek Valley to the east. The range, which includes parts of the Bitterroot and Deer Lodge National Forests, tapers to foothills on the north at the confluence of the Bitterroot and Clark Fork Rivers near Missoula, Montana. That portion which is proposed for wilderness study is the undeveloped higher southern part which abuts the Anaconda Range. The proposed study area is contiguous to the Anaconda-Pintlar Wilderness and would make a logical addition to it. The unit lies generally south of Skalkaho Pass.

This undeveloped, magnificent high country is situated in the headwaters of Rock Creek, one of Montana's blue-ribbon trout streams—and at the headwaters of the East Fork of the Bitterroot River, nationally famous for its fine elk herds.

Here, one can tread the crest of grassy alpine ridges, look down on a dozen beautiful glacial lakes and tarns, gaze to the west at the grandeur of "Montana's Alps"—the Bitterroot Mountains—or look to the east to the Flint Creek Range and south to the

Beaverhead, Pioneer, and Anaconda Mountains.

In the meadows, made lush by numerous streams and lakes, one can see elk feeding on their summer range. Some 800 to 1,000 of these majestic wilderness animals are found in the proposed study area. The swampy areas provide ideal habitat for moose. The shy, elusive mountain goat is often seen working its way along a rocky escarpment. In the clear, cold headwaters of Rock Creek and the East Fork of the Bitterroot, the angler can test his skill on four native species of fish—westslope cutthroat and Dolly Varden trout, grayling, and whitefish. Wherever development has occurred in similar areas, these indigenous species have suffered.

The magnificent expanse of primeval forest land is also the last frontier for wildlife that has been unable to endure the crunch of civilization—the rare or threatened lynx, pine marten, fisher, and wolverine. A remnant herd of bighorn sheep is occasionally seen summering in the unit.

No significant minerals are known to exist in the area. Stands of slow-growing timber are scattered throughout the area. Although requiring two or three centuries to mature, the limited volume of timber nevertheless is viewed as a commercial product by the lumbering industry. Despite the overwhelming opposition of conservation groups and the Montana Fish and Game Department, the Forest Service is proceeding with imminent plans to road and log the Moose Creek unit in the southern part of the proposed Sapphire Wilderness Study Area.

Logging has already approached the study area from the east and west. On the eastern side, the coarse, sandy soils have started to erode and clog the streams with sediment that, if not halted, will eliminate much of the fisheries value of Rock Creek. To the west, even more timber harvest threatens the summer habitat of elk. If we are to protect our wood fiber needs into the future, then we should also contemplate our wilderness needs for the years ahead and determine where each might best be accommodated.

With a 1,400 percent increase since 1946 in the use of officially established Wilderness and Primitive Areas—as reported by Dr. Robert C. Lucas of the Forest Sciences Laboratory maintained at Missoula in cooperation with the University of Montana—presently designated wilderness most assuredly will not be adequate to meet the demand in the future.

In summary, the proposed Sapphire study area has prime wilderness values that should not be overlooked or considered lightly. A formal wilderness study would give them proper recognition.

Ten Lakes, approximately 34,000 acres, Kootenai National Forest:

The Ten Lakes Wilderness Study Area is located in northwestern Montana in the highly scenic Whitefish and Galton Ranges, approximately five miles northeast of Eureka. It encompasses the undeveloped 6,195-acre Ten Lakes Scenic Area and adjoining 23,500-acre Ksanka Peak-Mt. Gibralter-Mt. Wam roadless area. The Ten Lakes Scenic Area was administratively designated for hiking and horseback use in May 1964. Its northern boundary is located on the Canadian border. The Ksanka Peak-Mt. Gilbralter-Mt. Wam roadless area is a logical southern extension of the scenic area.

A number of prominent peaks over 7,000 feet in elevation dominate the high country. The proposed study area contains numerous glacial lakes and streams which provide quality fishing for the wilderness angler. Species of fish present include the endangered west-slope cutthroat trout and mountain white-fish, as well as Dolly Varden, rainbow, and eastern brook trout. Ecologically, the westslope cutthroat and Dolly Varden trout are wilderness species.

A wide variety of wildlife inhabits the area. Among the wild creatures are mule deer, whitetailed deer, elk, moose, grizzly bear, black bear, mountain lion, lynx and wolverine. Except for deer and black bear, all of these species require wilderness to prosper. Development of any part of the present roadless area would adversely affect the grizzly bear and other wilderness species. Most of the area is forested. Tree species are primarily spruce, sub-alpine fir, and alpine larch. However, over two-thirds of the Ksanka-Mt. Gibralter-Mt. Wam roadless area is highly marginal or unsuitable for timber production under present harvesting methods because of low productivity, steep slopes, and unstable soils. Timber harvesting is not permitted in the Ten Lakes Scenic Area.

Because of the thin soil covering, lack of binder, and low organic material content in most of the proposed study area, the soil is easily damaged by over-use. Precipitation in the proposed study area varies from approximately 20 inches in the lower areas to more than 80 inches in the higher elevations, where most of the precipitation is in the form of snow. About 80 percent of the unit lies above 5,000 feet in elevation and produces an average of nearly four acre-feet of high quality water per acre. Extremely few areas in the West produce more water per acre than this part of the Whitefish Range. The area serves in part as a municipal watershed for Eureka. It provides water for ranches, the Kootenai River, and the Columbia River Basin.

The recent construction of Libby Dam and recreational development of the Kooncanusa Reservoir are expected to attract increasing numbers of visitors to the area. Much of the proposed study unit is an important viewing area from Highways 93 and 37, as well as from Eureka and the Tobacco Valley The unit receives significant wilderness use. Trails for foot and horseback travel are ideally situated throughout most of the area.

According to a May 15, 1974, Forest Service draft Environmental statement for the Eureka-Grave Creek Multiple Use Plan, part of the Ksanka Peak-Mt. Gibralter-Mt. Wam roadless area is scheduled to be roaded and logged.

The entire roadless area, combined with the Ten Lakes Scenic Area, represents one of the few outstanding potential wilderness areas left on the Kootenai National Forest. It should be given the benefit of a wilderness study.

Middle Fork Judith, approximately 81,000 acres, Lewis Clark National Forest:

The proposed Middle Fork of the Judith Wilderness Study Area is located about forty miles southwest of Lewiston in the Little Belt Mountains. Near the center of Montana, the Little Belts are an isolated mountain range separated from the Big Belt Mountains by the Smith River Valley.

The proposed study area provides irreplaceable spring, summer, and fall range for the largest and only sizeable elk herd remaining in the eastern portion of Montana. The thriving herd is estimated at approximately 1,000 head. It has one of the highest calf-cow ratios in the state. Mule, deer, black bear, and numerous smaller wildlife also inhabit the area. The unit sustains a large amount of quality big game hunting. Yogo Peak, at 8,846 feet elevation, is one of the highest landmarks on the edge of the area. The peak historically furnished habitat for a band of bighorn sheep. Restoration of this magnificent wilderness animal to the area has been under consideration by the Montana Fish and Game Department.

The Montana Fish and Game Department acquired and has maintained for many years the 5,000-acre Judith River State Winter Game Range as an adjunct to the Middle Fork of the Judith roadless area.

The study area is vegetated in part with stands of Douglas fir, Ponderosa pine, and lodgepole pine interspersed with large, grassy parks. Cattle share the forage with the elk. With proper management, livestock grazing can continue in the area.

The native cutthroat trout, along with other species, is found in the Middle Fork of the Judith River and tributaries within the proposed study area. The Middle Fork is a small but beautiful river, and the canyon through which it flows is bordered by sheer limestone cliffs and is rated by the Forest Service as "very scenic." In fact, the Forest Service says of the entire study area, "The country is highly scenic and has recreation appeal." The area has been used for several generations as wilderness or back country.

Although a few mining claims are located at the head of King Creek, and a strip of mineralized land crosses the upper reaches of the Middle Fork, there is no current mining activity, and no operable minerals are known to exist in the area.

The study area is basically undeveloped and essentially in a natural condition. Old wagon roads, now used occasionally by four-wheel-drive vehicles, penetrate a small part of the unit. Two small parcels of privately owned inholdings lie near the center of the area. One inholding includes the Middle Fork Ranch which is operated as a summer cow-camp. The other serves as an outfitting camp. Except for limited building structures, the inholdings are laregly undeveloped. Within the study area, a possible timber harvest has been planned.

Local citizens have strongly opposed roading and logging of the area because of the extremely adverse impact that such development would have on the major elk herd, quality hunting, and other wilderness uses. As the Lewistown Rod and Gun Club has pointed out, "the elk is ecologically a wilderness animal and will not tolerate increased disturbance" of roading, logging, and associated uses. This is the last undeveloped national forest area in the Judith River drainage.

The early life of Charles M. Russell, famed western artist and sculptor, was closely associated with the area. Russell Point, a rocky promontory on the nearby developed South Fork of the Judith, marks the approximate location of the log cabin where Russell lived as a youth with the old fur trapper, Jake Hoover.

Development of the study area would eliminate its outstanding wilderness potential, decimate the thriving elk population, destroy quality hunting and other undeveloped recreation, and render virtually useless the extensive adjoining Judith River State Winter Game Range. Four-wheel-drive vehicular use could be terminated, the inholdings acquired, and the proposed Middle Fork of the Judith study area considered for a wilderness designation. In the entire eastern part of Montana no wilderness areas have yet been designated, and few opportunities remain. This is one of the best.

Big Snowies, 91,000 acres Lewis and Clark National Forest:

The Big Snowies Wilderness Study Area is located approximately 15 miles south of Lewistown, Montana. It encompasses most of the national forest lands that are essentially roadless and undeveloped in the Big Snowy Mountains.

The area contains numerous drainages with intermittent streams in deep, well-defined limestone canyons. The crest of the Big Snowies runs in a general east-west direction for more than 12 miles through the middle of the area. Both the upper reaches of individual drainages and the crest of the Big Snowy Mountains are rated by the Forest Service as "quite scenic." Among the outstanding landmarks of the area are Greathouse Peak (8,730 feet elevation), Big Snowy Peak (8,600 feet), Lost Peak (8,333 feet), and

Lime Cave Peak (7,005 feet). Interesting limestone ice caves are found within the unit.

Mule deer and white-tailed deer inhabit parts of the area and provide high quality hunting. Mountain goats were introduced in the 1950's and are occasionally seen along the crest of the Big Snowies.

Timber volumes are very small and largely inoperable on account of sparse, isolated stands, extremely steep terrain, and high cost road construction.

A limited amount of grazing by cattle and sheep is permitted in the proposed study area. Grazing is restricted to a very short season because of insufficient water. Under the 1964 Wilderness Act, grazing would continue. A few stock water developments are located in Horsethief and Halfmoon Canyons on the eastern side. Unimproved jeep trails are found in the same vicinity. Existing stock water developments are allowable under the Wilderness Act, but the jeep trails would be closed and allowed to revert to nature.

Roads from all sides provide good access to the edges of the study area. One road to Crystal Lake forms a non-wilderness corridor into the northwestern part of the area and puts the user within convenient hiking distance of the crest of the range. Major use of the area is dispersed recreation in the form of hiking, backpacking, and horseback riding. Its proximity to Lewistown makes it popular to thousands of Montana citizens and non-resident visitors.

Although the Forest Service has no plans at present to build roads and otherwise develop this area, it will ultimately be developed and rendered unsuitable for wilderness classification unless specifically classified to retain its wilderness character.

The Big Snowies Wilderness Study Area is one of extremely few potential wilderness areas in central Montana—a region which presently is completely lacking in designated wilderness.

Hyalite-Porcupine-Buffalo Horn, approximately 150,000 acres, Gallatin National Forest:

The proposed Hyalite-Porcupine-Buffalo Horn Wilderness Study Area encompasses the spectacular Hyalite Peaks approximately 15 miles south of Bozeman and extends southward along the crest of the Gallatin Range including the Porcupine drainages and the Buffalo Horn sector, which joins the northwestern part of Yellowstone National Park.

Although it is a magnificent mountainous area entirely without roads or other significant signs of man's works, the Chief Forester in October, 1973, placed only the 22,268-acre Hyalite Peaks portion on his final wilderness study list. Earlier, failing to recognize that this entire portion of the Gallatin Range was roadless, the Forest Service had listed Hyalite Peaks and Porcupine-Buffalo Horn as separate roadless areas. The undeveloped, 24,000-acre Porcupine-Buffalo Horn, with its connection to Yellowstone Park and its lower Gallatin drainages, is critically important as a wintering and calving range for the large North Yellowstone elk herd.

As an indication of this importance, the Montana Fish and Game Department long ago acquired and has maintained the Porcupine State Winter Game Range on state lands in the Porcupine Creek area. In addition to elk, the wildlife-rich study area provides irreplaceable undisturbed habitat for moose, bighorn sheep, mountain goat, deer, grizzly bear, mountain lion, black bear, and other wild creatures. Because of its undeveloped conditions, these wild species move freely between the Hyalite-Porcupine-Buffalo Horn and Yellowstone Park.

As the Montana Fish and Game Department has pointed out, roading, logging, and other activities that would tame this wild country would inevitably disrupt and destroy these desirable movements, with extremely adverse effects on the wildlife populations themselves.

Numerous high quality streams drain into the famed Gallatin River from the western slope of the proposed study area. The Gallatin River is a blue-ribbon trout stream, known nation-wide for its outstanding trout fishing and other outdoor recreation. The trout fishing, as well as the superb quality and stability of this free-flowing river could be irreparably damaged by roading, logging, and other man-made developments on the tributary drainages in the proposed study area.

Also aware of its significance in an undeveloped state, Montana conservation groups and Forest Service officials have for a quarter of a century agreed that the Porcupine-Buffalo Horn area, along with the nearby Taylor-Hilgard, should be studied for a wilderness designation. To this end former Regional Forester Charles L. Tebbe's October 17, 1958, letter to the Montana Wilderness Association formally committed the Forest Service to place both areas in a "hold" status, without roading and logging, pending the completion of wilderness studies. Despite this solemn commitment, the Forest Service has recently proposed timber sales on the South Fork of Swan Creek within the proposed study area.

A request for road access across Forest Service lands to log Burlington Northern Railway Company inholdings poses another immediate threat to the area.

The principal difficulty that confronts wilderness consideration is the extent of land owned by the Burlington Northern within the proposed study area. These Burlington Northern lands appear in a checkerboard pattern throughout much of the proposed study area, although Forest Service acquisitions have consolidated most of the national forest acreage in the northern part around Hyalite Peaks. Also, in the southern portion, around the Porcupine-Buffalo Horn, state acquisitions by the Montana Fish and Game Department have eased the problem, since the Department's object in acquiring these lands was to keep them in a natural condition for their major wildlife values.

A possible solution to the Burlington Northern inholdings problem exists. There is a need for national forest land to allow the town of West Yellowstone to expand. It has been reported that Burlington Northern has informally expressed interest in exchanging approximately 11,000 acres of its land in the Porcupine-Buffalo Horn sector for Forest Service land adjacent to West Yellowstone.

Englemann-spruce, lodgepole pine, and a limited amount of ponderosa pine grow especially along the tributary drainages and lower slopes of the area, while large parts of the upper reaches are characterized by open grass parks, rock outcrops, and alpine tundra.

The proposed study areas, with its proximity to both Yellowstone Park and the population center of Bozeman, is substantially used and recreationally important for its quality hunting, fishing, backpacking, horseback packtrips, and wilderness camping. The continuation of these uses is dependent upon retaining the area in a wilderness condition.

Dr. Harold Picton, Associate Professor of Biology, Montana State University, Bozeman, in his research on the West Gallatin elk herd, has placed a monetary value of $647,000 spent per elk harvested in that area in 1972. At that rate, 100 elk harvested would mean that hunters would spend $64,700.00. Since a harvest would normally occur each year, the monetary value alone on harvested elk extended over a crop rotation of 200 years for Englemann-spruce and ponderosa pine, or even 120 years for lodgepole pine, could greatly exceed the monetary value of timber harvested.

Montana conservation groups believe that a comprehensive resource study would disclose that the watershed, wildlife, and Wilderness values of the proposed Hyalite-Porcupine-Buffalo Horn Wildernes Study area are easily paramount and should be protected by a wilderness designation. The Gallatin Sportsmen's Association, Montana Wildlife Federation, Montana Wilderness Association, The Wilderness Society, the Montana Fish and Game Department, ranchers and many other Montana citizens strongly support a wilderness study for the Hyalite-Porcupine-Buffalo Horn area.

Mount Henry, approximately 21,000 acres, Kootenai National Forest:

The Mount Henry Wilderness Study Area is in the upper Yaak River drainage near the Canadian border and approximately 35 miles north of Libby in the extreme northwestern correr of Montana.

The area includes national forest lands around Mount Henry (elevation 7,200 feet). The upper West Fork of Basin Creek, Vinal Creek and Turner Creek are the main streams in the area. A number of beautiful natural lakes, including five Fish Lakes and Henry Lake, dot the forested landscape. The largest of the lakes furnish quality trout fishing. Turner Falls is a scenic point. The zone around the Fish Lakes encompasses a precipitous narrow canyon with rocky cliffs. The Mount Henry portion is high with steep slopes and rugged, rocky, topography. The rest of the area (60%) is rolling and heavily timbered general forest.

Mule deer, white-tailed deer, and elk are found in the area, providing quality hunting. Although small, the area is also attractive to the hiker, backpacker, and horseback rider.

The Forest Service has active plans to log in the vicinity of Vinal and Turner Creek. Montana conservation groups, Sierra Club, and The Wilderness Society are protesting timber sales in the proposed study area and urging a wilderness review. The proposed study area is needed to add to the short supply of classified wilderness in the extreme northwestern Montana-Idaho panhandle region. In the large Kootenai National Forest, only 94,272-acre Cabinet Mountains Wilderness, southwest of Libby, has been designated to date, and the Forest Service has taken no action to recommend other areas.

By Mr. CULVER (for himself, Mr. RANDOLPH, Mr. CLARK, and Mr. CHURCH):

S. 394. A bill to amend title 23 to provide a comprehensive bridge replacement and rehabilitation program; to the Committee on Public Works.

BRIDGE REPLACEMENT AND REHABILITATION ACT OF 1977

Mr. CULVER. Mr. President, today I introduce legislation to authorize a more extensive Federal program for replacing and rehabilitating deficient and obsolete bridges throughout our Nation.

In general, we have one of the finest and most modern road systems in the world. It has been a major factor in the development of America's economy and the physical growth of our country, as well as the convenience of recreational driving. One of the most important links in any effective road system is sound, well-constructed bridges. As a matter of fact, a road or highway is only as good as its bridges. Unfortunately, it is becoming more and more evident that our bridges have been neglected for too long and are in a serious state of disrepair.

After the tragic collapse of the Silver Bridge in Point Pleasant, W. Va., in 1970, the Congress established the special

bridge replacement program to provide Federal assistance to States for upgrading unsafe bridges on the Federal-aid highway system. Developed under the leadership of the distinguished chairman of the Senate Public Works Committee, Mr. RANDOLPH, this program has progressed well over the last few years, and the States are actively applying for funds. Funds under this highway category are allocated to States according to a ratio comparing a State's bridge replacement needs to national needs, and the Federal share of project costs can be as high as 75 percent.

There is no dobut that funds under this program have contributed substantially to improvements in the condition of our bridges, but more must be done. When compared to unmet needs, it is obvious that the present level of funding for the special bridge replacement program is woefully insufficient. During the first 5 years, only $475 million was authorized, with $180 million currently being spent annually. The demands for replacement far outstrip the financial resources available. Frankly, the figures are shocking. The U.S. Department of Transportation—DOT—has classified 34,696 bridges on Federal highways as critically deficient and it will cost $10.4 billion to replace them. At the present rate of financing, it will take over 60 years to replace these bridges. This is simply too long to wait.

No practical solution would solve the backlog overnight, of course. But the increased authorization of this bill, coupled with intelligent use of other funding sources should bring the workload within rational planning and managerial limits.

Many of the bridges needing replacement or repair were built over 40 years ago before uniform design and construction standards were imposed. They were designed for traffic that is much different from that of today. Although many were located on low-volume roads, their continued serviceability is essential for local economy and public service. Among the unsafe bridges in the DOT report, 250 are closed to all traffic and 31,000 have lower limits than the highways they serve. The full significance of the need for a more comprehensive program was stated by the GAO in 1975:

> The estimated cost of $10.4 billion to replace those (bridges) identified, plus additional costs as others become unsafe could not be met within this century except by a massive increase in the annual funding level of the program. The potential danger of collapse, the traffic hazards of narrow and/or poorly aligned bridges and the lower load and speed limits of these bridges reduce both safety and the efficiency of the Federal-aid highways.

Every State has a number of defective and hazardous bridges which need to be reconstructed and my own State of Iowa serves as an excellent illustration of the magnitude of the problem. The transportation of grain and other commodities from farms to markets is important to Iowa and the Nation, and Iowa's agricultural economy is highly dependent upon an efficient and timely transportation system. Bordered on the east and west by our two greatest national rivers—the Mississippi and Missouri, Iowa has unique bridge requirements. In addition, my State has over 900 bridges on the Federal-aid system which need to be replaced, a number that places Iowa 13th among the 50 States in terms of the numbers of bridges that need to be rebuilt. Finally, testimony last year before the Senate Transportation Subcommittee indicated that Iowa has posted 10,400 bridges on local road systems for less than legal loads, and that it would cost over $550 million to replace them.

Mr. President, in many ways, Iowa's needs are reflected by the other States of our Nation. That collective experience makes it clear that we must undertake a thorough reexamination of the special bridge replacement program. Though States should be encouraged to use other Federal-aid category funds and local government financing to renovate bridges, the cost of replacing deteriorating bridges clearly exceeds the current capacity of this program.

The legislation I introduce today will help States meet the financial difficulties of replacing bridges and will reaffirm a strong Federal commitment to this urgent problem. This legislation would increase the authorization of the special bridge replacement program from $180 to $600 million annually for fiscal years 1977 and 1978. Of this $600 million figure, $200 million would come from the trust fund and $400 million would come from the general fund. This level of funding is much more realistic and will substantially enhance the Federal commitment to a bridge replacement program. In addition, this bill increases the Federal share of projects approved under this program from 75 to 90 percent for that portion of funding from the general fund, which makes it easier for States to participate in the cost of constructing the most expensive replacement projects.

Mr. President, this bill also addresses the very special needs of rural areas by setting aside 15 percent of the funds allocated to each State to be used on bridges under the authority of county officials. Although the smaller scale of these bridges may make them seem less dramatic, their needs are no less real. To the many towns and markets whose economic viability and community well-being depend on an adequate transportation system, modernized and safe bridges are absolutely essential. Yet the recurring testimony and supporting evidence received from county officials indicate that full financing of the bridge costs is beyond their means. The matching provisions in this measure should remedy that shortcoming. Finally, this bill clarifies congressional intent that these funds can be used to rehabilitate as well as replace deficient bridges. To that end, this measure changes the title of the program to the special bridge replacement and rehabilitation program.

This legislation represents a major effort to make the special bridge replacement program more consistent with the national needs. To protect the safety of all travelers and to continue the uninterrupted flow of goods and commodities throughout our country, I hope it will receive early and full consideration.

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. 394

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Bridge Replacement and Rehabilitation Act of 1977".

Section 2(a). The first sentence of Section 144(a) of title 23, United States Code, is amended by

(1) inserting after "replacement", the following "and rehabilitation"; and

(2) inserting after "replace", the following "or rehabilitate".

(b) The first sentence of Section 144(c) of title 23, United States Code, is amended by

(1) inserting after "replacing" the following "or rehabilitating"; and

(2) inserting after "facility" the following "or rehabilitation of the same structure".

(c) Section 144(c) of title 23, United States Code, is further amended by adding the following at the end thereof:

"Not less than 15 percentum of the funds authorized to any State to carry out the provisions of this section may be expended for the emergency replacement or rehabilitation of bridges on and off the Federal-aid system, as determined by the State Highway or Transportation Director in consultation with county officials to have the greatest need for replacement or rehabilitation, which are under the sole jurisdiction of the county authority in any State.".

(d) Section 144(d) of title 23, United States Code, is amended by

(1) inserting after "replacement" the following "or rehabilitation"; and

(2) striking "of the cost thereof." and inserting in lieu thereof "for funds obligated from the Highway Trust Fund and 90 per centum for funds appropriated from the General Fund of the cost thereof.".

Section 3(a) Section 144 of title 23, United States Code, is amended by striking subsection (f) and relettering subsection (g) as (f).

(b) Section 144(f), as relettered, is amended by inserting after "reconstructed" the following "or rehabilitated".

(c) Section 144 of title 23, United States Code, is further amended by adding the following new subsection:

"(g) For the purposes of this section, the term 'rehabilitation' shall include but not be limited to replacing the pilings, steel supports or otherwise strengthening the structure to restore the bridge to a usable condition.".

Section 4. The analysis of Chapter 1 of title 23, United States Code, is amended by striking out

"144. Special bridge replacement program."

and inserting in lieu thereof

"144. Special bridge replacement and rehabilitation program."

Section 5. Section 202(5) of the "Highway Safety Act of 1976" is amended to read as follows:

(5) For bridge reconstruction, replacement, and rehabilitation under section 144 of title 23, United States Code, out of the Highway Trust Fund, $200,000,000 for the fiscal year ending September 30, 1977, and $200,000,000 for the fiscal year ending September 30, 1978; and there is hereby authorized to be appropriated $400,000,000 for the fiscal year ending September 30, 1977 and $400,000,000 for the fiscal year ending September 30, 1978.

Mr. RANDOLPH. Mr. President, I am gratified to join with my diligent col-

league from Iowa (Mr. CULVER) in the introduction of this bill to enlarge our commitment to repairing and replacing deteriorating and inadequate bridges throughout the Nation.

Approximately 70 percent of our bridges were built prior to 1935. Other than the obvious safety hazards to our citizens, the loss of a bridge by closure or failure can have a serious adverse economic impact on the communities it serves.

The Federal-Aid Highway Act of 1970 included the special bridge replacement program, which I authored, to help the States establish a program to replace bridges on the Federal-aid system which were no longer capable of safely handling traffic.

The original authorization totaled $150 million through fiscal year 1973. In the Highway Acts of 1974 and 1976 authorizations were increased. By October 1, 1977, $835 million will have been authorized for the special bridge replacement program, the Federal share being a maximum of 75 percent.

The program is entering its 6th year. The program has provided State transportation agencies with a mechanism to finance bridge replacement on a limited scale. The cost of replacing major bridges over waterways and other topographical barriers is so great that most States are financially unable to undertake significant replacements, without severely limiting the other portions of their highway program.

The first annual report to Congress on the special bridge replacement program estimated that there were 24,000 deficient bridges on the Federal-aid system, requiring $6 billion to replace. This estimate was made before the national bridge inventory was implemented as called for under the 1970 Highway Act.

With this inventory 95 percent complete, according to the fifth annual report on the program received in January 1976, 36,696 bridges on the Federal-aid system need to be replaced at a cost of about $11 billion.

Mr. President, there are 13,000 more bridges needing replacement than originally estimated in 1971 at about twice the cost. To date a total of 679 projects out of 37,000 needing replacement have been funded under the special bridge program. An additional 500 bridges have been replaced both with and without Federal participation.

Mr. President, this bill represents an orderly progression of this useful and essential program.

The original special bridge replacement provision indicated that program funds could only be used on those structures where total replacement was being planned. Many bridges can be restored to a serviceable condition by replacing or strengthening only certain parts of the bridge, rather than the entire structure. A provision permitting rehabilitation as well as replacement of certain bridges in this proposal will give the Federal Government more flexibility in approving project applications, and will give States if they choose, greater ability to utilize their limited funds on a more diversified and advantageous basis.

The bill gives the State secretary of transportation or the director of highways the discretion to make available 15 percent of the funds received by any State under the replacement program, to the counties who have sole jurisdiction over deficient bridges, either on- or off-system in that particular State. Providing more Federal aid for off-system structures hopefully will encourage States or local communities to use a larger portion of their own resources to repair some of the most deficient off-system bridges.

Mr. President, I have continued to advocate the replacing of obsolete and critically unsafe bridges since my original bridge replacement proposal was included in the 1970 Highway Act. A total of 39 States have more than 100 unsafe bridges on the Federal-aid system alone within their boundaries. Eleven States have over 1,000 unsafe bridges on the Federal-aid system. Senator CULVER would provide a mechanism by which we can make inroads into our Nation's bridge replacement problems without subjecting ourselves to continuing cost increases. Members of the Senate will, I know, carefully review the measure's provisions.

PREVENTING A PENN CENTRAL OF THE HIGHWAYS

Mr. CHURCH. Mr. President, I am pleased to join in introducing the Bridge Replacement and Rehabilitation Act of 1977 which addresses an immediate problem facing much of our Nation's highway system.

For years, the Federal Government has been putting up 70 cents for every 30 cents the States have spent on primary and secondary road construction, and 90 cents for every 10 cents on the 42,500-mile Interstate Highway System. This emphasis on construction has, however, ignored the need for maintenance and has left the States to finance 100 percent of upkeep and repair work.

Although Congress set aside some $350 million from the highway trust fund over 2 years to help pay for limited rehabilitation of the Interstate System and there is presently some $180 million per year budgeted for bridge reconstruction and replacement, the amount is not nearly enough to meet current, let alone future needs.

We cannot afford to let a national investment of billions become impaired through deterioration and neglect. I do not think anyone wants the highway trust fund to pay for the paving of the entire country and now that the bulk of the Nation's highway system has been built, we must change our focus to maintaining that system and avoiding a Penn Central of the highways.

The most pressing need is to remedy the sorry condition of some 40,000 bridges on the million-mile Federal-aid highway system which have been found to be critically deficient by the Federal Highway Administration.

In Idaho, we have identified 203 bridges across the State that are in immediate need of attention. These bridges often form the primary link between communities in our rugged State. The disrepair of our State's bridges, seriously imperils the lives and economic well-being of Idaho citizens.

The Idaho Transportation Department has often expressed concern about the condition of Idaho bridges. I ask unanimous consent that a letter from the Federal Highway Administration concerning the replacement of the Kootenai River bridge on U.S. 95 and the most recent letter from the Idaho Transportation Department outlining a program of repair and replacement of deficient bridges be printed in the RECORD.

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

WASHINGTON, D.C.,
January 14, 1977.

HON. FRANK CHURCH,
U.S. Senator,
Moscow, Idaho.

DEAR SENATOR CHURCH: This is in further reply to your letter of December 6, 1976, to the Office of Congressional Relations, Department of Transportation, transmitting correspondence from Mr. James F. Lyons of Bonners Ferry, Idaho, concerning the replacement of the Kootenai River bridge. We acknowledged your letter on December 20, 1976.

Our field representatives in Boise, Idaho, have informed us that the 1,256-foot-long Kootenai River bridge on U.S. 95 was built in 1933 and consists of five steel through trusses for the main spans and six concrete approach spans. The roadway width between curbs is 19.8 feet and the vertical clearance is 14 feet 11 inches. The average daily traffic is 5,200, which consists of many large logging trucks. Much of the traffic is intercity with the county hospital and some schools on the north side of the river and the central business district on the south side. The bridge is the only highway crossing of the river for many miles with a bypass detour length of 99 miles.

The bridge is at the bottom of a better than 1-mile downgrade of 5 percent. On several occasions runaway trucks have blasted through Bonners Ferry's main street. Truss members have been battered by trucks and extensive repairs raise much question as to their load carrying ability. The minimal clearances cause this to be a continuing problem.

The latest National Bridge Inspection Program sufficiency rating for this bridge is 6.7 which indicates a critical need for replacement. The State has had environment and design studies underway for several years but, primarily due to lack of funds, the project has not been advanced to a construction program.

The estimated cost for a replacement bridge is $6 million. Idaho's allocation of Economic Development Act (EDA) and Special Bridge Replacement funds is not enough to feasibly fund such a project and the available funds have been obligated to other projects. Also, the status of project development is not advanced enough to meet the EDA requirement for contracting within 90 days of the receipt of the Federal grant.

The State and the Federal Highway Administration are fully aware of the need for a replacement bridge and studies for the design of a project are underway. Based on current funding levels, it is expected to be several years before a project will be underway. This picture could change if additional funds become available.

We hope this information is of assistance to you and appreciate the opportunity to be of service.

Sincerely yours,

W. J. WILKES,
Director, Office of Engineering.

BOISE, IDAHO,
January 10, 1977.

HON. FRANK CHURCH,
U.S. Senator,
Russell Office Building,
Washington, D.C.

DEAR SENATOR CHURCH: The Idaho Transportation Department strongly supports the need for a substantial increase in federal-aid highway authorizations for replacement of critically deficient bridges in the next federal-aid highway act.

The State of Idaho has serious need for replacement of obsolete bridges. The following tabulation indicates our situation.

Priority and estimated remaining life	FA highway system	Number of structures	Estimated cost (millions)
(A) Less than 10 yr	State	203	$122.42
	Local	76	25.79
(B) 10 to 20 yr	State	199	52.53
	Local	(1)	(1)
Total		478	200.74

[1] Not available.

Attached is a copy of our proposed "Critical Bridge Replacement—Twenty Year Program." An explanation accompanies the illustration.

An annual program expenditure of $6.12 million is required to replace the bridges in this program. Including those critical bridges on the local federal-aid highways produces an annual requirement of $7.55 million. This indicates a minimum five fold increase from the current $180 million to $900 million in national authorizations with periodic adjustments for inflation would be justified for this program. A ten fold increase to $1.8 billion would allow replacement within the estimated remaining life span of the bridges and result in substantial savings in maintenance costs.

Your support for any legislation to increase federal-aid authorizations for bridge replacement is urged. The value of such an increase to the State of Idaho cannot be over emphasized.

Sincerely,

DARRELL V. MANNING,
Director.

By Mr. HART:

S. 395. A bill to authorize the Secretary of Housing and Urban Development to make direct low-interest loans to assist homeowners and builders in purchasing and installing solar heating (or combined solar heating and cooling) equipment; to the Committee on Banking, Housing and Urban Affairs.

Mr. HART. Mr. President, this country has committed itself to a goal of achieving energy independence by reducing imports of expensive foreign oil. Unfortunately, many of the programs which have been proposed to achieve this goal would have adverse impacts on both the Nation's economy and the environment. The development of solar energy, however, is one way this country can reduce its dependence on foreign oil without disrupting the economy or polluting the environment. This bill will further that development by establishing low-interest loans to finance the construction of solar heating and cooling in private homes and in multifamily apartments. The attraction of this bill is that once a solar system is installed and the loan is paid for, the cost of solar energy to the individual homeowner, as well as damage to the environment, is virtually nil.

Solar energy for heating and cooling can prove to be an important contribution to energy self-sufficiency in the short term and should supply a large fraction of new energy requirements in the long run. Power for solar home and water heating is not a fictional energy source of the future. Solar power can be tapped with today's technology. As long ago as 1972, before the so-called energy crisis, a National Science Foundation panel on solar energy stated that—

There are no technical barriers to the wide application of solar energy to meet U.S. needs.

Mr. President, solar energy systems require larger initial investments than conventional hot water and home heating systems. However, unlike conventional energy sources, there are no fuel costs associated with solar systems, and thus operating costs are negligible when compared to conventional sources such as electricity, oil, and gas. Thus, even though a solar system may cost more to install, homeowners realize an overall net saving after several years of operation. This fact is documented by a recent study prepared for the Energy Research and Development Agency—"An Economic Analysis of Solar Water and Space Heating," Mitre Corp. and ERDA, November 1976. According to this study, solar energy can compete economically with alternative energy.

I have extracted some typical results from this study and ask unanimous consent that these tables be printed at this point in the RECORD:

Economics of solar hot water and heat [1]

	Years to pay back	
	Electricity	*Oil*
Atlanta	12	16
Bismarck	13	16
Boston	12	[2]
Charleston	10	15
Columbia	12	[2]
Dallas/Ft. Worth	12	17
Grand Junction	10	14
Los Angeles	8	15
Madison	12	[2]
Miami	7	16
New York City	10	[2]
Seattle	[2]	[2]
Washington, D.C.	13	[2]

[1] From "An Economic Analysis of Solar Water and Space Heating," ERDA, November 1976. This analysis uses fuel costs escalated at 10 percent per year from 1976 to 1980 and a 15 $/FT² installed system cost.

[2] Insufficient solar load, i.e., less than 50 percent hot water and heat or less than 50 percent hot water.

Economics of solar hot water [1]

	Years to pay back	
	Electricity	*Oil*
Atlanta	11	17
Bismarck	11	15
Boston	10	19
Charleston	9	16
Columbia	10	17
Dallas/Ft. Worth	11	17
Grand Junction	8	13
Los Angeles	7	16
Madison	11	18
Miami	7	16
New York City	8	19
Seattle	[2]	[2]
Washington	11	19

[1] From "An Economic Analysis of Solar Water and Space Heating," ERDA, November 1976. This analysis uses fuel costs escalated at 10 percent per year from 1976 to 1980 and a 15 $/FT² installed system cost.

[2] Insufficient solar load, i.e., less than 40 percent hot water and heat or less than 50 percent hot water.

Mr. President, as these tables show, the ERDA report studied 13 cities around the United States. In all but one of these cities, solar hot water and heating systems pay for themselves in less than 20 years when compared to electricity. The payback time in these cities reduced to less than 11 years for simple hot water systems.

In spite of the fact that solar energy is economical, several barriers keep this country from realizing the potential of solar heating and cooling. First, current unsubsidized solar energy must compete with conventional energy sources which are subsidized by the Government. Second, although solar heating and cooling systems cost virtually nothing to operate, construction and installation of such systems involve significant amounts of initial capital. A potential consumer, willing to buy and install a solar unit economically competitive with alternate technologies, most likely will have difficulty in obtaining the sufficient front end capital in today's tight money market. Furthermore, even though solar technology is economical, the general public, and more importantly, commercial lending institutions, have limited experience with solar equipment.

Today, I am introducing a bill which will eliminate these barriers by providing a shortrun boost to the development of solar power in the form of low-interest Government loans. The interest rates on these loans will be pegged to the rate at which the Federal Treasury can borrow money. Thus, the long-term effects on the U.S. economy and the national debt will be minimal. Such loans will be available to both individual homeowners and to persons engaged in building residential structures. Consequently, the loan program will have a broad impact on the home improvement, residential, and apartment construction industries.

A fully implemented program of the sort created by this bill will stimulate interest in solar equipment, encourage demand for such equipment in the private market place, cause mass markets and mass production to be established, and thus, eventually drive down the per-unit cost of solar equipment. This is the entire purpose of the bill.

Unlike many incentive programs which use tax rebates or tax exemptions, this program will not benefit the rich at the expense of the poor. Use of the tax system to enhance demand by providing subsidies for various sectors of the economy have had an unpleasant history of destroying the progressive character of our tax system. As a result of tax loopholes that allow the rich or special interests to escape carrying their share of the tax burden, public confidence in our tax system has been eroded. Loan programs do not have this drawback. They pro-

duce equal incentives to a wider range of income groups.

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

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

S. 395

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

FINDINGS AND PURPOSE

SECTION 1. (a) The Congress finds that the heating and cooling of private homes accounts for a significant portion of our national energy consumption, and that the expected substantial increases in the cost of oil, gas, and electricity will significantly and adversely affect millions of American homes. The Congress further finds that, with technologies for solar heating having developed to the point of commercial application and improved solar heating units becoming increasingly available, and with technologies for solar cooling expected to reach the point of commercial application within a relatively few years, a program of Federal assistance in purchasing and installing solar heating equipment or combined solar heating and cooling equipment can provide a new opportunity for the efficient heating and cooling of homes despite the energy shortage.

(b) It is the purpose of this Act to provide a source of financial assistance for homeowners and builders to enable them to purchase and install solar heating equipment or combined solar heating and cooling equipment while substantially reducing energy use.

AUTHORIZATION OF LOANS

SEC. 2. (a) In order to carry out the purpose of this Act, the Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary") is authorized to make loans as provided in this section to individuals and families owning and occupying one- to four-family residential structures, and to persons engaged in the construction of residential structures of any kind, to assist them in purchasing and installing qualified solar heating or qualified solar heating and cooling equipment in such structures.

(b) A loan made under this section with respect to any residential structure shall—

(1) be in such amount, not exceeding 75 per centum of the cost of purchasing and installing the equipment involved, and not exceeding—

(A) $8,000 in the case of a one- to four-family structure,

(B) $7,500 per dwelling unit in the case of a multifamily structure containing five or more but less than twenty-five such units,

(C) $7,000 per dwelling unit in the case of a multifamily structure containing twenty-five or more but less than one hundred such units,

(D) $6,500 per dwelling unit in the case of a multifamily structure containing one hundred or more but less than two hundred such units, or

(E) $6,000 per dwelling unit in the case of a multifamily structure containing two hundred or more such units,

as may be necessary to enable the owner or builder of such structure to purchase and install qualified solar heating or qualified solar heating and cooling equipment which is suitable and appropriate for such structure, including the cost of any necessary modifications in the structure itself, taking into account the climatic, meteorological, and related conditions prevailing in the region where the structure is located, as established by the Secretary in regulations prescribed by him and in effect at the time of the loan;

(2) bear interest at a rate equal to the average market yield (computed as of the end of the calendar month preceding the month in which the loan is made) on all marketable interest-bearing obligations of the United States then forming a part of the public debt (with such average yield, if not a multiple of one-eighth of 1 per centum, being adjusted to the nearest such multiple), plus one-half of 1 per centum for administrative costs;

(3) have a maturity not exceeding fifteen years, except that if the loan is made to the builder of a structure which is sold to another person for occupancy, rental, resale, or any other purpose, the maturity of the loan shall not extend beyond the date of the sale to such other person; and

(4) be subject to such additional terms, conditions, and provisions as the Secretary may impose in order to assure that the purpose of this Act is effectively carried out.

(c) Each application for a loan under this section shall be accompanied by detailed plans for the purchase and installation of the proposed equipment and an estimate of the costs involved. No such application shall be approved unless the Secretary finds that the proposed equipment is suitable and appropriate and will be effective, that the costs will not be excessive, and that the purchase and installation of the equipment will not involve elaborate or extravagant design or materials.

(d) In making loans under this section, the Secretary shall impose such standards and take such actions as may be necessary or appropriate to assure that the funds provided for such loans under section 6 are allocated equitably to both one- to four-family structures and multifamily structures.

QUALIFIED SOLAR HEATING AND QUALIFIED SOLAR HEATING AND COOLING EQUIPMENT

SEC. 3. (a) For the purpose of this Act—

(1) the term "qualified solar heating equipment" means equipment which utilizes solar energy, to provide heating for a residential structure (including all necessary fittings and related installations) and which is certified by the Secretary—

(A) as being designed to meet more than 40 per centum of the total heating needs (including domestic hot water) of the type of structure for which it is intended, or substantially all of the needs of such a structure for domestic hot water (where its remaining heating needs are met by other methods), and

(B) as meeting minimum standards (as developed under the Solar Heating and Cooling Demonstration Act of 1974 (Public Law 93-409) with respect to durability of parts, efficiency, ease of repair, availability of spare parts, acceptability of cost, technical feasibility of design or proven workability, and such other matters as the Secretary may consider relevant or appropriate; and

(2) the term "qualified solar heating and cooling equipment" means equipment which utilizes solar energy to provide both heating and cooling for a residential structure (including all necessary fittings and related installations) and which is certified by the Secretary—

(A) as being designed to meet both the heating needs of the type of structure for which it is intended, to the extent required by paragraph (1)(A) of this subsection, and substantially all of the cooling needs of such a structure, and

(B) as meeting minimum standards (as developed under the Solar Heating and Cooling Demonstration Act of 1974 (Public Law 93-409)) with respect to the matters specified in or under paragraph (1)(B) of this subsection.

(b) In carrying out its functions under the Solar Heating and Cooling Demonstration Act of 1974 and in support of the objectives of this Act, the Energy Research and Development Administration shall—

(1) establish a mechanism or procedure (or both) for the inspection and evaluation of each type or model of solar heating and solar heating and cooling equipment, making provision for dealing with applications received from manufacturers and for the consideration of comments received from homeowners already using such equipment,

(2) review each new solar heating or solar heating and cooling unit, system, or component entering the market,

(3) periodically (no less often than once every three years) review all outstanding certifications granted with respect to solar heating or solar heating and cooling equipment, and recommend the prospective rescission of such certifications (or appropriate modification in the equipment involved) whenever it finds that such equipment no longer meets applicable standards or criteria,

(4) periodically transmit its findings and recommendations under this subsection to the Secretary for use in the performance of his functions under subsection (a) of this section, and

(5) take such other actions, and impose such other conditions and requirements, as will promote the objectives of this Act.

DISSEMINATION OF INFORMATION

SEC. 4. The Secretary shall provide to any person upon request by that person (without regard to whether or not such person is making or proposes to make application for a loan under section 3) full, complete, and current information concerning recommended standards and types of qualified solar heating or solar heating and cooling equipment appropriate for use in residential structures of varying sizes and types and in various regions of the country.

PENALTIES

SEC. 5. Any person who makes any false statement or misrepresents any material fact for the purpose of obtaining a loan under this Act, or who violates any provision of this Act or of a loan contract entered into under this Act, shall be fined not more than $1,000 or imprisoned not more than one year or both.

APPROPRIATIONS; REVOLVING FUND

SEC. 6. There are authorized to be appropriated not to exceed $100,000,000 to provide an initial amount for the program under this Act, and such additional sums thereafter as may be necessary to carry out such program. Amounts appropriated pursuant to this section and any amounts received by the Secretary as repayments of loans made under this Act shall be placed in and constitute a revolving fund which shall be available without fiscal year limitation to the Secretary for use in carrying out this Act.

EFFECTIVE DATE

SEC. 7. The authority of the Secretary to make loans under this Act shall become effective six months after the date of the enactment of this Act, and shall expire ten years after such date. Upon the expiration of such ten-year period, the revolving fund established under section 6 shall be transferred into the general fund of the Treasury, and any amounts received thereafter as repayment of loans shall be paid into the Treasury as miscellaneous receipts.

By Mr. DOMENICI:

S. 396. A bill to amend part A of title XVIII of the Social Security Act to cover certain additional inpatient hospital services furnished outside the United States to individuals insured for benefits provided under such part A; to the Committee on Finance.

Mr. DOMENICI. Mr. President, last year I introduced a bill which would fill a small but important gap in the health insurance protection for the elderly and

disabled under the medicare program. As action was not taken before the 94th Congress adjourned, I am reintroducing the measure in the hopes this necessary legislation will be enacted soon.

S. 396 will provide full medicare coverage to beneficiaries who are temporarily visiting another country. Hospital benefits, ambulance service, and physicians' payments will be extended to a beneficiary if a medical emergency makes it necessary to be hospitalized outside the United States.

Under the present medicare law, hospital and related services furnished abroad are covered only when provided in Canada or Mexico, and only where the beneficiary is hospitalized in Mexico or Canada as the result of an emergency that arose in the United States. This coverage applies only where the foreign hospital is either nearer to, or more accessible than, the nearest suitable U.S. hospital.

Social security legislation enacted in 1972 added two more exceptions to the general exclusion of services rendered abroad. One permits payment to be made for a U.S. resident in a border State who lives nearer to a suitable foreign hospital than to the nearest U.S. hospital that is adequately equipped to meet his needs. For these beneficiaries, benefits can be paid without regard to whether an emergency existed or where the illness or injury took place. The 1972 social security legislation also provided for U.S. residents who are forced by a medical emergency to be hospitalized in Canada while traveling from Alaska to another State.

These various provisions for paying medicare benefits for people who are hospitalized in a foreign country meet very real and very serious problems for the individuals involved. However, they do not go far enough. Many American residents, especially people living in the border States, have friends and relatives in the neighboring country whom they visit; others travel abroad on vacations or in the course of their business. Under present law, these people leave their medicare protection behind when they leave the United States. If they have a medical emergency during their temporary absence from the country, they run the risk of incurring very substantial expenses that will have to be paid out of the pocket—usually out of fixed, limited incomes.

I can offer an excellent example illustrating the need for this legislation. An elderly couple, residents of New Mexico, were recently visiting their son in Buffalo, N.Y. While in that part of the country, they decided to extend their visit to see the Shrine of St. Anne de Beaupre in Quebec, Canada. Shortly after arriving in Quebec, the husband began suffering acute abdominal pains. Immediately, this couple canceled their original plans and made a "run" for the border. Soon the pains became too severe to ignore, and it was necessary to stop for a physician's assistance. The doctor immediately placed the patient in the hospital for surgery. The operation was a success, but the bills have been mounting ever since. Medicare obviously will not cover these expenses as they were incurred out of the country. This couple only receives a small social security check each month. They saved a long time for this trip, not foreseeing the medical emergency.

Private health insurance plans generally are sensitive to this problem and cover their own policyholders during temporary absences from the country. I am proposing that similar protection be extended to the aged and disabled under social security who are permanent residents of this country and who have been physically present in the United States within the preceding 6-month period. As in the case of benefits now provided for services furnished outside the United States, this bill would cover the related ambulance and physicians' services as well as the hospital services themselves.

Mr. President, the bill I am introducing today would affect relatively few medicare beneficiaries. But those who would benefit would be relieved of a potentially large financial burden that could, through no fault of their own, spell financial disaster. I urge that the proposed legislation be enacted as soon as possible. I ask unanimous consent that the text of S. 396 be printed in the RECORD.

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

S. 396

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1814(f)(2) of the Social Securty Act is amended—

(1) by striking out clause (ii) of subparagraph (A) and inserting in lieu thereof the following:

"(ii) at a place outside the United States;",

(2) by striking out the period at the end of subparagraph (B) and inserting in lieu of such period "; and", and

(3) by adding after subparagraph (B) the following new subparagraph:

"(C) in the case of an individual described in subparagraph (A)(ii), such individual (1) had, as of the date he first began to receive such emergency inpatient hospital services, been physically present in the United States within the preceding 6-month period, and (ii) such individual maintains a residence in the United States.

(b) The amendments made by subsection (a) shall apply only with respect to services furnished in the case of admissions to hospitals occurring after the date of enactment of this Act.

By Mr. PEARSON:

S. 398. A bill to amend the Airport and Airway Development Act of 1970 to bring about increased levels of employment in the construction trades on an emergency basis, and for other purposes; to the Committee on Commerce.

EMERGENCY CONSTRUCTION TRADES EMPLOYMENT AND AIRPORT DEVELOPMENT ACT OF 1977

Mr. PEARSON. Mr. President, I introduce for appropriate reference a bill, the Emergency Construction Trades Employment and Airport Development Act of 1977, to amend the Airport and Airway Development Act of 1970 to bring about increased levels of employment in the construction trades on an emergency basis.

Mr. President, unemployment in this country is the No. 1 problem facing the 95th Congress. Current data indicates that almost 8 percent of the work force, or 7.5 million Americans are out of work. This situation is intolerable in view of the productive capacity and resourcefulness of the labor force in this country. Further complicating these circumstances is the projection that the civilian labor force will experience a 2.5-percent growth rate this year due primarily to the upward trend in the rate of labor force participation by women and youth.

The Congress shares President Carter's concern about the state of the economy. The President has indicated that increased public works-type construction will be part of his program to stimulate new job opportunities.

There are many highly productive programs in existence in this country today which could be stimulated by the injection of more Federal participation. It is my judgment that to the greatest extent practicable, such existing Federal programs should be utilized as the vehicle for the implementation of national efforts to reduce unemployment.

There are two compelling reasons for this approach. First, these programs have already passed muster in the Congress with respect to their purpose and need; and second, the infrastructures are already in place to facilitate timely economic improvement.

The airport development aid program, ADAP, an ongoing effort to expand, improve, and develop the Nation's airport and airway system, presents an excellent opportunity to implement any national effort to reduce unemployment. Airport and airway development projects employ thousands of construction trades workers. With the 1976 amendments to the ADAP law, terminal development became eligible for ADAP funding in addition to "airside" improvements.

Mr. President, there is no doubt that ADAP has been one of the most successful Federal programs. Its benefits to the air traveler and general aviation user are beyond dispute. But the task of airport development is far from complete. The applications for ADAP funding—proposed projects throughout the country at large airports and small alike—far exceed the present availability of funds.

At present, ADAP obligations are estimated to be $510,000,000 in fiscal year 1977 and $465,000,000 in fiscal year 1978. Requests on hand as of December 31, 1976, were $518,561,872 for air carrier airports and $209,877,432 for general aviation, for a total of $728,439,304. In Kansas alone, ADAP requests currently on hand total approximately $19.5 million. The needs are great, but the funds are scarce. Although ADAP authorizations and appropriations were increased substantially only last year, the demand for the ADAP program among the States and localities has increased even faster The fiscal year 1977 apportionment for general aviation and air carrier development, together, is only $3.2 million. Thus, it is clear that increases in ADAP, such as I am today proposing, could prudently be expended to increase job op-

portunities and meet urgent airport development needs at the same time.

There are data available from the Office of Productivity and Technology, Bureau of Labor Statistics, Department of Labor, indicating that employment generation from airport development construction is significant. In view of the economic multiplier effect of such construction activity, additional ADAP funds at this time would generate more new jobs than perhaps any other economic stimulus, and promote an immediate and direct benefit to employment levels and the economy in general.

Available statistics show that for each billion dollars spent on airside construction or on highway projects, 21,167 construction jobs are created and maintained for 1 full year, and that 22,442 manufacturing jobs are created and maintained for a total of 43,609 full time jobs of 1 year's duration. For each billion dollars spent on landside construction—analogous to terminal construction—20,389 construction jobs are created and maintained, and 12,707 manufacturing jobs are created and maintained for a total of 33,096 jobs. These amounts do not consider the economic multiplier effect. Inflation has, of course, reduced the jobs per dollar spent ratio in current dollars. But, the statistics are significant in spite of inflation.

Mr. President, the bill I introduce today would amend the Airport and Airway Development Act of 1970 so as to increase the authorizations for construction projects at air carrier and general aviation airports by 50 percent in fiscal year 1977 and fiscal year 1978. The total increase over current authorization would be $255,000,000 for fiscal year 1977, and $270,000,000 for fiscal year 1978. Based on the above quoted 1974 statistics, these increased amounts alone should, over the 24-month period, create or maintain approximately 20,000 jobs in airside construction, or 15,000 jobs in landside construction.

There are more than enough projects already planned and awaiting funding to create each one of these potential jobs. I urge my colleagues to consider this vital step toward reducing unemployment and to search other existing construction programs with which they are concerned for potential fiscal stimulation for our troubled economy and employment situation.

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

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

S. 398

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Emergency Construction Trades Employment and Airport Development Act of 1977".

SEC. 2. DECLARATION OF POLICY

The Congress hereby finds and declares the following:

(1) The Nation is experiencing unacceptable levels of unemployment which threatens the economic well-being of the country, reduce national productivity, seriously impact the balance of payments, and contribute to the economic hardships of many Americans.

(2) The Congress must in the proper exercise of its fiscal responsibilities act on an emergency basis to stimulate increased levels of employment in those sectors of the economy most likely to yield the greatest and most immediate economic return.

(3) To the greatest extent practicable, existing Federal programs should be utilized as the vehicle for the implementation of all national efforts to increase levels of employment.

(4) The Airport Development Aid Program, an ongoing effort to expand, improve, and develop the Nation's airport and airway system, presents an excellent opportunity to implement the policy established in paragraphs (1) through (3) of this section by providing an orderly and productive stimulus for increased levels of employment in the construction trades.

SEC. 3. AIRPORT AND AIRWAY DEVELOPMENT PROGRAM.

Section 14(a) of the Airport and Airway Development Act of 1970 (49 U.S.C. 1714) is amended as follows:

(1) by amending paragraph (3) of the subsection by striking out the following: "$440,000,000 for fiscal year 1977, $465,000,000 for fiscal year 1978," and inserting in lieu thereof the following: "$630,000,000 for fiscal year 1977, $697,500,000 for fiscal year 1978,"; and

(2) by amending paragraph (4) of the subsection by striking out the following: "$70,000,000 for fiscal year 1977, $75,000,000 for fiscal year 1978," and inserting in lieu thereof the following: "$105,000,000 for fiscal year 1977, $112,500,000 for fiscal year 1978,".

By Mr. PEARSON:

S. 403. A bill to regulate the flow of interstate commerce by establishing programs, standards, and procedures for determining responsibilities and liabilities arising out of product related injuries, and for other purposes; to the Committee on Commerce.

NATIONAL PRODUCT LIABILITY INSURANCE ACT

MR. PEARSON. Mr. President, I introduce for appropriate reference a bill, the National Product Liability Insurance Act, designed to promote a comprehensive Federal response to the emerging problems related to product liability insurance.

Mr. President, about 2 years ago I began hearing about the problems that Kansas manufacturers have been experiencing in obtaining product liability insurance. The Kansas companies, in correspondence with my office, cited escalating costs for adequate coverage, and the refusal of some underwriters to renew coverage. After these problems came to my attention, I learned that consumer groups in Kansas and throughout the Nation have become concerned about the inability of some plaintiffs to obtain adequate compensation for economic losses sustained as a result of product-related injuries. From the consumer perspective, some manufacturers have failed to obtain adequate insurance coverage for product liabiilty, some losses are not compensated until after years of expensive litigation, and the laws in the several States and the Federal system have evolved into a helter-skelter pattern where no rule of law, no principle of recovery, can be relied upon to govern in a particular case or controversy.

Mr. President, I concluded that Congress should attempt some responsible initiative to stabilize product liability insurance rates, to increase the availability of product liability insurance at reasonable cost, and to promote reliance among consumers upon prompt, more certain and more uniform standards of recovery for economic losses sustained as a result of product-related injury to person or property.

This conclusion was complicated by the fact that, to my knowledge, there has never been seriously proposed in Congress a comprehensive bill designed to address this diverse range of problems. It was further complicated by the fact that the regulation of insurance has been delegated by Federal statute to the several States. It is not likely that Congress will be willing to assume the primary responsibility for insurance regulation, nor is it in the public interest for the Congress to do so.

Nevertheless, Mr. President, the Congress has in the past estabilshed worthwhile programs designed to facilitate the availability of insurance, at reasonable rates, for unique hazards that ordinary insurance, under ordinary circumstances, simply cannot cover. Flood insurance is a case in point. The catastrophy of a major flood, or earthquake, or similar circumstance, cannot be factored into the rate base in a flood prone, or earthquake prone, area without escalating the cost of insurance beyond the reach of middle income citizens.

The Congress further has considered seriously proposals to improve the lot of consumers who suffer personal injury or loss of property when they seek to recover for their economic detriment. The Committee on Commerce, upon which I serve as the ranking member of my party, has considered improvements for small claims courts, reform of auto insurance, and other bills designed to help the consumer when he needs help the most. These reforms were considered in the context of the traditional State prerogative to regulate insurance within its jurisdiction.

These bills also recognize the inherent power of all the States to establish their own court systems and rules of procedure consistent with the mandates contained in the Federal Constitution.

Therefore, Mr. President, based upon the limited experience that we have, I have drafted an initial proposal designed to alleviate the problems that have emerged in recent years in the product liability area. This bill should be considered only a first draft—I look forward to hearings on its provisions and close cooperation with the distinguished chairman of the Commerce Committee (Mr. MAGNUSON), and others, in fashioning an appropriate Federal policy in relation to product liability insurance.

BACKGROUND INFORMATION

Mr. President, product liability lawsuits arise not only from the manufacturing process, but also from product design, packaging, advertising, sales, and service. The manufacturer is not isolated in his concern about product liability. There are perhaps 11,000 consumer products in the stream of commerce at this

time; the affluence of our society and mass production and distribution techniques escalate the danger of a single product defect or failure.

The Consumer Product Safety Commission has estimated that, in 1973, there were 20 million injuries in American homes that required at least some medical treatment. There were 110,000 disabilities sustained in the home and 30,000 deaths. The estimated economic loss to the American economy from home injuries was $5.5 billion. And in 1973, the Occupational Health and Safety Administration estimated that 5.9 million injuries occurred in the working place.

This enormous economic loss, increasingly, has been allocated by courts to product liability. But the system of compensation, and the determination of liability, has been haphazard. Some plaintiffs undoubtedly recover excessive judgments in product liability cases; others are inadequately compensated for their basic economic detriment. The need for reform is apparent.

There is no compelling justification for heavyhanded Federal involvement in the areas of responsibility traditionally left to the States. But there is a need for Federal leadership in the Federal court system; and there is a need for Federal assistance in promoting insurance availability. There is further a need for Federal grants-in-aid to those States which establish, on their own, programs for product liability reform that are consistent with the Federal standards.

The centerpiece of the product liability crisis, from the perspective of manufacturers, is the escalating cost of coverage—when it is available at all. In 1975 alone, it has been estimated that average premium rates, from industry to industry, increased from 100 to 1,000 percent. Cumulative increases in premium rates, over the past 7 years, have averaged 5,000 percent in some industries.

These rising insurance costs have hit small businessmen, particularly small manufacturers, the hardest. But it must be recognized, of course, that the consumer pays for it all in the end. When premium rates increase, the manufacturer either passes along the increased cost of doing business, or goes without insurance. And when the manufacturer goes without insurance, those who may be injured or whose property may be damaged often find their claim to be worthless in the courts. The uninsured manufacturer imposes the cost of product liability judgments upon himself until he runs out of money. Thereafter, he will be judgment-proof and those who are injured will sustain the losses alone.

CLAIMS EXPERIENCE

Mr. President, comprehensive data on claims experience is not available. It is clear from sketchy data, however, that product liability claims are increasing quite rapidly in number. The average loss per claim, most significantly, has increased from $11,644 in 1965 to $79,940 in 1973. This increase in the average loss per claim amounts to an increase of 686 percent, compared to an increase in general inflation of 60 percent within the same time period. The Government should be concerned not only about the manufacturer or other business who must pay, either individually or collectively through insurance, these claims upon judgment, but also our concern should extend to those consumers who, through the quirks and irregularities of the system, receive inadequate compensation, or no compensation at all, for their bona fide economic losses in product-related injuries to property or person.

INTER-AGENCY TASK FORCE

Mr. President, the Inter-Agency Task Force on Product Liability, chaired by the Under Secretary of Commerce, has recently issued its preliminary findings. The major points include the following:

First, in the years 1974–76, product liability insurance premiums appeared to increase substantially in selected industries. Among those most severely affected are industrial machinery, industrial chemicals, and high risk consumer goods such as pharmaceuticals, automotive parts, and medical devices. Anecdotal data show a similar impact on sporting goods and ladder manufacturers.

Second, the problem of increased product liability insurance costs has been more acute for the smaller firms in those industries.

Third, a number of companies, large and small, are going without product liability insurance. This trend will adversely affect injured consumers because it is unclear whether these companies have adequate resources to withstand substantial product liability judgments.

Fourth, the rate of increase of product liability claims appears to have been accelerating faster than the rate of increase of actual product injuries.

Fifth, the concern about product liability has caused some manufacturers, for example, pharmaceuticals, to forego or delay the introduction of new products. It is uncertain whether such decisions are beneficial or harmful to society. Each would have to be evaluated on a case-by-case basis.

TRENDS IN THE LAW OF PRODUCT LIABILITY

Mr. President, there have been general trends in the law of product liability which should be understood in the context of this legislation. The emerging legal concepts include diminution of the right of privity, the trend toward absolute liability, and the increased tendency toward class actions. These trends have, generally, made it easier for a claimant to sustain a legal action and to collect damages. It should be noted that I make no value judgment, in this statement, about these emerging legal concepts. More study is needed. Suffice it to say that these trends have served to make industry more responsible for its actions when products are introduced into the marketplace.

Mr. President, the shift toward strict liability of manufacturers has occurred at a time when employees are electing to receive workmen's compensation benefits which must be provided by employers. Thus, an injured worker brings an action against the manufacturer of the product that caused his injury in his working place. To the extent that the injured worker is compensated in the product liability action for his economic losses, that loss is shifted through subrogation from the workmen's compensation underwriter to the product liability underwriter.

CONCLUSION

Mr. President, this confluence of events in the courts, in the home and in the working place, has perhaps disproportionately increased the burden on the product liability system in recent years. Before our manufacturers, in more and more industries, are forced to reduce their insurance coverage, or eliminate it, as a result of unreasonably high premium costs, the Congress should move to establish both a system of reinsurance, comparable to the flood insurance program, and a system of reforms in the Federal courts to insure more consistent recovery of actual economic losses on a more uniform basis to injured consumers.

The bill I am today introducing attempts to accomplish this result. I do want to stress that hearings will be required to explore the problem in more detail in order to refine the legislation. Consultation with the broad range of interests affected will be required to fashion the appropriate Federal response.

The section-by-section summary of my bill, which will follow this statement in the RECORD, serves to explain the major provisions as introduced. I would invite the detailed evaluation of this proposal by all of those who are concerned about product liability, both consumers and businessmen, throughout our Nation.

After we have solicited and received the thoughtful comments of experts in the various affected industries and interest groups, we will know better how to proceed.

Mr. President, I ask unanimous consent that the text of the bill, together with a summary analysis of its major provisions, be printed in the RECORD.

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

S. 403

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act together with the following table of contents may be cited as the "National Product Liability Insurance Act".

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TITLE I—GENERAL PROVISIONS

SEC. 102. DECLARATION OF POLICY.

(a) FINDINGS.—The Congress finds that—

(1) annual losses throughout the Nation from product defects or failures are increasing at a substantial rate;

(2) Federal rules and regulations together with industrywide standards are often determinative factors in the manufacture of products which are reasonably free of defects and unlikely to fail;

(3) compensation to consumers for losses of life and property caused by product defects or failures is often frustrated by an inability on the part of the courts to establish consistently and predictably the limits of liability of the manufacturer of products for injuries caused by such products;

(4) it is in the public interest for manufacturers to have both an opportunity to obtain product liability insurance at reasonable rates and access to more adequate limits of coverage so that they will be indemnified for their losses in the event of defect or failure of their products; and

(5) consumers are adversely affected by increased costs or unavailability of product liability insurance to manufacturers because (A) such costs are reflected in the price of consumer goods, (B) competition may be lessened and a narrower range of choices may be available if manufacturers choose to suspend operations rather than to sustain increased costs or operate without product liability insurance, and (C) an inability to recover judgments may occur when firms become insolvent.

(b) PURPOSE.—The purpose of this Act, therefore, is to expedite the resolution of cases and controversies arising out of the defect or failure of products in interstate commerce by—

(1) establishing a National Product Liability Insurance Administration;

(2) establishing a National Product Liability Arbitration Program;

(3) encouraging States, through Federal financial assistance, to participate in product liability arbitration programs with effective enforcement and judicial provisions consistent with national standards for such programs; and

(4) establishing a National Product Liability Insurance Pool to increase substantially the availability and coverage of product liability insurance.

SEC. 103. DEFINITIONS.

As used in this Act the term—

(1) "Administration" means the National Product Liability Insurance Administration established in section 201 of this Act;

(2) "Administrator" means the Administrator of the National Product Liability Insurance Administration established in section 201 of this Act;

(3) "Board" means the Board of Directors of the National Product Liability Insurance Administration as established in section 201 of this Act;

(4) "commissioner" means the commissioner of insurance or the head of the department, commission, board, or other agency of a State which is charged by the law of that State with the supervision and regulation of the business of insurance;

(5) "industrywide standards" means those standards for any particular industry to which the members of such industry normally subscribe in the fabrication or creation, sale, or use of their products;

(6) "manufacturer" means the fabricator of any product or the assembler of a number of component products whose product is either a component itself or a final product and such term includes, for all purposes of this Act other than the provisions of title III, retailers of any such product;

(7) "product" means any tangible object or goods but excludes any service;

(8) "product defect or failure" means a product defect or failure which results in injury or death to any person or damage to any property;

(9) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Canal Zone, and the Trust Territory of the Pacific Islands;

(10) "state of the art" means in conformity with the highest recognized and prevailing standards and practices technically and economically feasible in existance within the relevant industry at the time of use of the relevant plan or design and methods, standards, and techniques of manufacturing inspection, and testing; and

(11) "stream of commerce" means trade, traffic, commerce, or transportation—

(A) between a place in a State and any place outside thereof, or

(B) which affects trade, traffic, commerce, or transportation.

TITLE II—NATIONAL PRODUCT LIABILITY INSURANCE ADMINISTRATION

SEC. 201. ESTABLISHMENT.

There is established as an independent instrumentality in the executive branch of the Federal Government a National Product Liability Insurance Administration for the purpose of—

(1) administering a joint underwriting authority to provide product liability reinsurance to manufacturers as authorized under title III of this Act;

(2) issuing Federal charters to captive insurance companies under the provisions of title III of this Act; and

(3) reviewing the National Product Liability Arbitration Program established under title IV of this Act and State product liability arbitration programs which may be established in accordance with title V of this Act.

SEC. 202. BOARD OF DIRECTORS.

(a) COMPOSITION.—The Administration shall be under the general direction and supervision of a Board of Directors which shall be composed of the Secretary of Commerce, who shall act as Chairman, the Assistant Secretary of Labor in charge of the Occupationl Safety and Health Administration, the Chairman of the Consumer Product Safety Commission, the Commissioner of the Food and Drug Administration, the Chairman of the National Transportation Safety Board, and 12 nongovernment individuals appointed by the President, by and with the advice and consent of the Senate, three from each of the following groups:

(1) attorneys at law who have had extensive experience in product liability litigation;

(2) engineers and scientists who by reason of their education, background, and experience are particularly capable of assessing product design, engineering, and use hazards;

(3) physicians who by reason of their education, background, and experience are authorities on the general category of medical and psychological disabilities caused by product defects or failure; and

(4) persons who by reason of their education, background, and experience are recognized as effective and responsible representatives of the interests of consumers.

(b) TERM.—The terms of the nongovernment members of the Board shall be for 6 years, except that for those initially appointed the terms of one-third of the members so appointed, one in each category set forth in subsection (a) of this section, shall expire in 2 years, one-third in 4 years, and one-third in 6 years.

(c) COMPENSATION.—The nongovernment members of the Board shall be compensated for each day spent in the execution of their duties on behalf of the Administration at the highest daily rate applicable to those employed intermittently in the Government service under section 3109 of title 5, United States Code. The members of the Board, while so serving away from their homes or regular place of business, may be allowed travel expenses, including per diem in lieu of subsistence, as is authorized under section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

SEC. 203. POWERS AND DUTIES OF THE BOARD.

The Board shall establish the priorities and policies of the Administration with respect to all functions of the Administration under this Act. The Board may, in its discretion, by a majority vote, change in such fashion as it deems appropriate any policy, rule, regulation, or order of the Administrator.

SEC. 204. ADMINISTRATION.

(a) ADMINISTRATION.—The Administration shall be under the general supervision of an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate, for a term of 8 years, which appointment may be renewed in the same manner as the original appointment and compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code. The Administrator shall appoint, except as provided under subsection (b) of this section, such other personnel as he deems necessary to carry out the responsibilities of the Administration.

(b) GENERAL COUNSEL.—There shall be a General Counsel for the Administration who shall be appointed by a majority vote of the Board and who shall be compensated at the rate provided for in level V of the Execu-

tive Schedule under section 5316 of title 5, United States Code.

(c) SUBPENAS.—For the purpose of any investigation or any other proceedings under this Act, the Administrator, or any officer designated by him, is empowered to administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memorandums, contracts, agreements, or other records, which the Administrator determines relevant or material to the inquiry. Such attendance of witnesses in the production of any such records may be received from any place in any State or in any other place subject to the jurisdiction of the United States at any designated place of hearing. In case of contumacy by, or refusal to obey a subpena issued to any person, the Administrator may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda, contracts, agreements, and other records. Any such court may issue an order requiring such person to appear before the Administrator or officer designated by the Administrator, there to produce records, if so ordered, or to give testimony touching the matter under investigation or in question, and any failure to obey such order of the Administrator may be punished by such court as contempt thereof. All process in any such case may be served .n the judicial district whereof such person is an inhabitant or wherever he may be found. Any person who without just cause, shall fail or refuse to attend and testify or to answer any lawful injury or to produce books, papers, correspondence, memoranda, contracts, agreements, or other records if it is in its possession or power so to do, in obedience to the subpena to the Administrator, shall be guilty of a misdemeanor, and upon conviction, shall be subject to a fine of not more than $5,000 or imprisonment for a term of 1 year or both.

SEC. 205. AGENCY HEAD RESPONSIBILITY.

For the purposes of establishing finality of agency action for review of the actions of the Administrator under chapter 7 of title 5, United States Code, the Administrator shall be held and considered to be the agency head.

TITLE III—NATIONAL PRODUCT LIABILITY INSURANCE POOL

SEC. 301. AUTHORITY.

(a) REINSURANCE.—The Administrator is authorized to offer to any insurer or pool reinsurance against losses resulting from product liability claims, and for such purpose the Administrator is authorized to enter into any contract, agreement, or other arrangement with any insurer or pool for reinsurance coverage, in consideration of payment of such premiums, fees, or other charges by insurers or pools which the Administrator deems to be adequate to obtain aggregate reinsurance premiums in excess of the estimated amount of losses reinsured against hereinunder.

(b) CRITERIA.—In establishing premiums the Administrator shall consider among other things the applicant's product liability claim record, risk management program including quality control procedures, or other product defect and failure prevention programs.

SEC. 302. DEFINITIONS.

As used in this title, the term—

(1) "affiliated company" means any company that directly or indirectly owns, controls, or holds with power to vote 10 percent or more of the outstanding voting securities of a pure captive insurance company, or any company, 10 percent or more of whose outstanding voting securities are owned, controlled, or held with power to vote, directly or indirectly, by a parent, subsidiary, or associated company;

(2) "associated company" means any company in the same corporate system with a pure captive insurance company;

(3) "association" means any association or group of corporations, partnerships, or associations which has been in existence for at least 1 year, the member organizations of which collectively own, control, or hold with power to vote all of the outstanding voting securities of an association captive insurance company;

(4) "captive insurance company" means any domestic insurance company chartered under the provisions of this Act for the purpose of making either insurance or reinsurance which is limited to the risks, hazards, and liabilities of the member organizations of the association or parent, subsidiary companies of its parent, and associated and affiliated companies;

(5) "insurer" means any insurance company, or group of companies under common ownership, which is authorized to engage in the insurance business under the laws of any State;

(6) "losses resulting from product liability claims" means losses resulting from product liability claims under policies for standard lines of product liability insurance for which reinsurance is offered under this title:

(7) "member organization" means any corporation, partnership, or association which belongs and has belonged for a period not less than 1 year to an association;

(8) "parent" means a corporation, partnership, or individual who directly or indirectly owns, controls, or holds with power to vote more than 50 percent of the outstanding voting securities of a pure captive insurance company;

(9) "pool" means any pool or association of insurance companies which is formed, associated, or otherwise created for the purpose of making product liability insurance more readily available at reasonable prices; and

(10) "subsidiary company" means any corporation of which 51 percent or more of the outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote by a parent or by a company which is a subsidiary of such parent.

SEC. 303. LIMITATION.

Reinsurance offered under this title shall reimburse an insurer or pool for its total proved and approved claims for covered losses resulting from product liability claims during the term of the reinsurance contract, agreement, or other arrangement, in excess of the amount of the insurer's or pool's retention of such losses as provided in the reinsurance contract, agreement, or other arrangement entered into under this section. A contract, agreement, or other arrangement may be entered into under this section without regard to section 3679(a) of the Revised Statutes (31 U.S.C. 665(a)).

SEC. 304. NEGOTIATION.

The Administrator is authorized to negotiate an excess loss agreement, from time to time, under which the amount of insurance retained by the pool, after ceding reinsurance, shall be adequate to further the objective of maintaining appropriate financial participation and risk-sharing to the maximum extent practicable on the part of participating insurance companies and other insurers.

SEC. 305. CLAIMS.

All reinsurance claims for losses in excess of losses assumed by the pool shall be submitted on a portfolio basis by such pool in accordance with such terms and conditions as may be established by the Administrator

SEC. 306. ADVISORY COMMITTEES.

(a) ESTABLISHMENT AND DUTIES.—The Administrator shall appoint a Product Liability Advisory Committee, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and such committee shall advise the Board and the Administrator in the preparation of any regulations prescribed in accordance with this title and with respect to policy matters arising in the administration of this title and shall perform such other responsibilities as the Administrator may, from time to time, assign to such committee.

(b) COMPOSITION.—Such committee shall consist of not more than 15 persons and such persons shall be selected equally from among representatives of—

(1) the insurance industry,

(2) State and local governments, and

(3) organizations which are recognized as effective and responsible representatives of the interests of consumers.

(c) COMPENSATION.—Members of the committee shall, while attending conferences or meetings thereof, be entitled to receive compensation at a rate fixed by the Administrator, but not exceeding $100 per day, including travel time, and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as is authorized under section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

SEC. 307. DISSEMINATION OF PRODUCT LIABILITY INSURANCE INFORMATION.

The Administrator shall from time to time take such action as may be necessary in order to make information and data available to the public, and to any State or local agency or official, with regard to the coverage and objectives of the reinsurance program established pursuant to this title. The Administrator shall serve as the coordinator and provider in the Federal Government of appropriate product defect or failure prevention technique information and technical assistance to businesses and other interested parties. In fulfilling this responsibility the Administrator shall seek advice and assistance from those Federal agencies, offices and other persons represented on the Board established pursuant to section 202 of this Act and the Product Liability Advisory Committee appointed pursuant to section 306 of this Act.

SEC. 308. AUTHORIZATION FOR APPROPRIATIONS.

(a) AUTHORIZATION.—There are authorized to be appropriated to the Administrator such sums as may be necessary to make compensation for actual losses under this title that exceed in any fiscal year the aggregate reinsurance premiums collected by the Administrator.

(b) REIMBURSEMENT.—Through a power of renegotiation of contract agreements or other arrangements for reinsurance entered into by the Administrator, which shall be an express power in all such arrangements, the Administrator shall provide for reimbursement to the Government of all actual losses sustained for which appropriations are made. Such reimbursement shall be made over a period of time not to exceed 5 fiscal years following the fiscal year in which such appropriations were made for such purposes.

SEC. 309. CAPTIVE INSURANCE CHARTERS.

(a) AUTHORITY.—The Administrator is authorized to grant a Federal charter to a captive insurance company which has been organized to make insurance on risks, hazards, and liabilities—

(1) of its parent, subsidiary companies of

its parent, and associated or affiliated companies; or

(2) of the member organizations of an association, and such captive insurance company may not make reinsurance on personal motor vehicle or homeowner's insurance coverage or any component thereof, and may not provide personal insurance coverage for individuals except where the individual is a parent.

(b) CAPTIVE INSURANCE COMPANY STANDARD.—Any captive insurance company applying for a Federal charter must demonstrate to the satisfaction of the Administrator that adequate insurance markets in the United States are not available to cover the risks, hazards, or liabilities of the parent, affiliated and associated companies or associations and member organizations to be insured or that such needed coverage is only available at excessive rates or with unreasonable deductibles and (1) the total insurance coverage necessary to insure all risks, hazards, and liabilities of the parent and companies to be insured would develop, in the aggregate, gross annual premiums of at least $500,000 and (2) the total insurance coverage necessary to insure all risks, hazards, and liabilities of the association and its member organizations would develop, in the aggregate, gross annual premiums of at least $1,000,000.

(c) NAMES OF COMPANIES.—No captive insurance company shall adopt the name of any existing company transacting a similar business, nor any name so similar as to be calculated to mislead the public.

(d) AUTHORITY TO DO BUSINESS.—No captive insurance company shall transact any insurance business in any of the States unless it meets the requirements of the laws of each of the States in which it conducts its business with respect to such insurance business.

(e) SUSPENSION OR REVOCATION OF CHARTER.—

(1) A Federal charter may be revoked or suspended by the Administrator for any of the following reasons:

(A) insolvency or impairment;

(B) failure to comply with the laws in the States in which it conducts its business;

(C) failure to comply with the provisions of its own charter or bylaws, if such failure renders its operation contrary to the interest of the public or its policyholders; and

(D) failure to submit to examination by the State in which it conducts business or any legal obligation relative thereto.

(2) If the Administrator finds upon examination, hearing, or other evidence that any captive insurance company has committed any of the acts specified in paragraph (1) of this subsection, the Administrator may suspend or revoke such charter if he deems it in the best interest of the public and the policyholders of the company, notwithstanding any other provision of this title. Notice of any revocation or suspension shall be published in the Federal Register. Before suspending or revoking any certificate of authority of an insurance company, the Administrator shall grant the company 15 days in which to show cause why such action should not be taken.

TITLE IV—NATIONAL PRODUCT LIABILITY ARBITRATION PROGRAM

SEC. 401. ESTABLISHMENT.

The Administrator, in consultation with the Director of the Administrative Office of the United States Courts and with each of the circuit executives of the several circuits of the United States, shall establish a National Product Liability Arbitration Program (hereinafter referred to in this section as the "program") in each of the district courts of the United States.

SEC. 402. PRODUCT LIABILITY ARBITRATION PANEL.

The program shall provide for the establishment in each judicial district of the United States on a permanent or temporary basis, as the needs of the several judicial districts may require, a product liability arbitration panel (hereinafter referred to in this title as the "panel").

SEC. 403. PANEL COMPOSITION AND SELECTION.

Each panel shall be composed of three individuals appointed to arbitrate all actions to recover damages for injuries alleged to have been caused by a product defect or failure. The panel in each judicial district may sit in divisions of three members each, if the needs of such judicial district, as determined by the chief judge, should require more than one panel of three members. Each panel, or division thereof in judicial districts in which more than one division is necessary, shall be composed of three individuals selected by the chief judge of the judicial district in which the panel, or division thereof, sits from the following groups—

(1) one from a list prepared by the clerk of the United States district court of such judicial district of attorneys at law admitted to practice before the bar of such court and who have had at least 2 years trial experience;

(2) one from a list of physicians who regularly practice within the geographic confines of the judicial district from among individuals listed on a list compiled by the medical association of the State in which the judicial district is located; and

(3) one, from among the members of the public at large who are citizens of the United States and reside within such judicial district, who is not otherwise eligible for such selection under the provisions of paragraph (1) or (2).

SEC. 404. PAYMENT AND COSTS.

(a) COMPENSATION.—Members of the panel shall, while engaged in the duties of the panel, be entitled to receive compensation at a rate fixed by the Admnistrator but not exceeding $100 per day, including travel time, and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as is authorized under section 5703 of title 5. United States Code, for persons in the Government service employed intermittently.

(b) SOURCE OF COMPENSATION.—Except as provided in subsection (a), all costs associated with the appointment and functioning of the panel shall be paid out of the annual appropriations for the United States courts.

SEC. 405. LIMITATIONS ON PROCEDURES AND REMEDIES.

(a) CONSTRUCTION.—Nothing contained in this Act shall be construed as a limitation on procedures and remedies in product liability actions except as provided in this section and section 601 of this Act.

(b) ARBITRATION ELECTION.—The failure of a party in a product liability action to serve upon the other parties a demand in writing for a trial by jury of any issue triable of right by a jury at any time after the commencement of the action and not later than 10 days after the service of the last pleading directed to such issue and to file such demand with the court shall constitute a waiver by him of trial by jury and a binding election by him to place the matter under arbitration.

(c) BINDING ARBITRATION.—All complaints or petitions for equitable relief filed in the district courts of the United States which allege a cause of action arising out of the defect or failure of any product may be referred to a panel, or division thereof, for arbitration, in accordance with provisions of this Act shall be binding upon all parties and judgment upon the award rendered by a panel may be entered in any court otherwise having jurisdiction thereof unless fraudulent, the decision is otherwise against the weight of the evidence, or prejudicial error at law or equity has occured. All proceedings before the panel shall be conducted according to the Commercial Arbitration Rules of the American Arbitration Association as amended and in effect on November 1, 1973. Such rules may be amended, as the needs of justice may require, in the same form and manner as provided under rule 82 of the Federal Rules of Civil Procedure under the provisions of title 28, United States Code.

(d) STANDARDS.—Arbitration panels established under this title shall adhere to the national standards set out in title VI of this Act.

TITLE V—STATE PRODUCT LIABILITY ARBITRATION PROGRAMS

SEC. 501. STATE PLAN.

Any State may establish a State product liability arbitration program in accordance with this title. Upon the establishment of such a program, the commissioner shall submit to the Administrator a certified copy of such program, together with all relevant information which is requested by the Administrator.

SEC. 502. DETERMINATION BY ADMINISTRATOR

Within 90 days after the Administrator receives a copy of a State program established pursuant to section 501 of this Act, the Administrator shall make a determination whether such State has established a program in accordance with this title. Unless the Administrator determines pursuant to this section that a State program is not in accordance with this title, the program shall go into effect in such State on the date designated in the program. On such date, such State shall be eligible for Federal Financial assistance in accordance with the title.

SEC. 503. PERIODIC REVIEW.

The Administrator shall periodically, but not less than once every 3 years, review each State program which has been approved pursuant to section 502 of this Act to determine whether such program is still in accordance with this title and to evaluate the success of such program. To facilitate such review the commissioner in each such State shall submit to the Administrator periodically all relevant information which is requested by the Administrator. The Administrator shall report to the President and Congress simultaneously on October 1 on the results of such reviews, including any recommendations for legislation.

SEC. 504. STATE PROGRAM NO LONGER IN ACCORDANCE.

If after a State program in accordance with this title is in effect in a State the Administrator makes a determination, pursuant to section 503 of this Act that such State program is no longer in accordance with this title, then the program shall cease to be in effect on a date to be designated by the Administrator in accordance with section 505 of this Act.

SEC. 505. PROCEDURE.

(a) PUBLICATION.—Before making any determination under sections 502 and 504, the Administrator shall publish a notice in the Federal Register and afford the State and all interested parties a reasonable opportunity to present their views by oral and written submission.

(b) NOTIFICATION.—The Administrator shall notify in writing the commissioner of the affected State of any determination made under this section and shall publish such determination with reasons therefor in the Federal Register.

(c) JUDICIAL REVIEW.—Any determination made by the Administrator under section 53 shall be subject to judicial review in accordance with chapter 7 of title 5, United States Code, in the United States Court of Appeals for the circuit in which is located the State whose program is the subject of such determination or in the United States

Court of Appeals for the District of Columbia circuit. Any such review shall be instituted within 60 days from the date on which the determination made by the Administrator is published in the Federal Register.

SEC. 506. REPORTING REQUIREMENTS.

The Administrator, in cooperation with the Governors of the States, shall annually review the operation of State programs established in accordance with this Act and report on—

(1) the cost-savings resulting from the institution of any such program which meets or exceeds the national standards set forth in this Act and any subsequent savings resulting from the continuing operation of such programs;

(2) appropriate methods for refunding to the public any cost-savings realized from the institution and operation of such programs;

(3) the impact of such programs on the duplication of benefits when an individual has other insurance coverage which provides for compensation or reimbursement for lost wages or for health and accident (including hospitalization) benefits;

(4) the effect on such programs on court congestion and delay resulting from backlogs in State and Federal courts;

(5) the impact of such programs on injury rates and product safety; and

(6) the impact of such programs on competition within the insurance industry, particularly with respect to the competitive position of small insurance companies.

The Administrator shall make an annual report to the President and Congress on October 1 of the results of such review and determination together wtih his recommendations thereon.

SEC. 507. FINANCIAL ASSISTANCE TO STATES.

The Administrator is authorized to provide grants to any State for the purpose of reimbursing such State for any direct costs resulting from the implementation or administration of a program in accordance with this Act. The Administrator shall, by rule, establish procedures for awarding such grants on a fair and equitable basis among the States.

SEC. 508. AUTHORIZATION FOR APPROPRIATIONS.

There are authorized to be appropriated to the Administrator to carry out his responsibilities under this title such sums as may be necessary, not to exceed $20,000,000, to remain available until expended.

SEC. 509. NATIONAL STANDARDS.

A State establishing a product liability arbitration program in accordance with this title shall enact a law which incorporates at a minimum the provisions of title VI of this Act. The provisions of title VI, taken together, shall be known as the national standards for a State product liability arbitration program.

SEC. 510. STATE FULFILLMENT OF NATIONAL STANDARDS.

A State program is in accordance with this title if its standards conform with or are substantially comparable to the national standards. Any provision in a State program for which there is no corresponding provision in the national standards shall not be evaluated in determining whether such program meets or exceeds national standards, unless such provision is inconsistent with the national standards or the policy set forth in section 102 of this Act.

TITLE VI—NATIONAL STANDARDS FOR PRODUCT LIABILITY ARBITRATION PROGRAMS

PART A—LIMITATIONS ON PRODUCT LIABILITY LITIGATION

SEC. 601. APPLICABILITY OF MANUFACTURING STANDARDS.

It shall be a defense to any action seeking legal or equitable relief which alleges a product defect or failure resulting in injury, death, or property damage that the manufacturer or seller thereof complied with all Federal or State laws, including administrative regulations which prescribe standards for design, testing, labeling, inspection, performance, or manufacture of any such product at the time of its design and manufacture, except upon proper proof that such injury, death, or property damage was caused by the failure of such manufacturer or seller to comply with such Federal or State or administrative laws and regulations.

SEC. 602. STATE OF THE ART DEFENSE.

No judgment of any court or arbitration award of any panel established under the provisions of titles III or IV of this Act may be enforced against any manufacturer or seller if any such judgment or award was determined on the basis of the liability of the manufacturer or seller and the standard of decision for such determination was any other than the state of the art with respect to current manufacturing standards and procedures applicable or relevant to such product on the date it entered the stream of commerce.

SEC. 603. ALTERATION OF PRODUCTS.

No judgment of any court or arbitration award of any panel established under the provisions of titles III or IV of this Act may be enforced against any manufacturer or seller if the injury, death, or property damage, which was the basis of the judgment or award, was found to be caused by the misuse of the product or a modification or alteration of the product or any changes in the warnings, labeling, or instructions for use of the product by one other than the manufacturer or seller and which was not made at the direction, or with the consent, of such manufacturer or seller or was not reasonably foreseeable by such manufacturer or seller.

SEC. 604. STATUTE OF LIMITATIONS.

(a) ARBITRATION.—No action may be brought against any manufacturer or seller alleging a product defect or failure if any such action was brought after the 10th anniversary of the date on which such product was placed in the stream of commerce. Any actions brought after such date must be submitted to the arbitration programs provided for in titles III or IV.

(b) USEFUL LIFE OF PRODUCT.—No action or arbitration may be maintained if the court or panel finds the injury or damages sustained were sustained after the time period which a reasonable person would expect to be the ordinary useful life of such product.

SEC. 605. JUDGMENTS.

Payments in satisfaction of judgments or arbitration awards made in any action alleging a defect in a product or liability on the part of the manufacturer or seller of a product may be made in installments or on a partial or progress basis or otherwise as the court or panel may order. Each such periodic payment upon becoming due and payable under the terms of any such judgment or award shall constitute a separate judgment upon which execution may issue. Whenever the court or panel orders that judgments or arbitration awards be paid in the manner provided in this section such payments shall bear interest set at the annual rate the Secretary of the Treasury pays on outstanding obligations of the Federal Government from the day on which judgment or arbitration award is rendered.

PART B—FEDERAL PRODUCT LIABILITY COMPENSATION FUND

SEC. 606. FEDERAL PRODUCT LIABILITY COMPENSATION FUND.

(a) ESTABLISHMENT.—There is established in the Treasury a Federal Product Liability Compensation Fund which shall be available without fiscal year limitation to make full and complete payments in satisfaction of all judgments or awards made under the provisions of title IV, title V, or any judgment made by any court of the United States or of any State or any arbitration award made under the laws of the United States or of any State and which is entitled by law to enforcement by a court of the United States or of any State upon certification to the Administrator that the manufacturer or seller against whom such judgment or award is made cannot without undue hardship fully satisfy such judgment within 6 months of the date of its rendering and that it is in the public interest that such judgment be fully and promptly satisfied.

(b) PAYMENT FROM FUND.—Upon receipt of a certification by the Administrator, in such form and content as he may require approval thereof, and transmission to the Secretary of the Treasury, the Secretary of the Treasury shall pay out of the fund a sum equal to the amount of the amount of the judgment or award.

(c) COLLECTION FROM MANUFACTURERS.—The Administrator shall collect from the manufacturer or seller in partial, periodic, or progress payments determined by the Administrator to be just and equitable for the preservation of the sound business condition of such manufacturer or seller the full amount of the judgment or award certified under subsection (a) and paid under subsection (b) together with interest on the outstanding uncollected balance at the daily rate of interest for outstanding obligations of the United States, as determined by the Secretary of the Treasury, together with all costs associated therewith including reasonable attorneys fees, if any.

(d) AMOUNT OF FUND.—The fund established under subsection (a) shall initially be funded by a deposit of $30,000,000 from the general fund of the Treasury. Such sum shall be covered into the general fund of the Treasury from the fund when the aggregate amount in the fund exceeds $90,000,000 except that the fund shall be maintained at the level of $30,000,000 by subsequent deposits from the general fund of the Treasury as in the judgment of the Administrator from time to time may be necessary.

TITLE VII—MISCELLANEOUS PROVISIONS

SEC. 701. TECHNICAL AMENDMENTS.

(a) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following:

"(105) Administrator, National Product Liability Insurance Administration.

"(b) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following:

"(137) General Counsel, National Product Liability Insurance Administration.".

SEC. 702. AUTHORIZATION FOR APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act except as may otherwise be provided under section 509 of this Act.

SEC. 703. SEPARABILITY

If the application of any provision of this Act to any person is held to be unconstitutional, such holding shall not affect the operation or validity of any other provision of this Act.

ANALYSIS OF MAJOR SECTIONS OF THE NATIONAL PRODUCT LIABILITY INSURANCE ACT

Declaration of Policy.—The Congress finds that annual losses throughout the nation from product defects or failures are increasing at a substantial rate.

Federal rules and regulations together with industry-wide standards are often determinative factors in the manufacture of products which are reasonably free of defects and unlikely to fail.

The nation cannot afford the tragic losses

of life nor of property caused by product defects or failures and compensation for such losses to individuals is frustrated by inability on the part of the courts to establish consistently and predictably the limits of liability of the manufacturer of products for injuries caused by such products.

It is in the public interest for manufacturers and sellers to have both an opportunity to obtain product liability insurance and access to more adequate limits of coverage so that they will be indemnified for their losses in the event of defect or failure of their products.

National Product Liability Insurance Administration.—There is established an independent National Product Liability Insurance Administration for the purpose of administering a joint underwriting authority to provide product liability reinsurance; supervising a National Product Liability Arbitration Program; and issuing Federal charters to captive insurance companies.

This Administration shall be under the general direction and supervision of a board of directors chaired by the Secretary of Commerce and composed of members of those Federal agencies concerned with product safety and twelve individuals appointed by the President and confirmed by and with the advice and consent of the Senate who are either attorneys who have had extensive experience in product liability litigation, engineers and scientists who have had background and experience in assessing product design, engineering, and use hazards; physicians who have also had experience in our authorities on the general category of medical and physiological disabilities caused by product defects or failure; and persons who are recognized as effective and responsible representatives of consumer interests.

National Product Liability Insurance Pool.—The Administrator of the National Product Liability Insurance Administration is authorized to offer to any insurer or pool, reinsurance against losses resulting from product liability claims.

Reinsurance offered under this title shall reimburse an insurer or pool for its total proved and approved claims for covered losses resulting from product liability claims during the term of the reinsurance contract, agreement, or other arrangement, in excess of the amount of the insurer's or pool's retention of such losses as provided in the reinsurance contract, agreement contract, or other arrangement entered into under this title.

The Administrator may negotiate an excess loan agreement under which the amount of insurance retained by the pool, after ceding reinsurance, shall be adequate to further the objective of maintaining appropriate financial participation and risk sharing to the maximum extent practicable on the part of participating insurance companies and other insurers.

In addition, the Administrator shall appoint a Product Liability Advisory Committee which shall advise the board of directors and the Administrator of the National Product Liability Insurance Administration in the preparation of any regulations and policy matters. This committee shall be composed of persons selected equally from among repreesntatives of the insurance industry, state and local governments, and consumer groups.

The Administrator shall also have the responsibility of disseminating information of product liability insurance and shall be the coordinator and provider of appropriate product defect prevention technique information and technical assistance to businesses and other interested parties. Other Federal agencies may participate and offer assistance in the furtherance of this function.

Captive Insurance Charters.—The Administrator is authorized to grant a Federal charter to a captive insurance company which has been organized to make insurance on risks, hazards, and liabilities of its parent or subsidiary companies of its parent or of the member organizations of an association. In order to obtain such a charter, a captive insurance company must demonstrate that adequate insurance markets in the United States are not available to cover the risks, hazards, and liabilities of the parent companies or association members to be insured or that such coverage is only available at excessive rates or with unreasonable deductibles. The Administrator must follow prescribed standards in supervising capitive insurance companies.

National Product Liability Arbitration Program Establishment.—There is established a National Product Liability Arbitration Program in each of the Federal district courts of the United States. The National Product Liability Insurance Administration in consultation with the Director of the Administrative Office of the U.S. Courts and each of the circuit executives of the several circuits of the United States shall plan the establishment of this program.

A product liability arbitration panel is established in each judicial district on a permanent or temporary basis. Each panel is composed of three individuals appointed to cover all actions to recover damages for injuries alleged to have been caused by product defect or failure. Each panel shall be selected by the chief judge of the judicial district from the following groups: attorneys-at-law admitted to practice before the bar of such court; a list of physicians who practice within the geographic confines of the judicial district; and, from the members of the public who reside in the judicial district. The panel shall receive compensation for their time in serving.

A party in a product liability action must serve upon the other parties a written demand for a jury trial within 10 days after the service of the last pleading directed at such issue. Failure to do so shall constitute a waiver by him of a jury trial and a binding election by him to place the matter under arbitration.

State Product Liability Arbitration Programs.—Each State may establish a program patterned on the Federal Product liability panels. Once the program is established, the Commissioner of Insurance in that State shall submit to the Administrator a certified copy of such program or relevant information which is requested by the Administrator. The Administrator has 90 days to determine whether a State has established a program in accordance with this title.

The Administrator shall review these programs once every three years to determine whether such program is still in accordance with this title and to evaluate the success of such program. The Administrator shall report to the President and Congress the result of reviews of State programs including any recommendations for legislation.

States are permitted to establish additional requirements as long as they are not inconsistent with the provisions of the programs and the policy set forth and declared in this Act.

The Administrator shall review the operation of the State programs to determine: the cost-savings resulting from the institution of such program; appropriate methods for refunding to the public any cost-savings realized for the operation of the program; the impact of such programs on the problem of duplication of benefits when an individual has other insurance coverage which provides for compensation or reimbursement for lost wages or for health and accident benefits; the effect of such programs and court congestion and delay resulting from back-logs and State and Federal courts; the impact of such programs and injury rates and product safety; and the impact that such programs have on competition within the insurance industry, particularly with respect to the competitive position of small insurance companies.

The Administrator is authorized to provide grants to States for the purpose of reimbursing such State for any cost resulting from the implementation or administration of a product liability arbitration program. Initially, $20,000,000 is authorized to be made available for grants to the States. As a condition for receiving Federal financial assistance a State must incorporate at a minimum the national standards for product liability arbitration programs by this Act.

A State program is in accordance with this title if its standards conform with or are substantially comparable to the national standards.

National Standards for Product Liability Arbitration Programs.—The following defenses are made available under this program.

1. *Applicability of manufacturing standards.*—The manufacturer's compliance with all Federal or State laws including administrative regulations which prescribe standards for design, testing, labeling, inspection, performance, or manufacture of any product at the time of its design and manufacture is a defense except upon proof that the injury, death, or property damage caused by a product defect or failure was due to a failure on the part of the manufacturer or seller to comply with such Federal or State or administrative laws and regulations.

2. *State of the Art.*—The manufacturing standards and procedures applicable or relevant to a product shall be those in use on the date such product entered the stream of commerce. It must be shown that these standards and procedures were in conformity with the highest recognized and prevailing standards and practices technically and economically feasible in existence within the industry at the time the relevant plan or design and methods, standards, and techniques of manufacturing, inspection and testing were used.

3. *Alteration of products.*—The misuse of the product or a modification or alteration of the product by one other than the manufacturer or seller and which was not made by or at the direction of or with the consent of such manufacturer or seller shall be a defense. This includes the misuse, modification, alteration and any changes in the warning, labeling or instructions for use of the product or change in the manner of use of the product from that which was reasonably foreseeable by the manufacturer. Other provisions of this title included:

Statute of Limitations.—A ten year statute of limitations is provided for the bringing of any actions alleging product defect or failure from the time the product was placed in the stream of commerce. Any actions brought after this date may be submitted to the arbitration programs provided for in Titles III and IV of this Act. In addition, no action may be maintained or arbitrated if the court or panel finds the injury or damages were sustained after the time period which a reasonable person would expect to be the ordinary useful life of the product.

Installment Payments of Judgments.—Payments in satisfaction of judgments or arbitration awards made in any action alleging defect in a product or liability on the part of the manufacturer or seller of product may be made in installments or on a partial or progress basis or otherwise with interest as the court or panel may order.

Product Liability Compensation Fund.—This Fund shall be available to make full and complete payments in satisfaction of all judgments or awards where the manufacturer or seller against whom a judgment or award is made cannot without undue hard-

ship fully satisfy the judgment within six months. The Administrator shall collect from the manufacturer or seller partial, periodic or progress payments with interest and with consideration for the preservation of the sound business condition of such manufacturer or seller.

By Mr. PROXMIRE:

S. 406. A bill to encourage financial institutions to help meet the credit needs of the communities in which they are chartered, and for other purposes; to the Committee on Banking, Housing and Urban Affairs.

Mr. PROXMIRE. Mr. President, the Community Reinvestment Act, which I am introducing today, is intended to establish a system of regulatory incentives to encourage banks and savings institutions to more effectively meet the credit needs of the localities they are chartered to serve, consistent with sound lending practices.

Although communities depend on their local institutions to supply capital for economic development, home mortgage loans, consumer credit, municipal finance, and a variety of other needs, the "convenience and needs" criteria as applied by regulators in their allocation of charters and branch approvals, have focused almost exclusively on deposit services.

An applicant must show that the growth of deposits in the service area is sufficient to justify another facility without unduly harming established institutions. But the other side of the coin—the credit needs of the locality and the applicant's capacity to service these needs—have been almost ignored by the regulatory agencies. If an applicant is deemed competent and the community's deposit base sufficient to justify his entry into the market, the financial institution has license to all but ignore the credit needs of the locality.

The Community Reinvestment Act is based on four widely shared assumptions:

First, because of our mixed economic system and the limited volume of tax revenues, the public sector cannot—and should not—finance all capital needs.

Second, private financial institutions are the main source of capital for domestic economic development, housing, and community revitalization, both in urban and rural areas.

Third, investment by financial institutions in their communities need not involve risks greater than those normally taken by prudent lenders, and often involves less risk because of the lender's firsthand knowledge of his community.

Fourth, a public charter conveys numerous economic benefits and in return it is legitimate for public policy and regulatory practice to require some public purpose, without the need for costly subsidies, or mandatory quotas, or a bureaucratic credit allocation scheme.

The bill focuses on depositary financial institutions—primarily commercial banks, mutual savings banks, and savings and loan associations. These institutions supplied $382 billion of new credit during the last 4 years, or 55 percent of the total amount extended in U.S. credit markets. Of the $382 billion, $55 billion was loaned abroad. During the same period, depositary institutions obtained consumer savings deposits of $301 billion from individual depositors. These institutions thus play a strategic role in allocating the public's savings. Their collective decisions help to shape the communities we live in, our economic well-being, and have a profound impact on our daily lives.

The Federal bank regulatory agencies have considerable influence over financial institutions. One of the most significant powers is the authority to approve or deny applications for deposit facilities. Persons wishing to organize a bank or savings institution must apply for a charter. Once established, the institution can apply for branches or remote terminals with the ability to accept deposits. It can request the relocation of its home office or branch. It can seek to acquire another institution through merger. Or it can form itself into a holding company and acquire other financial institutions as holding company subsidiaries.

The authority to operate new deposit facilities is given away, free, to successful applicants even though the authority conveys a substantial economic benefit to the applicant. Those who obtain new deposit facilities receive a semiexclusive franchise to do business in a particular geographic area. The Government limits the entry of other potential competitors into that area if such entry would unduly jeopardize existing financial institutions. The Government also restricts competition and the cost of money to the bank by limiting the rate of interest payable on savings deposits and prohibiting any interest on demand deposits. The Government provides deposit insurance through the FDIC and the FSLIC with a financial back-up from the U.S. Treasury. The Government also provides ready access to low cost credit through the Federal Reserve Banks or the Federal Home Loan Banks.

In return for these benefits, financial institutions are required by law and regulatory policy to serve the "convenience and needs" of their communities as a condition for acquiring new deposit facilities. The "needs" of a community clearly include the need for credit services as well as deposit services. However, in practice, the regulators have tended to ignore credit needs and have focused primarily on deposit needs. An applicant for a deposit facility is required to demonstrate in great detail that the community needs additional deposit services. However, the regulators do not require any comparable analysis of the community's need for credit and how the applicant proposes to meet that need.

In practice, applicants for a charter may be interested in meeting the communities' credit needs—or they may be interested primarily in financing their own outside business interests; or they may wish to invest the community's savings in farflung ventures. Under present practice, their inclinations do not weigh heavily in the decision to award a charter or a branch.

The regulators have thus conferred substantial economic benefits on private institutions without extracting any meaningful quid pro quo for the public. Other regulatory agencies have not been as timid when awarding charters. For example, the FCC requires radio and TV license applicants to indicate how much public service broadcasting they will provide. Further, FCC licenses must be renewed periodically and renewals can be denied for failure to serve the public.

The proposed legislation directs the bank regulatory agencies to use their influence to award applications for deposit facilities in a way that will benefit local communities as well as bankers. An applicant for a deposit facility would be required to:

First, designate the area from which it expects the deposit facility will draw more than one-half of its deposit customers—primary savings service area;

Second, analyze the deposit and credit needs of that area and how those needs would be met by the new charter or branch;

Third, indicate the proportion of consumer deposits obtained from the primary savings service area that will be reinvested in that area; and

Fourth, demonstrate how the applicant is meeting the credit needs of the areas in which it has already been chartered to do business.

An application for a deposit facility is defined to include applications for: First, new Federal charters; second, deposit insurance by newly chartered State institutions; third, branches, including remote terminals with the ability to accept deposits; fourth, home office or branch relocations; fifth, mergers with existing institutions; and sixth, acquisitions of existing institutions by financial holding companies. The requirements in the bill apply only to applications otherwise required under existing law or regulations and do not provide any new authority to the bank regulatory agencies.

The bill states that in carrying out their existing authority to approve applications for deposit facilities, the regulatory agencies shall give due consideration to the applicant's past record in meeting community credit needs and its willingness to do so in the future. This does not mean that the regulators would consider community credit services as the only factor in approving or denying deposit facility applications.

On the contrary, the agencies would continue to apply the criteria they have traditionally used for approving deposit facility applications, as spelled out under existing law and regulations. These include the financial history and condition of the bank, the adequacy of its capital structure, its future earnings prospects, the general character of its management, and the convenience and needs of the community to be served.

The bill would not inject any significantly new element into the deposit facility application approval process already in place. Instead, it merely amplifies the "community need" criteria already contained in existing law and regulation and provides a more explicit statutory statement of what constitutes

"community need," to make clear that it includes credit needs.

In order to give the regulators a better picture of community credit needs, the bill directs the regulators to encourage testimony from community organizations at deposit facility application hearings. These hearings will afford the regulators an opportunity to assess how well an institution is meeting the credit needs of the communities in which it is already chartered to do business and how the community regards its proposal for a new deposit facility. Those who testify can be representatives of the communities already served as well as the community to be served. The deposit facility approval process can thus be systematically used to reward those institutions with a good record of community services.

The bill is not intended to force financial institutions into making high risk loans that would jeopardize their safety. Indeed, the bill specifically requires that any action taken by the bank regulators must be "consistent with safe and sound" banking practices. Moreover, there is no reason to assume that a higher degree of community reinvestment is incompatible with bank safety. Rebuilding and revitalizing communities threatened by decline is good for the communities and good for banking. Financial institutions cannot prosper in the long run unless we have balanced growth and development throughout America.

Finally, there is no evidence that banks or thrift institutions have gotten into financial difficulty by overinvesting in their local communities. On the contrary, most of the recent financial difficulties suffered by banks arose from making insider loans to affiliated persons and speculative loans outside the community in which the bank was chartered.

The bill also does not substitute the judgment of the regulator for the judgment of a banker on individual loans. Each bank or savings association will be free to exercise its best judgment on individual loan applications. However, a bank's overall community lending record would be reviewed when it applied for new deposit facilities and this record would be considered along with other factors in deciding on the application.

The bill should also be helpful in paving the way for a liberalization of branching restrictions at the State or Federal level, should Congress or the States decide to ease those restrictions. One of the most persistent arguments against branching is that outside institutions might use their branches to siphon deposits away from local communities. The policies contained in the Community Reinvestment Act should be useful in alleviating any fears that a more liberal branching policy would be inimical to community welfare.

By Mr. CHURCH:

S. 407. A bill to provide that time spent by American civilians in enemy prisoner-of-war camps and similar places shall be creditable—as though it were military service—toward pensions, annuities, or similar benefits under various Federal retirement programs; jointly, by unanimous consent, to the Committees on Finance, Labor and Public Welfare, Post Office and Civil Service, and Armed Services.

CIVILIAN POW RELIEF

Mr. CHURCH. Mr. President, today I am reintroducing legislation to provide retirement credit for time spent as prisoners of war by civilians after December 7, 1941. This bill is identical to legislation which was strongly supported by former Congresswoman Patsy Mink, whom I joined in introducing it in the 94th Congress. It would provide credit toward social security, railroad, civil service and military retirement to civilian prisoners of war for the time they spent imprisoned.

Among those who would benefit from this bill are a group of civilians employed by contractors at Pacific naval air bases during World War II. Many in this group were captured on Wake Island, Guam, and Cavite by the Japanese at the outset of that conflict.

These gallant Americans endured grievous suffering during their lengthy internments. Their numbers and the numbers of their survivors are small. As Congresswoman Mink has observed, providing retirement credit to them for these terrible years would be consistent with the purposes of the section of Public Law 92–603 which extends social security credit for the time spent by Japanese-Americans in American detention camps during this same period.

Although some Federal benefits are available to civilian POW's, I believe that allowing retirement credit for their internments is an eminently fair measure. Although the rules of the Senate mandate that it be considered by several Senate committees, I hope that it will receive the Senate's most sympathetic attention.

Mr. ROBERT C. BYRD. Mr. President, as in legislative session, I ask unanimous consent that a bill introduced by Senator CHURCH relative to retirement credit for American civilians in prisoner-of-war camps be referred jointly to the Committees on Finance, Labor and Public Welfare, Post Office and Civil Service, and Armed Services.

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

By Mr. HUDDLESTON (for himself and Mr. DOLE):

S. 408. A bill to amend title 5, United States Code, to extend certain benefits to former employees of county committees established pursuant to section 8 (b) of the Soil Conservation and Domestic Allotment Act, and for other purposes; to the Committee on Post Office and Civil Service.

Mr. HUDDLESTON. Mr. President, the Agricultural Stabilization and Conservation Service is the agency of the U.S. Department of Agriculture that administers specified commodity and related programs designed for production adjustment, resource protection, and price, market, and farm income stabilization. County ASCS employees are employed by county ASCS committees established pursuant to section 8(b) of the Soil and Domestic Allotment Act as amended. Although county ASCS employees help administer Federal programs assigned to the committees by the Congress, Secretary of Agriculture, Executive order, et cetera, they are not included under the civil service system, because the act specifies that these programs shall be administered at the county level by farmer elected committmen.

The Congress has extended to county ASCS employees the same retirement, leave, insurance, and other benefits provided civil service employees, as well as the opportunity to transfer to other agencies within the USDA. The legislation which I am introducing today, if enacted, would permit county office employees of the Agricultural Stabilization and Conservation Service to carry their leave balances, leave earning capacities, years of service, et cetera, to governmental departments other than USDA.

Mr. President, ASCS county employees help administer Federal programs. They are qualified, skilled, and competent and they should be afforded the same transfer opportunities available to other Federal employees. I would like to point out that this legislation would not permit county ASC employees to bypass any eligibility requirements or give them any privilege to "bump up."

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. 408

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 5334(f) of title 5, United States Code, is amended by striking out "under the Department of Agriculture".

(b) The first sentence of section 6312 of title 5, United States Code, is amended by striking out "in the case of any officer or employee in or under the Department of Agriculture".

(c) Section 3502(a)(C) of title 5, United States Code, is amended by striking out "who is an employee in or under the Department of Agriculture".

SEC. 2. The amendments made by the first section of this Act shall take effect on the date of the enactment of this Act.

By Mr. CURTIS (for himself and Mr. ZORINSKY):

S. 409. A bill to designate the Meat Animal Research Center located near Clay Center, Nebr., as the Roman L. Hruska Meat Animal Research Center; to the Committee on Agriculture and Forestry.

Mr. CURTIS. Mr. President, as we begin this new session of Congress, I wish to take a few minutes to remember a distinguished Member of the previous Congress. Senator Roman Hruska retired last month after years of fine service in the Senate. Today we want to call attention to one of his most important achievements for the State of Nebraska.

The chief economic asset of our State is the beef cattle industry. Nebraska has for many years ranked at the top in beef production. The Omaha Livestock Market was for a number of years regarded as the largest in the world.

To preserve the vitality and success of

the American beef cattle industry, there has been established near Clay Center, Nebr., the U.S. Meat Animal Research Center, a facility under the administration of the Agricultural Research Service of the U.S. Department of Agriculture.

What began in the early 1960's as a farsighted idea for the improvement and advancement of meat animal research has now become a 35,000-acre reality. The center, authorized by the Congress on June 16, 1964, has been developed as a result of the active and enthusiastic cooperation between Nebraska agricultural officials and the U.S. Department of Agriculture. No one person has had more to do with the creation of this facility than our former Senator from Nebraska.

The Meat Animal Research Center came about after a decision in 1959 by the Department of Defense to close the Naval Ammunition Depot at Hastings, Nebr. A gradual phaseout was to be completed by July 1, 1966. The depot comprised some 48,000 acres of land. The General Services Administration notified the various Federal agencies of this fact and asked if any of them had a need for the property.

The Agricultural Research Service responded to this offer. Negotiations were held, plans were drawn, and approval by the Secretary of Agriculture was received. The first 10,000 acres were transferred to the Department of Agriculture, the planning of phases I and II of a meat animal research center was accomplished by the Agricultural Research Service and Nebraska officials, and a Director was appointed.

Mr. President, it was at this point that the project appeared to be well established. One crucial item, however, was still in doubt—adequate funding. As a member of the Subcommittee on Agricultural Appropriations, Senator Hruska saw the potential benefits such a project would have for not only Nebraska, but the entire Nation.

Included in the submission of the 1966 fiscal year budget to the Congress, the Bureau of the Budget requested $3.5 million for the Clay Center facility. The request included $1.5 million for laboratories, offices, a heating plant, and feed processing and storage areas. Also planned were $1 million for beef cattle housing and $500,000 for swine and sheep housing.

Throughout the planning and construction phases of the center, Senator Hruska—from his vantage point on the Appropriations Committee—kept a constant eye on the progress and activities of the new project. As each phase unfolded, and appropriations were needed to meet rising costs or added personnel, he was there to insure that adequate funds would be made available.

His tireless work for the Meat Animal Research Center did not go unnoticed by his colleagues on the Appropriations Committee. They quickly came to realize that this facility would some day become one of the finest and most effective of its kind in the world.

Mr. President, in announcing the Department of Agriculture's decision to go ahead with the project in November of 1965, Senator Hruska stated:

With our economy so emphasizing livestock and feed grains, it is imperative that we apply this same kind of technology and research that has gone into other aspects of agriculture.

The work that was begun nearly 12 years ago has reached fruition and is providing scientific information that has proved invaluable to the meat animal industry in this country.

Mr. President, because of the longstanding contributions of Senator Hruska to the U.S. Meat Animal Research Center, I am proposing on behalf of Senator ZORINSKY and myself that the facility be designated as the Roman L. Hruska Meat Animal Research Center.

To those in Nebraska and elsewhere who know how greatly this facility contributes to the improvement of the meat animal industry, it is entirely appropriate that this designation be made. It would be but a small tribute to the personal time, effort, and energy that Senator Hruska has expended through the years on this Center. It would serve to remind all those who visit the Center and come into contact with its outstanding work that our friend and colleague from Nebraska devoted himself to the establishment and operation of such a worthy and lasting facility.

Mr. President, on behalf of myself and my colleague, Senator ZORINSKY, I send to the desk a bill to redesignate the above-mentioned facility the Roman L. Hruska Meat Animal Research Center.

By Mr. HANSEN (for himself, Mr. DOLE, Mr. INOUYE, Mr. MATSUNAGA, Mr. MELCHER, Mr. METCALF, Mr. STAFFORD, and Mr. THURMOND):

S. 410. A bill to amend part B of title XI of the Social Security Act to assure appropriate participation by optometrists in the peer review and related activities under such part; to the Committee on Finance.

LEGISLATION SEEKS TRUE PEER REVIEW

Mr. HANSEN. Mr. President, in 1976, I introduced legislation directed toward my concern over the present status of true peer review procedures under the Professional Standards Review Organization section of the Social Security Act.

I am concerned that the procedures outlined by this act do not make true peer review a reality for the independent health profession of optometry.

The primary care profession of optometry was a leading proponent of the true peer review concept. Therefore, optometry was understandably disturbed when current language of the Social Security Act excluded optometrists from any meaningful participation in the program.

The legislation that I am introducing today addresses my concern and is designed to accomplish two major objectives:

First. Insure that the public benefits from quality health care at reasonable costs by assuring that true peer review takes place. This would be best accomplished by specific provisions that require each independent health care profession evaluate their own specialties.

Second. Insure the continuity of minimum cost quality care by the viability and creation of independent primary care advisory groups composed of optometrists, dentists, and other health care providers.

Optometry is the only professional health group qualified to review the care given by optometrists. By virtue of their specialized education, training and practice, they are capable of fully reviewing optometric patient care situations to guarantee that each individual receives the quality care he needs at a reasonable cost.

According to the current act, a profession which is not familiar with the education and procedures of another profession would be establishing criteria for evaluating and finally reviewing that profession. Evaluation implies that judgments made will be based on the evaluator's own professional background and experience. Thus, the patient cannot receive the highest quality care an optometrist is trained to offer when the final criteria for evaluating that care is established by another professional who is unfamiliar with the full scope of optometric care and procedures.

I believe that coordinating the peer review program with advisory groups is also imperative and can prevent potential difficulties as the review process enlarges and includes outpatient services. Such coordination with advisory groups would eliminate the strife between the PSRO and other health advisory groups.

Mr. President, the costs of health care are rising rapidly today. By establishing true peer review, we can assure that the individual patient receives the highest quality health care at reasonable costs. The Senate Finance Committee report clearly intended that health care professionals of like education and training should comprise each profession's review group, but unfortunately this was not carried into law.

I urge speedy consideration of this amendment to correct this language and make the Professional Standards Review Organization more attentive to individual patient needs. This was, after all, our ultimate goal when we originally enacted this legislation.

I ask for my colleagues' prompt attention toward the enactment of this amendment.

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

S. 411. A bill to encourage localities to develop strategies and to use available Federal assistance for the preservation of neighborhoods and the reclamation of existing housing stock to the Committee on Banking, Housing and Urban Affairs.

NEIGHBORHOOD PRESERVATION ACT OF 1977

Mr. PROXMIRE. Mr. President, today Senator BROOKE and I are introducing the Neighborhood Preservation Act of 1977. On the basis of the committee's hearings on the use of community de-

velopment bloc grants, on redlining, and on the problems of neighborhoods generally, I am convinced that we must give more attention to preserving and revitalizing our existing housing stock and our vital, diverse urban neighborhoods.

I am planning to submit several pieces of legislation to encourage neighborhood preservation. A renewed emphasis on preservation is appropriate at a time when many people are looking for a sense of community and stability and when older neighborhoods have taken on a new attraction. Further, a conservation strategy is especially timely now, when the money simply is not there to launch sweeping, expensive new urban programs to rebuild from scratch.

I believe that this scarcity can be converted into a virtue if it leads us to make better use of our resources. The legislation we are proposing today would not involve new spending authority, but it would require localities to devise better strategies for preserving neighborhoods and saving existing housing stock, and to emphasize preservation goals in their expenditure of Federal subsidy dollars.

The 1974 Housing and Community Development Act was a necessary move away from the maze of overlapping categorical programs. I believe it has had the effect of invigorating local government by encouraging citizens to look to local officials rather than to Washington for the specifics of local urban programs. But our oversight hearings last year showed that in many communities the impact of CD dollars is far too diluted. Understandably, local elected officials are under pressure from their constituents to spread the dollars around.

While I firmly believe that the details of community development must be left to local officials and community residents, it is clear that there needs to be a greater degree of congressional guidance. Otherwise, we may find that the impact of CD block grants has been so diluted in many cities as to have no real impact at all.

The bill we are introducing today does three things.

First, it requires the Secretary of HUD to encourage cities to give a higher priority to the preservation and rehabilitation of existing housing than they have in the past. Many cities have had great success in using both traditional public housing and section 8 assistance as mechanisms to acquire and restore decaying buildings. We need to build on this experience. When low-rent housing is provided through rehabilitation of buildings that otherwise would soon be lost to abandonment, this not only creates decent homes, it also shores up entire neighborhoods. And it provides jobs. Rehabilitation is even more labor intensive than new construction, and it creates jobs right in the communities where unemployment tends to be highest. I believe it is time to give rehabilitation a higher priority.

Second, the bill would require localities to provide as part of their housing assistance plans a plan to identify and reclaim deteriorated housing stock where feasible. Under present law, localities must devise a plan for housing people of low and moderate income. Our bill would add a second dimension. Communities would also be required to formulate a strategy for reclaiming decaying housing, as a major part of its strategy for housing low- and moderate-income families.

The bill includes a list of acceptable approaches for achieving this objective.

Third, the legislation requires a greater degree of targeting, both in the use of community development block grant funds as well as section 312 loan funds. A strategy for revitalizing neighborhoods requires a "critical mass" of visible improvements in a neighborhood with the active participation of neighborhood residents. In this way, confidence is restored, people begin to take pride in their community, and the neighborhood is again seen as a place that is "coming back up" rather than continuing to decline. When confidence returns, it is not necessary to rely so heavily on huge public expenditures, because it is possible to leverage local private sector money. But the public money can serve as a catalyst, if it is wisely spent.

The bill requires localities to designate "concentrated revitalization areas," in which at least 90 percent of section 312 loans must be allocated. This approach is a return to the time when the section 312 program was used only in concentrated code enforcement areas. Since the program became divorced from the old concentrated code enforcement areas, its impact became so diffused that it now has little use as a neighborhood preservation device.

The section 312 program has also led to windfalls, because there have been no income limits for the recipients of the 3 percent loans. Therefore, in addition to requiring that 312 loans be concentrated, the bill also substitutes a sliding scale for the old 3 percent rate, and it limits the program to homeowners with incomes of less than $20,000, except in unusual circumstances.

By requiring communities to target community development funds more effectively, I am not embracing what has been called a "triage" approach, which simply writes off the worst neighborhoods as hopeless cases. On the other hand, I do believe it is useful for localities to adopt a long-range plan, which concentrates assistance into particular neighborhoods for a period of time, and then moves on to other neighborhoods. In this way, over a period of time, assistance can have significant impact on most needy communities. But rather than giving every area a little bit every year, this approach maximizes the impact of assistance by concentrating on a few neighborhoods at a time.

The bill I am introducing today is not the only change I believe is needed in the 1974 Housing and Community Development Act. The formula needs to be modified to ensure that assistance flows to areas of greatest need, and there is a need for other technical revisions as well.

I plan to introduce additional measures to encourage neighborhood preservation, including legislation to encourage financial institutions to reinvest in their communities, and legislation making the neighborhood housing services program permanent. I will also reintroduce the National Neighborhood Policy Act, which passed the Senate unanimously last year.

Mr. BROOKE. Mr. President, I join today with our Banking Committee Chairman, Senator PROXMIRE, in cosponsoring two important bills which will assist in the preservation of our urban neighborhoods and the rehabilitation of our existing housing stock—the Neighborhood Preservation Act of 1977 and the National Neighborhood Policy Act.

The Neighborhood Preservation Act will encourage local communities to develop strategies for housing preservation by using all available Federal assistance to revitalize declining neighborhoods. The bill provides that communities shall emphasize the rehabilitation of existing housing in their low-rent, housing programs and maximize the use of neighborhood preservation strategies in their applications for funding under the community development block grant program.

To accomplish this objective, communities will be required to identify their rehabilitation needs in a "housing preservation plan" which will be submitted as part of their housing assistance plan—HAP—in applying for community development funding. This emphasis on rehabilitation is fully consistent with the primary objectives of the community development program—to benefit low- and moderate-income families and aid in the elimination of slums or blight.

This bill also amends the section 312 rehabilitation loan program, which has been used with much success by many communities in Massachusetts and throughout the country. Under this bill, each community must target its loan activity primarily in low- and moderate-income neighborhoods, which have a large housing stock suitable for homeownership. The revised loan program will have a flexible interest rate—from 3 to 7 percent depending upon family income. This bill will help our cities develop rational strategies to deal with one of their great untapped resources—the large number of existing buildings which are suitable for rehabilitation and can provide decent, affordable housing for residents of our cities.

At the same time, we must explore the broader issues of the future of our neighborhoods. All levels of government are beginning to recognize that our cities' neighborhoods are valuable resources which must be preserved and conserved. We must develop a comprehensive policy to encourage conservation of existing urban neighborhoods. The National Neighborhood Policy Act will establish a National Commission on Neighborhoods composed of 20 members, including two Senators, two Representatives, and 16 public members appointed by the President. The Commission will investigate the factors contributing to neighborhood decline and revitalization, and develop recommendations for changes in laws, policies, and programs to encourage neighborhood preservation. The Com-

mission will report to the Congress and the President within 2 years.

The National Neighborhood Policy Act passed the Senate last session and was favorably reported by the House Committee on Banking, Currency and Housing but not acted upon by the House during the last session.

Mr. President, I believe that the enactment of these two bills will not only provide a focus for the rehabilitation efforts now underway in many communities throughout the country, but also stimulate neighborhood revitalization in areas where such activity is not currently taking place. I urge my colleagues to give these two measures their serious consideration.

By Mr. HUMPHREY:

S. 412. A bill to provide for congressional reforms, to strengthen the role of Congress as a coequal branch of Government, and for other purposes; to the Committee on Government Operations.

MODERN CONGRESS ACT OF 1977

Mr. HUMPHREY. Mr. President, the U.S. Senate is currently engaged in an ambitious effort to modernize and rationalize its procedures and to reorganize its committee system.

The reorganization is based on Senate Resolution 4, the resolution embodying recommendations of the Temporary Select Committee To Study the Senate Committee System, and subsequently revised as the result of hearings before the Rules Committee.

The select committee was created to address the generally acknowledged problems of too many conflicting responsibilities confronting each Senator, and fragmented and overlapping committee jurisdictions that often work against prompt, thorough, and integrated treatment of national policy issues.

We are now working to refine this broad package of proposals to adopt the most promising innovations, and to preserve and invigorate those elements of our current structure that demonstrably work.

At the same time, we are considering important rules changes to strengthen the role of party leadership, increase the flexibility of Senate procedure, develop a consistent and rational policy for bill referrals, and encourage a coordinated and long-range approach to programs and policies whose implications go beyond the scope of any single standing committee jurisdiction.

The effective function of the Senate depends not just on structure and organization, but also on the management tools, techniques, and resources available to provide each Senator with complete and current factual information to respond to the increasing complexity of issues.

This implies the need to overhaul some of our more antiquated and cumbersome practices, both procedural and administrative. To review this aspect, the 94th Congress established a Commission on the Operation of the Senate. The Commission has submitted its final report. The Senate will be considering a number of proposals based on Commission findings and recommendations and designed to economize time and space, to improve legislative and oversight functions, to codify ethical standards, to improve internal and external communications, and to apply technology to informational needs intensified by the increasing scope and complexity of the issues confronting the Senate.

The select committee and the Commission are to be congratulated on identifying the problems inherent in current practices, and presenting possible solutions. Their work will put a lasting imprint on how this Senate institution works.

In a piecemeal fashion, most of us have offered, and seen adopted, limited improvements in Senate operations over the years. We have been chipping away at the patina of tradition and inertia that seriously cripples the ability of the Senate to perform wisely and well, and to maintain the respect and power commensurate with its role in our system of checks and balances. To fail to address this challenge is to acquiesce in a shift in the balance of power to the executive branch at the expense of the people's representatives.

Since I first introduced the Modern Congress Act, some of its original tenets, such as open committee meetings, have been adopted along with other reforms which have materialized or are underway. The systematic, periodic review and evaluation of Government programs; financial disclosure; and an office of congressional legal counsel were embodied in major legislation which passed the Senate last year and which stand an excellent chance of being enacted in this Congress.

And now the Senate has established a special committee to draw up a code of conduct. To develop such a code is to acknowledge the legitimate interest of the public in honest and effective government. But it also serves the interest of the Congress by setting clear and specific standards by which Members' conduct can be guided and judged.

I have revised the Modern Congress Act to reflect these developments. I introduce it again because we are moving on a wave of reform, and I would like to insure that the proposals in this bill are high on the agenda. They are essential to help Congress set its house in order, improve its working tools, respond to justifiable public concern for economy, and buttress the special strengths and virtues of legislative debate and decision.

Title II of my bill calls for a formal State of the Congress report by the congressional leadership. By formalizing this customary report, we will underline the stature, independence and viability of our institution. It can focus both congressional and public attention on objectives, achievements, and priorities. The report, in the form of speeches, would be presented within the first 10 days of each session of Congress, and it would help both to define a work agenda within the broad context of national policy and to enlist informed public participation in the legislative process.

Title III creates a 24-member bipartisan Federal-State Legislative Council for intergovernmental exchange between the national Congress and State legislative bodies. Six Senators and six Representatives would serve on the Council, along with 12 State legislators.

Many of my colleagues have, at one time, served as members of State legislatures. Their experience verifies the complementary and related role of the two levels of government. By this pooling of local and national resources and perspectives, the Council could bring a new dimension to American federalism.

Title IV of my bill creates an Office of Congressional Communications. The quality of congressional information and communications system has a major, direct bearing on the decisions we make in this Chamber. The Legislative Reorganization Act of 1970, the Technology Assessment Act of 1972, and the Congressional Budget and Impoundment Control Act of 1974 all significantly improved and expanded research and analytical resources available to Congress. But Congress still confronts the problem of getting the needed information promptly in usable form for decisions.

A part of this problem results from our failure to employ innovations in the field of communications. Large organizations have benefited from modernized technical facilities but, in some ways, Congress continues to function as a collection of small, independent operators.

Advances in the field of video recording offer great potential to congressional offices. The OCC would include a video library of news programs, documentaries and other appropriate broadcasts. The OCC would establish a network of television facilities within the Capitol itself and in Members' offices to allow monitoring of congressional hearings, floor proceedings, and other congressional business. It also would conduct a full-scale experiment of wider broadcasting of floor proceedings. As pointed out in the Hughes commission report, televised floor proceedings, in some form, are permitted in the legislatures of more than 20 nations, the United Nations, and 44 State legislatures.

Reflecting proposals by both the select committee and the Commission, title V calls for the creation of a computerized clearinghouse for committee meetings. It is my understanding that such a system is now being developed, and this legislation specifies its scope and operation.

As I did in the previous bill, I have addressed, in title VI, the Senate's need for independent legal counsel to represent it in court proceedings involving other agents of the Government. In addition to the growing volume of litigation involving Congress and its Members, Congress should have the capability to institute appropriate litigation to assure that the intent of Congress in legislation enacted into law is fully carried out.

A provision creating a congressional counsel was included in the Watergate Reorganization and Reform Act which passed the Senate last year, and this serves as my model. However, my bill would not defer its creation until the House concurs, but would designate a

Senate Office of Legal Counsel, which could be consolidated into a Congressional Legal Counsel at such date as the House may pass comparable legislation.

In line with the established need to strengthen congressional support agencies, I include, as title VII, new powers for the General Accounting Office, one of the main fact-finding arms of the legislative branch. Current limitations inhibit the GAO from obtaining information vital to the operation of Congress. My bill gives the GAO new powers, such as the ability to subpena information and the power to bring individuals to court.

Mr. President, my proposals address specific problems and challenges that face Congress. They are necessary to maintain the vigor and the status of a cherished American institution. Americans are proud of the tradition of a Congress in which great men have debated issues, crystallized public opinion, forged public policy, and acted with responsibility, courage, wisdom, and proud independence.

A Congress which is fumbling, powerless, and inept may retain some sentimental value as an institutional curiosity or a historical artifact. But in a true sense it would not be tradition. It is, and must remain, traditional for Congress to respond with imagination and leadership to the particular problems and challenges of its era. In the Modern Congress Act, I am proposing measures to help us achieve this aim.

Mr. Preisdent, I ask unanimous consent that the text of the Modern Congress Act of 1977 be included at this point in the RECORD.

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

S. 412

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

SHORT TITLE

SEC. 101. This Act may be cited as the "Modern Congress Act of 1977".

POLICY AND PURPOSE

SEC. 102. It is the policy of the United States Congress that the public is entitled to the fullest practicable information regarding the initiatives, priorities, and the decisionmaking process of the Congress.

SEC. 103. The role of the United States Congress as a coequal branch of Government should be strengthened so that it may more effectively carry out its constitutionally delegated responsibilities.

SEC. 104. Existing methods and procedures need to be modified or new ones introduced to transform the United States Congress into an up-to-date institution able to effectively meet the challenges of the 20th century.

SEC. 105. Intergovernmental communication between legislative institutions at all levels should be encouraged because similar problems, outlooks, and goals are of mutual concern.

TITLE II—"STATE OF THE CONGRESS" REPORT

SEC. 201. To establish a tradition of significance and to increase public awareness of the role played by the United States Congress, the majority and minority leaders of the Senate and the House of Representatives shall, either jointly or individually, submit to the Congress and the President a "State of the Congress" message with respect to each session.

SEC. 202. (a) Each such message shall include statements, with respect to each session, concerning—

(1) those matters about which Congress has taken the initiative;

(2) priorities established by the Congress;

(3) matters not acted upon by Congress but upon which Congress should act or have acted; and

(4) those other matters in the foreseeable future to which Congress must address itself.

(b) The "State of the Congress" message will be prepared at the end of each regular session of Congress and presented to the Nation within the first ten days of the subsequent session.

TITLE III—FEDERAL-STATE LEGISLATIVE COUNCIL

SEC. 301. (a) A Federal-State Legislative Council (hereinafter referred to as the "Council") is hereby established which shall be composed of twenty-four members appointed to achieve a geographic balance and representation as follows:

(1) six members to be appointed by the President of the Senate from the United States Senate;

(2) six members to be appointed by the Speaker of the House of Representatives from the United States House of Representatives;

(3) six members to be appointed by the President of the Senate from among a list of twenty-four persons nominated by the National Legislative Conference and the State legislative leaders organization from among the members of the upper legislative bodies of the several more States; and

(4) six members to be appointed by the Speaker of the House from among a list of twenty-four persons nominated by the National Legislative Conference and the State legislative leaders organization from among the members of the lower legislative bodies of the several States.

(b) Of the members enumerated in subsection (a) (1) and (2) of this section, three shall be from the majority party of each House and shall be appointed from Members designated by the majority leaders of the respective Houses and three shall be from the minority party of each House and shall be appointed from Members designated by the minority leaders of the respective Houses. Of the Members enumerated in subsection (a) (3) and (4) of this section, not more than six shall be from any one political party.

(c) The term of office of each member of the Council shall be four years; members may serve until their successors are appointed, except that in any case in which any member ceases to serve in the official position from which he was originally appointed under this section, his term of office on the Council shall terminate at the time he ceases to serve in such official position. No member may serve for more than two terms.

(d) Any vacancy in the membership of the Council shall not affect its powers and shall be filled in the same manner as the original appointment was made.

(e) The Council shall select a Chairman and Vice Chairman from among its members annually. The Vice Chairman shall act in the place of the Chairman in the absence of the Chairman. The Chairman shall alternate between members of the Council appointed from the United States Congress and members appointed under subsection (a) (3) and (4) of the first section of this title. The Vice Chairman shall be chosen from the category of members other than the category from which the Chairman was selected.

(f) Seven members of the Council shall constitute a quorum, but two or more members shall constitute a quorum for the purpose of conducting hearings.

SEC. 302. (a) The Council shall form substantive committees to conduct studies to identify and investigate problems common to the legislative process and are of mutual concern to the legislatures of both the Federal and State Governments. Based on such studies, the Council shall make such recommendations from time to time for the solution of these problems as it deems appropriate. The Council shall also develop and prepare proposed legislation to carry out its recommendations.

(b) The Council shall meet at least once quarterly but may hold such additional meetings as it deems necessary. At least one-half of the meetings held by the Council shall be held outside Washington, D.C.

(c) The Council may issue such reports regarding its findings and recommendations, and shall submit an annual report of its findings and recommendations to the President and the Congress, the State Governors, and each State legislature not later than the first day of February of each year.

SEC. 303. (a) The Council or, on the authorization of the Council, any committee or members thereof, may, for the purpose of carrying out the provisions of this title hold such hearings, take such testimony, and sit and act at such times and places as the Council, committee, or member deems advisable. Any member authorized by the Council may administer oaths or affirmations to witnesses appearing before the Council or any committee or member thereof.

(b) Each department, agency, and instrumentality of the Federal Government, including each independent agency, is authorized and directed to furnish to the Council, upon request made by the Chairman or Vice Chairman, such information as the Council deems necessary to carry out its functions under this title.

(c) Subject to such rules and regulations as may be adopted by the Council, the Chairman shall have the power to—

(1) appoint and fix the compensation of an executive director, and such additional staff personnel as he deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of such title; and

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $100 a day for individuals.

SEC. 304. (a) A member of the Council who is a Member of Congress or a full-time salaried official of the body of which he is a member when appointed to the Council shall serve without additional compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of duties vested in the Council.

(b) A member of the Council other than one to whom subsection (a) of this section applies shall receive $100 per day when engaged in the actual performance of duties vested in the Council and shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of such duties.

TITLE IV—OFFICE OF CONGRESSIONAL COMMUNICATIONS

SEC. 401. (a) There is established for the Congress, under the Architect of the Capitol, an Office of Congressional Communications, which shall be subject to the supervision and control of the Architect.

(b) The Office shall—

(1) maintain a library of video tapes of all television network news programs and television programs of significant public interest;

(2) provide for closed circuit telecasts and tape of committee proceedings and the floor and other proceedings of the Senate and House of Representatives;

(3) provide equipment in the office of each Member of Congress to receive telecasts of any such proceedings and for the viewing of any tapes referred to in clauses (1) and (2) of this subsection;

(4) have installed, at appropriate places throughout the Capitol Building and the office buildings of the two Houses of Congress (including, if appropriate, in the office of each Member), equipment to receive information transmitted by any of the major news wire services;

(5) upon request, assist Members with respect to press, photographic, recording, taping, radio, and television matters; and

(6) provide for other measures to modernize the communication-information service available to Congress including the viewing of congressional documents and legislation and the providing of timely information with respect to the status of all legislation.

(c) The House Recording Studio and the Senate Recording Studio, and all their records, property, assets, and personnel are transferred to the Office and are made a part thereof.

SEC. 402. The Architect is authorized—

(1) to appoint, on a permanent basis, without regard to political affiliation, and solely on the basis of fitness to perform his duties, a Director of the Office to serve as the head of the staff of the Office and such personnel as he deems necessary;

(2) to prescribe the duties and responsibilities of such personnel;

(3) to fix the pay of such personnel in accordance with the schedule of rates of pay for other personnel in the Office of the Architect, except that any person transferred from the House or Senate Recording Studio to the Office of Congressional Communications shall not be paid at a rate less than the rate he was last paid while employed by such studio; and

(4) to terminate the employment of such personnel.

SEC. 403. Nothing in this title shall be held or considered to require the use of the facilities of the Office by any Member, committee, or officer of the Senate or House of Representatives, if, in the opinion of such Member, committee or officer, the use of such facilities is inappropriate.

SEC. 404. For purposes of this title, "Member of Congress" means a Senator, Representative, Delegate, or Resident Commissioner.

TITLE V—SCHEDULE OF COMMITTEE MEETINGS

SEC. 501. (a) In consultation with the Majority Leaders and the Minority Leaders of the Senate and House of Representatives, the Office of Congressional Communications (established under section 401(a) of this Act) shall establish and maintain a computerized schedule of all meetings of committees of the Senate and House of Representatives and subcommittees thereof, and of all meetings of joint committees of the Congress and subcommittees thereof. Such schedule shall be maintained online to terminals in the offices of all Members of Congress, committees of the Senate and the House of Representatives, and permanent joint committees of the Congress, and shall be updated hourly.

(b) Each committee of the Senate and the House of Representatives, and each subcommittee thereof, shall notify the Office of Congressional Communications of each meeting of such committee or subcommittee, including the time, the place, and the purpose of such meeting. Eacn joint committee of the Congress or subcommittee thereof shall cause notice to be given to such office of each meeting of such joint committee or subcommittee, including the time, place, and purposes of such meeting. Notice under this subsection shall be given immediately upon scheduling a meeting.

(c) Each committee of the Senate and the House of Representatives, and each subcommittee thereof, shall notify such office immediately upon the cancellation of a meeting of such committee or subcommittee. Each joint committee of the Congress or any subcommittee thereof shall cause notice to be given to such office immediately upon the cancellation of a meeting of such joint committee or subcommittee.

SEC. 502. For purposes of this title, the term "joint committee of the Congress" includes a committee of conference.

TITLE VI—OFFICE OF SENATE LEGAL COUNSEL

SEC. 601. (a)(1) There is established, as an office of the Senate, the Office of Senate Legal Counsel (hereinafter referred to as the "Office"), which shall be headed by a Senate Legal Council (hereinafter referred to as the "Counsel"), and which shall include a Deputy Senate Legal Counsel (hereinafter referred to as the "Deputy Counsel") who shall perform such duties as may be assigned to him by the Counsel and who shall serve as the Acting Counsel during any absence, disability, or vacancy in the Office.

(2) The Counsel and the Deputy Counsel each shall be appointed by the President pro tempore of the Senate from among recommendations submitted by the majority and minority leaders of the Senate. Any appointment made under this subsection shall be made without regard to political affiliation and solely on the basis of fitness to perform the duties of the Office. Any person appointed as Counsel or Deputy Counsel shall be learned in the law, a member of the bar of a State or the District of Columbia, and shall not engage in any other business, vocation, or employment during the term of such appointment.

(3)(A) Any appointment made under this subsection shall become effective upon approval, by resolution, of the Senate. The Counsel and the Deputy Counsel shall each be appointed for a term which shall expire at the end of the Congress following the Congress during which the Counsel is appointed except that the Senate may, by resolution, remove either the Counsel or the Deputy Counsel prior to the termination of his term of office. The Counsel and the Deputy Counsel may be reappointed at the termination of any term of office.

(B) The first Counsel and the first Deputy Counsel shall be appointed and take office within 30 days after the beginning of the session of Congress immediately following the session of Congress in which the Act is agreed to. Thereafter the Counsel and the Deputy Counsel shall be appointed and take office within 30 days after the beginning of the session of Congress immediately following the termination of the term of office of the Counsel and the Deputy Counsel or within 30 days after a vacancy occurs in either office.

(4) The Counsel shall receive compensation at a per annum gross rate equal to the rate of pay payable to the Legislative Counsel of the Senate. The Deputy Counsel shall receive compensation at a per annum gross rate equal to the rate of pay payable to a Senior Counsel in the Office of the Legislative Counsel.

(b) The Counsel shall appoint and fix the compensation of such Assistant Senate Legal Counsels (hereinafter referred to as "Assistant Counsels") and of such other personnel as may be necessary to carry out the provisions of this title and may prescribe the duties and responsibilities of such Assistant Counsels and personnel. Any appointment made under this subsection shall be made without regard to political affiliation and solely on the basis of fitness to perform the duties of the Office. Any person appointed as Assistant Counsel shall be learned in the law, a member of the bar of a State or the District of Columbia, and shall not engage in any other business, vocation, or employment during the term of such appointment. All such employees shall serve at the pleasure of the Counsel.

(c) In carrying out the functions of the Office, the Counsel may procure the temporary (not to exceed one year) or intermittent services of individual consultants (including outside counsel), or organizations thereof, in the same manner and under the same conditions as a standing committee of the Senate may procure such services under section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72(a)(i)).

(d) The Counsel may purchase such furniture, office equipment, books, stationery, and other supplies, as may be necessary for the proper performance of the duties of the Office and may provide for reimbursement for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the Office.

(e) The Counsel may establish such procedures as may be necessary to carry out the provisions of this title.

(f) The Counsel may delegate authority for the performance of any function imposed by this Act except any function imposed upon the Counsel under section 605(b) of this title.

DUTIES AND FUNCTIONS

SEC. 602. (a) The Counsel shall report to the President pro tempore of the Senate and the majority and minority leaders of the Senate (hereinafter referred to as the "Joint Leadership") with respect to his duties and responsibilities under this title.

(b) The Joint Leadership shall—

(1) oversee the activities of the Office, including but not limited to, consulting with the Counsel with respect to the conduct of litigation in which the Office is involved;

(2) pursuant to section 603(a), make a recommendation with respect to representation of an office, committee, subcommittee, Member, officer, or employee of the Senate in a civil action;

(3) pursuant to section 609 of this title, recommend the appropriate action to be taken to avoid or resolve a conflict or inconsistency; and

(4) pursuant to section 605(b), cause the publication in the Congressional Record of the notification required of the Counsel under that section.

(c) Whenever the Senate is not in session, the Joint Leadership may, in accordance with the provisions in section 603(b)(2), authorize the Counsel to undertake his responsibilities under section 603(a) in the absence of an appropriate resolution but only for the period beginning on the day of such authorization and ending ten days after the Senate reconvenes.

DEFENDING THE SENATE OR A COMMITTEE, MEMBER, OFFICER, AGENCY, OR EMPLOYEE OF THE SENATE

SEC. 603. (a) Except as otherwise provided in subsection (b), the Counsel, at the direction of the Senate shall—

(1) defend the Senate or an office, a committee, Member, officer, or employee of the Senate in any civil action pending in any court of the United States or of a State or political subdivision thereof in which the Senate or such office, committee, subcommit-

tee, Member, officer, or employee is made a party defendant and in which there is placed in issue the validity of any proceeding of, or action, including issuance of any subpena or order, taken by the Senate, or such office, committee, subcommittee, Member, officer, or employee in its or his official or representative capacity; or

(2) defend the Senate, or an office, committee, subcommittee, Member, officer, or employee of the Senate in any civil action pending in any court of the United States or of a State or political subdivision thereof with respect to any subpena or order directed to the Senate, or such office, committee, subcommittee, Member, officer, or employee in its or his official or representatives capacity.

(b)(1) Representation of a Member, officer, or employee under section 603(a) shall be undertaken by the Counsel only upon the consent of such Member, officer, or employee.

(2) The Counsel may undertake his responsibilities under subsection (a) in the absence of an appropriate resolution by the Senate if—

(A) the Senate is not in session;

(B) the interest to be represented would be prejudiced by a delay in representation; and

(C) the Joint Leadership unanimously authorizes the Counsel to proceed in his representation as provided under section 602.

INSTITUTING A CIVIL ACTION TO ENFORCE A SUBPENA OR ORDER

SEC. 604. (a) The Counsel, at the direction of the Senate, shall bring a civil action under any statute conferring jurisdiction on any court of the United States to enforce, or issue a declaratory judgment concerning the validity of any subpena or order issued by the Senate or a committee of the Senate or a subcommittee thereof authorized to issue a subpena or order.

(b) Nothing in subsection (a) shall limit the discretion of—

(1) the President pro tempore of the Senate in certifying to the United States Attorney for the District of Columbia any matter pursuant to section 104 of the Revised Statutes (2 U.S.C. 194); or

(2) the Senate to hold any individual or entity in contempt of the Senate.

INTERVENTION OR APPEARANCE

SEC. 605. (a) The Counsel, at the direction of the Senate, shall intervene or appear as amicus curiae in any legal action pending in any court of the United States or of a State or political subdivision thereof in which—

(1) the constitutionality of any law of the United States is challenged, the United States is a party, and the constitutionality of such law is not adequately defended by counsel for the United States; or

(2) the powers and responsibilities of Congress under article I of the Constitution of the United States are placed in issue.

(b) The Counsel shall notify the Joint Leadership of any legal action in which the Counsel is of the opinion that intervention or appearance as amicus curiae by the Senate is necessary to carry out the purposes of subsection (a). Such notification shall contain a description of the legal proceeding together with the reasons that the Counsel is of the opinion that the Senate should intervene or appear as amicus curiae. The Joint Leadership shall cause said notification to be published in the Congressional Record.

(c) The Counsel shall limit any intervention or appearance as amicus curiae in an action involving a Member, officer, or employee of the Senate to representation with respect to constitutional issues relating to the constitutionality of statutes or the powers and responsibilities of Congress.

IMMUNITY PROCEEDINGS

SEC. 606. The Counsel, at the direction of the Senate or any committee of the Senate, shall serve as the duly authorized representative of the Senate or such committee in requesting a United States district court to issue an order granting immunity pursuant to section 6005 of title 18, United States Code.

ADVISORY AND OTHER FUNCTIONS

SEC. 607. (a) The Counsel shall advise, consult, and cooperate—

(1) with the United States Attorney for the District of Columbia with respect to any criminal proceeding for contempt of Congress certified by the President pro tempore of the Senate pursuant to section 104 of the Revised Statutes (2 U.S.C. 194);

(2) with any Member, officer, or employee of the Senate not represented under section 603 with regard to obtaining private legal counsel for such Member, officer, or employee;

(3) with the President pro tempore of the Senate and the Secretary of the Senate regarding any subpena, order, or request for withdrawal of papers presented to the Senate; and

(4) with any committee or subcommittee of the Senate by assisting in promulgating and revising their rules and procedures for the use of congressional investigative powers and by answering questions which may arise in the course of any investigation.

(b) The Counsel shall compile and maintain legal research files of materials from court proceedings which have involved Congress, a House of Congress, an office or agency of Congress, or any committee, subcommittee, Member, officer, or employee of Congress. Public court papers and other research memoranda which do not contain information of a confidential or privileged nature shall be made available to the public consistent with any applicable procedures set forth in such rules of the Senate as may apply and the interests of Congress.

(c) The Counsel shall perform such other duties consistent with the purposes and limitation of this title as the Senate may by resolution direct.

DEFENSE OF CERTAIN CONSTITUTIONAL POWERS

SEC. 608. In performing any function under sections 603, 604, or 605, the Counsel shall defend vigorously when placed in issue—

(1) the constitutional privilege from arrest or from being questioned in any other place for any speech or debate under section 6 of article I of the Constitution of the United States;

(2) the constitutional power of the Senate to be judge of the elections, returns, and qualifications of its own Members and to punish or expel a Member under section 5 of article I of the Constitution of the United States;

(3) the constitutional power of the Senate to except from publication such parts of its journal as in its judgment may require secrecy;

(4) the constitutional power of the Senate to determine the rules of its proceedings;

(5) the constitutional power of Congress to make all laws as shall be necessary and proper for carrying into execution the constitutional powers of Congress and all other powers vested by the Constitution in the Government of the United States, or in any department or office thereof;

(6) all other constitutional powers and responsibilities of the Senate and of Congress; and

(7) the constitutionality of statutes enacted by Congress.

CONFLICT OR INCONSISTENCY

SEC. 609. (a) In the carrying out of the provisions of this title, the Counsel shall notify the Joint Leadership and any party represented or entitled to representation under this resolution of the existence and nature of any conflict or inconsistency between the representation of such party and the carrying out of any other provisions of this title, or compliance with professional standards and responsibilities.

(b) Upon receipt of such notification, the Joint Leadership shall recommend the action to be taken to avoid or resolve the conflict or inconsistency. The Joint Leadership shall cause the notification of conflict or inconsistency and the Joint Leadership's recommendation with respect to its avoidance or resolution to be published in the Congressional Record. If the Senate does not direct the Counsel within fifteen days from the date of publication in the Record to avoid or resolve the conflict in another manner, the Counsel shall take such action as may be necessary to avoid or resolve the conflict or inconsistency as recommended by the Joint Leadership.

(c) The Senate may by resolution authorize the reimbursement of any Member, officer, or employee who is not represented by the Counsel as a result of the operation of subsection (b) or who is not represented pursuant to section 603 for costs reasonably incurred in obtaining representation. A resolution introduced pursuant to this subsection shall be referred to the Committee on Rules and Administration of the Senate. Such reimbursement shall be from funds appropriated to the contingent fund of the Senate.

PROCEDURE FOR DIRECTION OF SENATE LEGAL COUNSEL

SEC. 610. (a) Directives made pursuant to sections 603, 604, 605, and 606 of this title shall be made as follows:

(1) Directives made by the Senate pursuant to sections 603, 604, 605, and 606 shall be authorized by adoption of a resolution of the Senate.

(2) Directives made by a committee of the Senate pursuant to section 605 shall be in writing and approved by an affirmative vote of two-thirds of the members of full committee.

(b)(1) A resolution introduced pursuant to subsection (a) shall not be referred to a committee, except as otherwise required under subsection (c)(1). It shall be in order (even though a previous motion to the same effect has been disagreed to) to move to the consideration of such a resolution (other than a resolution described in subsection (c)) at any time after the earlier of (A) a period of 10 calendar days (excluding Saturdays, Sundays, and legal holidays) since the day on which such resolution was introduced, or (B) the Joint Leadership has agreed to allow such motion. It shall be in order (even though a previous motion to the same effect has been disagreed to) to move to the consideration of a resolution described in subsection (c) at any time after such resolution has been reported by such committee. Debate on a motion to proceed to the consideration of a resolution shall be limited to not more than one hour which shall be divided equally between, and controlled by, those favoring and those opposing the motion. An amendment to such motion shall not be in order, and it shall not be in order to reconsider the vote by which such motion is agreed to.

(2) If the motion to proceed to the consideration of the resolution is agreed to, debate thereon shall be limited to not more than ten hours, which shall be divided equally between, and controlled by, those favoring and those opposing the resolution. A motion further to limit debate shall not be debatable. No amendment to the resolution shall be in order. No motion to recommit the resolution shall be in order, and it shall not be in order to reconsider the vote by

which the resolution is agreed to. Any debate with respect to any appeal from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to the resolution shall be included in the ten hour time limitation for debate on the resolution.

(3) Motions to postpone, made with respect to the consideration of the resolution, and motions to proceed to the consideration of other business, shall be decided without debate.

(c) It shall not be in order in the Senate to consider a resolution to direct the Counsel to bring a civil action pursuant to section 604(a) to enforce or secure a declaratory judgment concerning the validity of a subpena or order issued by a committee or subcommittee unless (1) such resolution is reported by a majority vote of the members of such committee or committees of which such subcommittee is a subcommittee, and (2) the report filed by such committee or committee of which such subcommittee is a subcomittee contains a statement of—

(A) the procedure followed in issuing such subpena;

(B) the extent to which the party subpenaed has complied with such subpena;

(C) any objections or privileges raised by the subpenaed party; and

(D) the comparative effectiveness of bringing a civil action to enforce the subpena, certification of a criminal action for contempt of Congress, and initiating a contempt proceeding before the Senate.

(d) The extent to which a report filed pursuant to subsection (c) is in compliance with such subsection shall not be reviewable in any court of law.

(e) For purposes of the computation of time in sections 602(c)(1) and 609(b)—

(1) continuity of session is broken only by an adjournment of the Senate sine die; and

(2) the days on which the Senate is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the period.

(f) For purposes of this title, when referred to herein, the term "committee" includes standing, select, and special committees of the Senate, and members of the Senate on a joint committee of Congress, established by law or resolution.

REPRESENTATION BY DEPARTMENT OF JUSTICE

SEC. 611. After the date on which this resolution is agreed to, no Member, officer, or employee of the Senate shall make any request to be represented by the Department of Justice pursuant to section 8 of the Act entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and seventy-six, and for other purposes", approved March 3, 1875, as amended (2 U.S.C. 118) or otherwise.

EXPENSES

SEC. 612. The expenses of the Office shall be paid from the contingent fund of the Senate upon vouchers approved by the Counsel, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

SENSE OF CONGRESS

SEC. 613. It is the sense of the Congress that the enactment of this title shall not preclude the consolidation of the Office created by this title with any similar Office of the House of Representatives which may be created after the date of the enactment of this Act.

TITLE VII—GENERAL ACCOUNTING OFFICE

SEC. 701. The Budget and Accounting Act, 1921, as amended (31 U.S.C. 42), is further amended by adding at the end thereof the following new sections:

"SEC. 320. (a) Whenever the Comptroller General, in the performance of any of his functions authorized by law, has reasonable cause to believe that any officer or employee of the executive branch is about to expend, obligate, or authorize the expenditure or obligation of public funds in an illegal or erroneous manner or amount, he may institute a civil action in the United States District Court for the District of Columbia for declaratory and injunctive relief. If the Attorney General is in disagreement with the Comptroller General he is authorized to represent the defendant official in such action. Other parties, including the prospective payee or obligee who shall be served with notice or process, may intervene or be impleaded as otherwise provided by law, and process in such an action may be served by certified mail beyond the territorial limits of the District of Columbia.

"(b) Upon application of the Comptroller General or the Attorney General an action brought pursuant to this section shall be heard and determined by a district court of three judges under section 2284 of title 28, United States Code. An action brought under this section shall be expedited in every way.

"(c) In actions brought under this section, the Comptroller General shall be represented by attorneys employed in the General Accounting Office and by counsel whom he may employ without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapters III and VI of chapter 53 of such title relating to classification and General Schedule pay rates.

"(d) In the event the institution of suit under this section serves to delay a payment beyond the date it was due and owing in payment for goods or services actually delivered to and accepted by the United States, then such payment when made by the agency involved shall include interest thereon at the rate of 6 per centum per annum for the time it has been withheld. Otherwise, no court shall have jurisdiction to award damages against the United States, its officers or agents as a result of any delay occasioned by reason of the institution of suit under this section.

"(e) This section shall be construed as creating a procedural remedy in aid of the statutory authority of the Comptroller General and not as otherwise affecting such authority.

"SEC. 321. No action may be instituted by the Comptroller General under section 320 until the expiration of a period of thirty calendar days (excluding the days on which either House is not in session because of adjournment of more than three days to a day certain or an adjournment of the Congress sine die) following the date on which an explanatory statement by the Comptroller General of the circumstances giving rise to the action contemplated has been filed with the Committee on Government Operations of the Senate and the House of Representatives and during such thirty-day period the Congress has not enacted a concurrent resolution stating in substance that it does not favor the institution of the civil action proposed by the Comptroller General.".

SEC. 702. To assist in carrying out his functions, the Comptroller General may sign and issue subpenas requiring the production of negotiated contract and subcontract records and records of other non-Federal persons or organizations to which he has a right of access by law or agreement.

SEC 703. In case of disobedience to a subpena issued under section 702 the Comptroller General may invoke the aid of any district court of the United States in requiring the production of the records involved. Any district court of the United States within the jurisdiction in which the contractor, subcontractor, or other non-Federal person or organization is found or resides or in which the contractor, subcontractor, or other non-Federal person or organization transacts business may, in case of contumacy or refusal to obey a subpena issued by the Comptroller General, issue an order requiring the contractor, subcontractor, or other non-Federal person or organization to produce the records; and any failure to obey such order of the court shall be punished by the court as a contempt thereof.

TITLE VIII—APPROPRIATIONS AUTHORIZED

SEC. 801. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

By Mr. DOLE (for himself and Mr. BENTSEN):

S. 413. A bill to amend title 5, United States Code, to provide for the payment of overtime to certain personnel employed in the Animal and Plant Health Inspection Service of the Department of Agriculture; to the Committee on Post Office and Civil Service.

OVERTIME PAY FOR APHIS EMPLOYEES

Mr. DOLE. Mr. President, the bill I am introducing today will correct an inequitable condition with regard to overtime payments for certain professional personnel employed in the Animal and Plant Health Inspection Service of the Department of Agriculture.

As conditions now exist, nonmanagerial personnel in grades GS-14 and lower who perform inspectional or supervisory functions in the APHIS divisions of meat and poultry, plant protection and quarantine, and veterinary services, do not receive true time-and-one-half salary for their overtime work. As "professionals" in their field, they were necessarily exempted from those provisions of the Fair Labor Standards Act Amendments of 1974. Instead, when performing overtime work under the provisions of title 5, United States Code, section 5542, these employees are limited to only 1½ times the minimum rate of basic pay for GS-10. This means that employees paid at GS-12, step 6, and higher actually receive less than their regular hourly rate.

UNIQUE SITUATION OF APHIS EMPLOYEES

It is my understanding that normally a Federal employee who earns less than his regular hourly rate when performing overtime work is granted compensatory time off in lieu of monetary payment. But in this case, the Inspection Service informs me, these particular programs are not staffed sufficiently to replace employees on extended leave, and compensatory time off is thereby impractical and seldom granted.

Professional employees in this situation have little control over their own overtime schedules, unlike those in some other fields. Federal veterinarians who must be present to supervise commercial slaughtering processes are subject to the often lengthy schedules of the packing plants to which they are assigned. During emergency disease epidemics, animal disease and plant protection and quarantine personnel must participate in all-

out efforts with long hours of duty to prevent the spread of a disease and to bring it under control. What this all means, in effect, is that the employees who are designated here have little or no control over their overtime requirements, yet are expected to work at salary rates incomparable to, and often less than, that of the subordinates whom they supervise. The Inspection Service has advised me that—

There are occasions when professionals and nonprofessionals are engaged in similar work in close proximit to each other and the professional is paid at a lower rate due to his professional status.

The inequity of this situation is obvious.

PRECEDENT EXISTS

The remedial legislation which I set forth here has precedent. In 1968, Public Law 90–556 established true time-and-one-half pay for overtime ordered and worked by air traffic controllers through GS–14. Like APHIS personnel, the air controllers were responsible for substantial overtime duties at reduced rates, yet were seldom given compensatory benefits. At that time, the legislation was supported by the Department of Transportation and met no objections from the Bureau of the Budget.

The action we take to correct this inequity will cost the Federal Government very little. In current practice, most of the overtime services required of APHIS professionals are reimbursable from the meat or poultry packers, importers, or exporters requesting the service. Fees are established by the Secretary of Agriculture for each program and are uniform throughout the program. That fee covers the actual cost of reimbursement to the employee plus overhead charges necessary for providing the service. None of this would be changed under the provisions of my bill.

It is my understanding that the U.S. Civil Service Commission has for several years been engaged in a study of the whole area of premium pay for professional and administrative Federal personnel and may eventually make comprehensive legislative recommendations in this regard. This seems to indicate that the Commission at least recognizes the existence of inequities, and I am glad to know of their attention. But the particular injustice now experienced by APHIS employees, and which compounds with every passing day, needs correction as soon as possible, in my opinion.

Let me emphasize that only nonmanagerial professionals are to be included in this measure—those whose duties are critical to insure the wholesomeness of our food products, the humane treatment of animals, or the proper control of animal and plant diseases. Furthermore, these time-and-one-half provisions apply in most instances to overtime work which is performed without cost to the Government, and which is performed at a time not subject to control by the Department of Agriculture or by the employee himself.

Mr. President, I hope that prompt consideration will be given to this measure which will establish equitable and just salary conditions for APHIS employees across the country.

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. 413

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5542(a) of title 5, United States Code, relating to premium pay, is amended by adding at the end thereof the following new paragraph:

"(4) Notwithstanding paragraphs (1) and (2) of this subsection, for an employee of the Animal and Plant Health Inspection Service, Department of Agriculture, who occupies a position, as determined by the Secretary of Agriculture.

"(A) the duties of which are critical to the inspection services provided by the Department of Agriculture to assure wholesome food products, humane treatment of animals, or to control or eradicate animal or plant diseases;

"(B) in which the operating requirements cannot be met without substantial overtime work; and

"(C) in which a substantial portion of the overtime work is (i) performed at a time not subject to the control of the Department of Agriculture or the employee, or (ii) required by emergency needs created by disease outbreaks; the overtime hourly rate of pay is an amount equal to one and one-half times the hourly rate of basic pay of the employee, and all that amount is premium pay."

SEC. 2. Section 5547 of such title is amended by inserting after "An employee" the following: "(other than an employee to whom section 5542(a)(4) applies)".

SEC. 3. The amendments made by this Act shall take effect—

(1) on the first day of the first pay period which begins on or after the thirtieth day after the date of enactment of this Act, or

(2) October 1, 1977,

whichever is later.

By Mr. THURMOND (for himself Mr. HATCH, Mr. DOLE, Mr. HATFIELD, Mr. LEAHY, and Mr. RANDOLPH):

S. 414. A bill to require a health warning on the labels of bottles containing certain alcoholic beverages; to the Committee on Commerce.

Mr. THURMOND. Mr. President, during the 92d, 93d, and 94th Congresses, I introduced a bill to amend section 5(e) of the Federal Alcohol Administration Act which would require a health warning on the labels of bottles containing alcoholic beverages. On all three occasions, the bill was referred to the Senate Commerce Committee, and the full Senate did not act on the proposed legislation in any of these Congresses.

Almost 6 years have passed since I originally introduced this bill, and during this time, the facts have verified that alcoholism is an ever increasing problem that is destroying more and more lives with each passing day.

As a result, I am reintroducing this legislation today, and I urge my colleagues to give this bill very careful consideration and join me in supporting it.

Alcoholism is a disease that can strike at any social or economic level, and the result is tragic. No one really knows how many lives it has ruined, how many homes it has broken, or how many healthy people it has adversely affected. Perhaps as many as 10 million people in the last year alone have fallen prey to drinking problems that have touched their lives and the lives of countless others.

Mr. President, all of us are aware of the dangers of drinking and driving. In a report to Congress last year by the Department of Transportation it was stated that more than 23,000 individuals died in automobile crashes in which the driver had been drinking. About 66 percent of all driving deaths are problem drinkers, this report noted. The mixing of alcohol and automobiles has become a killer of major proportions, and it is high time that we warn drinkers of the hazards which result from the use of alcohol.

A health warning label for all bottles of alcoholic beverages containing more than 24 percent of alcohol by volume will be an effective method of informing the public of the dangers involved.

Mr. President, of the approximate 10 million people affected by alcohol, many are women and mothers. Dr. Marvin Block, former chairman of the American Medical Association's Committee on Alcoholism, estimates that fully 50 percent of alcoholic people in the United States are women. If that is true, some 5 million women in America today—about 1 out of every 20 women may be facing some kind of alcohol problem.

Doing something about this growing problem is what this bill is all about. If such a warning label deters a potential alcoholic from taking their first drink, or prevents a casual drinker who drives from having "one for the road," then this legislation will be effective and worthwhile.

Mr. President, I request that this bill, with Senators DOLE, HATFIELD, LEAHY, and RANDOLPH as cosponsors, be appropriately referred and I ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered. The bill will be received and appropriately referred.

Mr. THURMOND. I might say that the label on bottles containing 24 percent or more would read this way:

The use of alcoholic beverages may be hazardous to your health and may be habit forming.

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

S. 414

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5(e) of the Federal Alcohol Administration Act (49 Stat. 982, as amended; 27 U.S.C. 205(e)), is amended by inserting the following new paragraph immediately before the last full paragraph of such section:

"It shall be unlawful to sell or ship or deliver for sale or shipment, or otherwise introduce in interstate commerce or foreign commerce, or receive therein, or to remove from customs custody for consumption, any bottle containing a beverage having more than 24 per centum of alcohol by volume, unless the label of such bottle contains the

following statement: 'Caution: Consumption of alcoholic beverages may be hazardous to your health and may be habit forming.' Such statement shall be located in a conspicuous and legible type in contrast by typography, layout, or color with other printed matter on the label."

By Mr. PROXMIRE (for himself, Mr. GARN, Mr. BROOKE, and Mr. HUDDLESTON):

S. 417. A bill to establish a National Commission on Neighborhoods; to the Committee on Banking, Housing, and Urban Affairs.

NATIONAL NEIGHBORHOOD POLICY ACT

Mr. PROXMIRE. Mr. President, last session, the National Neighborhood Policy Act, sponsored by the Senator from Utah (Mr. GARN) and myself passed this body unanimously. It was favorably reported by the House Banking Committee, and was 30th in line on the House consent calendar when the clock ran out.

The Senate Banking Committee has held extensive hearings on the problems of urban decay and on disinvestment in cities. We find that the housing programs of the past 40 years tend to exclude one element essential to a sound urban policy. I am speaking of the need to conserve and revitalize what exists: to preserve housing and revitalize neighborhoods. Existing housing is the largest single component of national wealth, yet we have no coherent strategy for conserving it.

The number of new housing starts has rightly been the focus of much attention. Millions of families need homes. But another number has continued to grow throughout the past decade, to the point where it is hovering around 50 percent of the annual housing starts. I am speaking of homes lost from the inventory of housing stock. Last year, the Library of Congress estimated the annual loss at nearly 800,000 such housing units.

We can never know how many of these homes could have been saved, but the figure must be several hundred thousand. And when a unit is lost, we lose more than that individual house. There is a blighting effect on the surrounding community.

I believe it is time to devise a strategy for the conservation of existing neighborhoods. Until now, the main thrust of Federal policy has been to promote growth, mostly through suburban expansion. We have emphasized highways, to the neglect of mass transit. The urban renewal program emphasized slum clearance, and often bulldozed sound, vital neighborhoods in the process. The tax code rewards demolition of sound structures, but it often punishes good maintenance.

There is a need for a systematic assessment of the needs of existing neighborhoods, and the creation of a national policy of housing conservation. This will not be done by establishing a new rehabilitation agency, but rather by analyzing and where necessary modifying policies that impact neighborhoods.

The National Neighborhood Policy Act will establish a National Commission on Neighborhoods, to evaluate the impact on neighborhoods of public policies, laws, and programs. The Commission has 2 years to recommend policy changes to better adapt public policy to neighborhood preservation; to promote reinvestment by the private sector; to encourage better maintenance of existing rental housing; to promote urban homeownership; and to assist and support local efforts toward neighborhood revitalization.

The Commission is to include 16 public members drawn from neighborhood organizations, local government, business, finance, civic and academic circles, who shall be appointed by the President, and four Members of Congress.

I do not see this Commission as an excuse to wait 2 more years to avoid helping neighborhoods survive. There are things we can do right now. I am also introducing legislation to require localities that receive community development block grants to devise local strategies for the conservation of existing housing stock and the preservation of neighborhoods. I will be offering another bill to promote reinvestment by banks and thrift institutions in the communities they are chartered to serve, consistent with sound lending practice. And I will propose legislation to make permanent, and expand, one experimental program that has proven its worth—the Neighborhood Housing Service.

Yet at the same time, I look forward to the development of a long-range comprehensive neighborhoods policy. The National Neighborhood Policy Act will begin that process.

I ask unanimous consent that the text be included in the RECORD. I am also including an excellent paper by Dr. Arthur Naparstek of the University of Southern California Washington Public Affairs Center, who has provided much of the intellectual framework for a national policy to revitalize urban neighborhoods.

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

S. 417

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

SHORT TITLE

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

FINDINGS AND PURPOSE

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

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

ESTABLISHMENT OF COMMISSION

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

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

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

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

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

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

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

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

DUTIES

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

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

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

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

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

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

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

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

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

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

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

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

(4) policies to prevent such destructive

practices as blockbusting, redlining, resegregation, speculation in reviving neighborhoods, and to promote homeownership in urban communities;

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

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

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

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

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

COMPENSATION OF MEMBERS

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

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

ADMINISTRATIVE PROVISIONS

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

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

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

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

(1) representatives of legally chartered neighborhood organizations;

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

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

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

AUTHORIZATION OF APPROPRIATIONS

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

EXPIRATION OF THE COMMISSION

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

POLICY OPTIONS FOR NEIGHBORHOOD EMPOWERMENT

(By Arthur J. Naparstek)

OVERVIEW

Several chapters in this book address the question of how to improve responsiveness and accountability in the delivery of public services. This chapter will investigate proposals to achieve that result by devolving some powers to citizens at the neighborhood level, focusing on citizen involvement as a critical element in improving responsiveness and accountability in urban government.

Within this general context, the following areas will be discussed:

(A) The movement toward neighborhood decentralization, emphasizing the three philosophical bases that have structured its growth;

(B) specific approaches to decentralization with their respective limitations, successes, and failures, and a look at regional metropolitan strategies;

(C) a model for local government that synthesizes existing approaches; and

(D) principles that guide devolution of power, obstacles to devolution, and policy options for federal, state, and local governments to overcome these obstacles.

The overriding concern is how best to involve citizens in the process of urban governance for, despite some failures, citizen-oriented, community-based programs contain a potential that can and should be tapped in improving urban governance.

BACKGROUND

Despite myriad urban problems developed over the past 15 years, American cities are still faced with enormous problems; middle-class flight to the suburbs, erosion of economic and tax bases, deteriorated housing, decline of the quality of life, and more. Not only are cities confronted with decade-old concerns, some—particularly in the Northeast and industrial midwest—are now caught in a worsening economic trend.

National economic problems have exacerbated the difficulties by reducing city income from local sources while simultaneously raising city costs: The federal government moves funds from one level to another with little guidance on priorities. The result is that many human needs go unmet and economic necessity encourages "lifeboat" strategies in which some urban areas are written off as unsalvageable. While this approach may seem rational in economic terms, it ignores the attendant human tragedies and costs.

The deterioration of cities has resulted from a convergence of factors; regional economic shifts within the nation itself, intrametropolitan job dispersal, the mismatch between municipal and state fiscal systems and urban settlement, housing obsolescence, demographic changes, and real estate management practices. Many policies and programs designed to solve these problems have failed. This chapter contends that these failures result from a lack of consideration of the systemic origins of urban decline. The decline of the city is rooted in certain institutionalized policies, attitudes, and practices; but the tendency has been to respond to symptoms.

A second reason for the persistent failure of programs directed at curbing wholesale deterioration has been the tendency to view the problem on a grand scale. Virtually all natural policy initiatives have failed to serve the varied needs of differing neighborhoods. The neighborhood must be recognized as the key to preconditions required for effective change. Keller notes: ". . . people do not live in a city, but in a neighborhood or more accurately, in part of a neighborhood."[1] In real terms, their investment—emotional as well as economic—is in their neighborhoods, and the city cannot survive if its neighborhoods continue to decline.

ALTERNATE IDEOLOGIES

Three major ideological perspectives have influenced proposed forms of devolving political and administrative control to neighborhoods.

Leading proponents of the neighborhood movement, such as Milton Kotter, Karl Hess, Andrew Greely, John McClaughty, and James Cunningham, return to the principles of Jeffersonian Democracy and the conceptual notions put forth by Lewis Mumford and Jane Jacobs.[2] These scholars define the problem in humanistic and moral terms and argue that centralized government increases alienation, that family and community life suffers, and that people do not cope well with the diversity and pressures of the city.

Senator Mark Hatfield, in a July 1972 speech to the Platform Committee of the Republican National Convention on Neighborhood Government, best represents this point of view. Hatfield argued that processes of governance in American cities have failed:

"It is clear today that the great experiment of our cities is a failure. We must return to a scale of government which is comprehensible to our citizens. By developing neighborhood government—not by fiat but by an organic evolution from community organization—we can develop a sense of community through the state and a sense of individualism and neighborhood through the nation. To date, the centralization of government has destroyed community self-management and citizen participation. We must reverse this trend and develop our cities along the lines of neighborhood government and intermetropolitan cooperation."

Implicit in Hatfield's statement are assumptions that people's lives will be better if they have options for control, if they can be involved in and take responsibility for the processes of community life. It is further assumed that the way to achieve this is by a return to small units of government. Milton Kotler explains this position in this excerpt from his "Citizen Liberation" speech presented to the Citizens Neighborhood Councils Coordinating Committee on February 22, 1975, in Washington, D.C.:

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"For centuries of human history, it was the conventional wisdom that small areas and small populations were capable of self-government and further, that this smallness of size and population enabled a greater liberty of participation. The second point is that in the smaller municipality a greater proportion of citizens to population held responsibility. . . ."

For Karl Hess, neighborhoods are places where people can belong. He recently wrote in Neighborhood Power: "When people . . . then say 'my neighborhood,' it usually means that they have found a place to live where they feel some sense of belonging, some human sense of being part of a society no matter how small, rather than just being in a society, no matter how large." This humanistic argument postulates that people are interested in and capable of exerting influence and initiative in matters affecting their lives.

A second group of scholars concerned with the neighborhood also decries the trend toward centralization and bigness, but defines the problem within the context of American Federalism, as represented by James Madison. This group extends the values of America's "good government movement" of the early 20th century and builds on the theoretical framework of contemporary public administration. Their functional, structural approach is best represented by Howard Hallman, John Mudd, Rober Yin, Douglas Yates, George Washnis, and Vincent Ostrom.[3]

Emphasis is on identifying the tasks which can best be carried out by small service areas (neighborhoods) and the best means of reforming the bureaucratic infrastructure which supports current decentralization efforts. Problems are generally defined in terms of accountability and access to services with specific attention directed to resource allocation within the city, bureaucratization of administrative and service functions, and centralization of decision-making and control.

Examples of this approach include the hundreds of cities which have established neighborhood preservation and conservation programs. New administrative mechanisms have been installed on the local level which permit government to exercise more flexibility to meet the service requirements of different types of neighborhoods [4] and which force city administrators to address issues of centralization and decentralization by determining which services are most effectively delivered on the neighborhood, city, or metropolitan levels.[5] Clearly, neighborhood conservation projects are stimulating new partnerships between the public, private, and community sectors. A host of local initiatives such as neighborhood approaches to crime prevention, commercial and economic revitalization, housing, and human services delivery have and are now taking place.

A third group concerned with the neighborhood as an arena for social and political action are those community organizers who came out of the civil rights movement. That era witnessed the emergence of community organizations committed to halting the decline of inner-city neighborhoods. The most visible and perhaps the most effective of these efforts were the interracial coalitions formed to combat inner-city investment decline generally and "redlining" in particular. These grassroots efforts demonstrated that an organized, mass-based community effort could reverse abusive policies.

Significantly, modification of the confrontational tactics and strategies of the sixties has resulted in new models for social action and change. These new models for citizen organization are issue-oriented and aimed toward policy and services delivery objectives.

In order to perceive the new role of community organizations, it is important to understand the negative impact Great Society programs had on decentralization. Rather than introducing neighborhood programs through successive stages of accomplishment and functional expansion, the reverse occurred: a full dosage of decentralization was introduced to an unorganized and often overwhelmed neighborhood populace. When neighborhood residents were unable to fulfill the mandate of decentralized programs, municipal systems retrenched into greater centralization, tightening their own administrative controls over resource allocation processes.

Great Society programs tended to be defined in the context of race. Thus, programs originally intended to serve the poor were quickly perceived as programs designed primarily for poor blacks. Though in most cities these categorical programs began on a small scale, in time they grew and attained high visibility. Neighborhood residents became actively involved and anxiously waited for neighborhood conditions to improve. But by 1968, subjective judgments evaluating impact were harsh. Tom Wicker, writing in the New York Times on July 28, 1968, commented that the War on Poverty "somehow managed to wind up alienating many of the black and poor, as well as [the] white conservative . . . and Members of Congress," and Lee Rainwater noted that "though the [OEO] made promises to the black community through its pseudo-radical rhetoric, it angered and insulted the working class, and at the same time delivered no more than symbolic resources to black people." [6]

Important lessons may be learned from these experiments in decentralization. Robert Wood stated that a critical policy issue raised in the sixties involved the complications inherent in a majority system working on a minority problem. He pointed out that policies which fail to take into account the economic and social needs of a majority are likely to stimulate fears which, in turn, override minority needs:

"The critical factor is how minority needs are presented to a majority and coupled with them, not the impossibility of gaining majority approval. This requires skill and leadership of special proportions." [7]

Implicit in Wood's analysis is the notion that a neighborhood approach cannot be cast in policy and program terms exclusively. Rather, it is a process requiring involvement from all concerned sectors operating pluralistically to meet the needs of diverse groups of people.

Regardless of the dominant philosophical approach, the trend is toward political and administrative decentralization. Cities such as Newton, Honolulu, Detroit, Pittsburgh, and Washington have revised their charters to decentralize political control through neighborhood advisory bodies; other cities and counties have focused on decentralization through public actions—ordinances, resolutions, and executive policy decisions. Still others are in the process of developing different models for decentralizing services delivery and increasing citizen input into planning and decision-making processes.

If the successes and failures of neighborhood-level approaches teach only one lesson, it is the need for "approachable scale." Some activities are best carried out at a larger scale than the neighborhood where conventional notions of "economies of scale" come into play. But at the same time Hallman writing in Neighborhood Government in a Metropolitan Setting, believes that in many circumstances . . . small scale administration, though contrary to the cost-effective ideology of contemporary public administration, can achieve comparable results that in some cases are cost-savings over the centralized approach."

The discomfort of America's urban populace is not solely related to quantifiable issues such as deficiencies in services delivery and high tax rates. A profound alienation operates in the city, a feeling that combines a vision of an unrepresentative government with the perceptions of citizens that they are powerless to effectuate desired changes.[8] The ensuing discussion will analyze varied administrative and political approaches to decentralization with particular emphasis on the efficacy of each in dealing with this human problem.

PAST APPROACHES TO DECENTRALIZATION AND THEIR EFFECTIVENESS

Causative factors in the decentralization movement

The concept of decentralization has arisen in response to a number of overlapping and ill-defined pressures and forces, some of which are at work in federal, state, and municipal governments themselves. As a result, it is now possible to document a distinct tendency toward the devolution of municipal control and accountability to the citizen level in several arenas, and it is important to understand the factors responsible for this trend.

A major factor is the perceived and often real lack of effectiveness of existing centralized services delivery systems. The failure of urban services delivery bureaucracies to meet the needs of neighborhood clienteles derives largely from the centralization trend which has marked most public administration and governmental reform movements in this country. Centralization is unfit to deal with the multitude of complex and unique neighborhood problems because, almost by definition, it has meant the application of unified systematized approaches when diversified, flexible ones would have been better. It has also led to a concomitant overbureaucratization placing additional layers of administrators between the clients and the services they seek.

Centralization is particularly ill-suited to the delivery of human services: Kahn and others have pointed this out. Postwar emigration resulted in the juxtaposition of numerous ethnic groups living in relatively small areas, each having its own needs and methods for coping with crises.[9] A companion fact is the differing problematical and complex ways in which diverse classes and age groups are affected by modern urban life.

A second force generating decentralization has been the loss of what Yin and Yoes call "social symmetry"—the alignment of an empathy between public servants and citizens (Street Level Governments, pp. 16–17). This loss of social symmetry has been posited as a principal cause of the pervasive sense of alienation the citizen feels vis-a-vis municipal government. As Kotler, Hallman, and others note, the authorized or institutional linkages between the citizen and his government have deteriorated to the point where the individual often feels an absence of control over his life. This sense of alienation is magnified by the problem of scale: the size of government—the total of its parts, as well as the size of its individual component agencies—often precludes the individual from identifying with the goals of government.

Such concerns lie at the core of the humanistic and individualistic arguments presented by Kotler and others. The gulf between the citizen and the administrative apparatus may often be ambiguous, but it is nonetheless real: time and again city residents complain that government cannot be trusted, clearly indicating an "us and them" perspective.

A third force is the real inequities in the distribution of public services and resources among a city's neighborhoods. The result is a competitive climate where alienation is further encouraged when the residents of one neighborhood feel their community is getting less than a "fair deal" relative to others.

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They articulate the problem in terms of political clout, and the perception of its absence does little to enhance their faith in "downtown" concern or capability.

The forces behind decentralization are not limited to the failure of centralized bureaucracy. There are ulterior forces at work as well which have to do with the potential for political manipulation in decentralization efforts. Many mayors and other urban politicians have been quick to see the potential for improved public relations and political gain attendant on decentralization programs. Thus, it is important to distinguish between pseudo-decentralization drives motivated by political self-interest and genuine decentralization efforts and to recognize that manipulative potential is also part of the trend.

Finally, the tendency toward decentralization has received additional impetus from the federal sector in the form of funding. Great Society programs, with their emphasis on citizen involvement and "maximum feasible participation," set the foundation for legitimate citizen-client involvement in the process. These requirements legitimized citizen activity and even created a revolution of rising expectations among those citizens who believed they really should be involved in the processes by which their lives were affected.

Forms of decentralization

The response to these forces has taken the form of a variety of decentralization approaches, not all focused on the neighborhood. They can be classified under the definitions of administrative and political decentralization put forth by John Mudd:

Administrative decentralization—the devolution of power and responsibility from higher to lower levels within an existing bureaucratic hierarchy.

Political decentralization—the legal grant of authority to invoke new community representatives or clients in the local planning and operation of programs.[10]

Mudd's classifications must be augmented with a third: citizen organizing. These efforts move distinctly in the direction of decentralization, though they differ from Mudd's definitions in that they are attempts at local control of public services and programs in lieu of formal legal authority. Extralegal rather than illegal, they include both administrative and political decentralization in their objectives.

Administrative Decentralization

The most common of the institutional strategies is administrative decentralization, largely because it involves internal administrative change rather than legal revision, and because it is generally less threatening to empowered administrators. It is broadly representative of the Federalist approach noted earlier.

In "Beyond Community Control," Mudd identifies four types of administrative decentralization strategies attempted thus far:

(1) Physical decentralization: the devolution of specific services to the neighborhood level for the purpose of efficiency and administrative convenience. Examples include neighborhood field offices of various service agencies, police and fire stations, and administrative district offices.

(2) Multifunctional services decentralization: location of offices of several agencies in the same community center to solve immediate, short-range problems and increase client convenience, i.e., neighborhood multiservices centers.

(3) Mayoral outreach programs: designed to facilitate citizen responsiveness and communication, and to provide citizens with greater access to municipal government, these programs are best represented by "Little City Halls."

(4) Comprehensive decentralized services: the devolution of decision-making power to neighborhood-level bureaucrats to promote citizen-government integration and the coordination of services. Examples include Neighborhood Cabinets and Managers such as the New York Office of Neighborhood Government.

The mayoral outreach and comprehensive decentralized services approaches both attempt to bring city functions closer to the consumer and to facilitate city response to citizen complaint. Generally they affect only the governmental apparatus: little city halls are outposts of the central bureaucracy in the neighborhood, neighborhood cabinets are regular meetings of district-level administrators, and neighborhood managers are individual representatives of the city executive. The idea was first suggested by the National Advisory Commission on Civil Disorders as a means of responding to local grievances before they escalated into violent confrontation.

Their common objective is to increase the city's ability to respond to citizen complaints and to enhance the timeliness and quality of services delivery. Thus, the citizen's role is effectively restricted to providing the city with grassroots "feedback."

These approaches share other important limitations. Most notably they are "top-down" approaches, and their effect is constrained by the extent of the city's willingness to listen and respond. Such approaches provide much apparent change but little real structural revision. In effect they actually strengthen existing institutions and policies: by providing an illusion of change they tend to defuse community tensions while simultaneously presently little threat to internal bureaucratic interests. The fundamental inertia of the bureaucracy is untouched and actually camouflaged as street-level bureaucrats scurry about cajoling, policing, and prodding the lethargic governmental giant. Additionally, although outpost bureaucrats have some discretionary powers, ultimate authority still rests at the top.

Interestingly, the life and efficacy of these strategies comes only from without. The onus for action is still on the citizens, for without their complaints the neighborhood office would have little effect on "status quo" policies and strategies. It is not in the repertoire of city officials to seek out and mobilize resident dissatisfaction, and it is thus unlikely that understaffed little city halls would shake the reform bushes very vigorously.

A final structural limitation impeding the efficacy of such administrative decentralization strategies is that they require a kind of participatory expertise generally available only to more affluent neighborhoods. Accustomed to articulating their demands and needs and to participating in civic affairs, representatives of these areas are better able to translate grievances into productive pressure. Though neighborhoods of a lower socioeconomic status may be seething with dissatisfaction, their lack of experience in traditional grievance procedures often weakens their advocacy potential. Stylistic and language differences may constitute barriers to effective dialogue, too often with the result that their needs are by-passed in favor of the demands of more privileged areas.

Numerous community-relations programs around the country constitute a second broad category of administrative decentralization efforts. They involve more citizen participation as a rule but stop far short of citizen control. Their objective is to increase the level of citizen confidence in government employees, and thus they address a different aspect of the overbureaucratization problem.

Such programs, on the one hand, serve to humanize and personalize formal faceless bureaucracies. On the other, through using mechanisms like citizen advisory boards, they help city administrators respond to the differing needs of differing neighborhoods (Zimmerman, The Federated City, pp. 40–44) The positive result is that line administrators vary their programs from community to community; the negative effect occurs when the neighborhood is "pacified" by a visible (though marginal) impact on the character of the services received. Though the neighborhood may feel better about increased communication with some municipal servants, actual changes in administrative behavior may be negligible.

Citizen advisory boards, community councils and neighborhood policy boards clearly lack political power and control. With some exceptions, such structures are not democratically constituted neighborhood instruments but new forms of city government whose members are usually appointed by the mayor and city council. Though the Committee for Economic Development recommended in 1968 that neighborhood board members be popularly elected, in view of their frequent lack of political power and resources, this would afford little additional legitimacy.[11]

In sum, the neighborhood or community boards have proved ineffective in reviewing and commenting on city policy affecting the neighborhood. The volume and magnitude of decisions and concomitant information requirements have in most cases proved to be too much for their structure. However, they had three levels of success: the boards have acted as forums for neighborhood grievances, they have served as clearinghouses for information on city programs and decisions, and in some instances, they have acted much like ad hoc protest groups in reacting to specific municipal decisions.[12] In general, however, their low public visibility, lack of mobilized community support, and tendency to focus on broad community interest while avoiding factional conflict have led to overall ineffectiveness.

Political Decentralization

Requiring as they do greater change in the status quo, political decentralization efforts have met appreciable resistance from municipal authorities threatened with a perceived erosion of their discretionary powers. Political decentralization means that affected communities have some measure of authority for the formulation and implementation of particular programs and, with that authority, a proportionate share of responsibility for their success or failure or at least continuance. Predictably, cities have been reluctant to grant such wide discretion to neighborhood authorities with the result that much of the support for self-regulatory efforts has come from either extramunicipal or indigenous neighborhood resource (Kotler, Neighborhood Government, pp. 39–59).

Two noteworthy attempts at political decentralization are neighborhood corporations and community school boards. Neighborhood corporations combine local government characteristics with those of a private corporation. Due to their private nonprofit nature, they function outside city hall and are capable of offering services not explicitly proscribed by law. Thus, they can establish delivery systems which parallel traditional municipal ones and provoke change by creating a basis for comparison. Moreover, as community development corporations, they can undertake economic functions on behalf of the neighborhoods they serve.

Neighborhood corporations are generally those engaged in the provision of community services (family counseling, youth summer employment, neighborhood planning, low-income housing rehabilitation) and those engaged in economic development (entrepreneurial functions from local food corporations and credit unions to garden apartment complexes and shopping centers)

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(Hallman, Neighborhood Government in a Metropolitan Setting, pp. 151–158). They are usually governed by a board whose members are residents of and elected by their client neighborhood. Some, such as the Philadelphia Progress Movement, were initiated, financed, and governed by community residents; others were products of Ford Foundation "Gray Area" programs (Action for Boston Community Development) and OEO efforts of the sixties (Cincinnati's East Central Citizens Organization).

Neighborhood corporations have enjoyed success in a variety of endeavors ranging from housing to day care to economic development. Despite these successes, their viability has been vitiated to some extent by two phenomena. In the first place, the source of much of their strength is their extramanagerial nature which allows them to by-pass traditional services delivery systems and establish their own avenues. That very capability has posed a threat to municipal governments. City authorities are often unwilling to contract for the services of neighborhood corporations precisely because they are perceived as competitors rather than collaborators in solving common problems. Secondly, many neighborhood corporations find themselves caught between meeting the requirements of their funding sources and fulfilling the expectations of their constituents (Yates, Neighborhood Democracy, pp. 52–53). The result is often a patchwork of long-range plans pleasing to federal or private funding sources and visible short-term services pleasing to local clients.

The second principal manifestation of political decentralization is the community school board. Generally established as components of the city school system, either through state legislation or charter revision, their purpose is to increase local school responsiveness to local needs and to insure greater accountability. Such boards are funded by a central school board. Some may be delegated wide discretion in the use of provided monies. Both Detroit's neighborhood school boards and the New York City Ocean Hill-Brownsville experimental board have full authority in personnel and budget matters.

Though initiated to reorient education policies to neighborhood priorities and needs, the boards tend to be consumed by day-to-day school management concerns, a dilemma which has a great deal to do with improper alignment of tasks and capabilities (whether fiscal and material or conceptual) (Yates, Neighborhood Democracy, pp. 58–60). Additionally, board elections often produce a controlling body whose composition is not representative of its assumed constituency. The tendency has been toward underrepresentation of minorities, even when the local school district comprises predominantly minority populations.

COMMUNITY ORGANIZING

The third category into which decentralization approaches can be classified is community organizing, a term here used to designate extralegal, mass-based citizen involvement options. Unlike the salient characteristics in political and administrative decentralization (authorization, limited input, and delineated control), this approach is more extreme and pluralistic. Mass-based community organizations are most frequently formed to seek or demand solutions to specific problems. Often very political in thrust, they achieve their goals through a variety of confrontative and collaborative techniques. Though many of the more sophisticated ones have moved in the direction of the neighborhood corporation, the majority still rely on the clout that comes of numbers acting in concert to reach their goals.

Metropolitan government as a decentralization model

All of the strategies described above are limited in some critical aspect: field of endeavor, orientation, goal, or technique. But another series of efforts, largely the result of pressure for more comprehensive regional solutions to problems, provide a model for cooperative problem-solving through dual authority and accountability. While not specifically a decentralizing force, these efforts provide some insights into the question of how to suit tasks to capabilities. They might be termed the broad metropolitan approach.

The most popular kind of broad metropolitan strategy is the two-tier federated system. Bruce Smith correctly points out that it unites contradictory tendencies: centralization and decentralization.[13] Essentially it is an attempt to achieve citywide systems coordination while maintaining local government autonomy. Since it involves the merger of the city government with those of neighboring communities, it requires legal authorization from the state legislature.

Two tier-government is not a functional desegregation of control between regional and local units; rather, its key characteristic is the assignment of parts of both control and responsibility to each level of government. The Committee for Economic Development called it a sharing of power, for theoretically the two tiers should be largely co-equal (Reshaping Government, p. 45). Such a structure encourages negotiation as the means for resolving disputes and implementing metropolitan policies. Moreover, this system requires both tiers of government be directly accountable to their respective constituents.

A two-tier prototype is found in Toronto's "metro" government, which functions under the authority of the provincial legislature. Beginning with the acceptance of the Cumming Report in 1953 (Committee for Economic Development, Reshaping Government, p. 73), Toronto embarked on the federated system under the legal authority of the Metropolitan Toronto Act of 1953.[14] Metro Toronto was an upper tier of representatives from the city of Toronto and 12 (later consolidated into 5) suburban municipalities and a lower tier of representatives from existing municipal governments (Committee for Economic Development, Reshaping Government, p. 78). Functions were allocated to each tier according to what was administratively and politically feasible, usually resulting in shared control.

In The Federated City, Joseph Zimmerman charges that although the two-tier system may effectuate change at the top, the suburban or neighborhood level of the structure will remain relatively untouched. Toronto provides an illustration of Zimmerman's complaint: the lower tier was left largely unaltered. Municipalities (except under the 1966 reorganization of the suburbs) were free to continue as they always had. Real neighborhood decentralization, apart from calls for increased citizen participation, never materialized, and "two-tier federation" actually translated into increased centralization without any significant decentralization (ACIR, Substate Regionalism, Vol. III, p. 97).

A second broad metropolitan strategy is the two-tier urban-county structure. Similar to the Toronto prototype, here the county assumes some of the functions of its constituent municipalities, leaving their structure relatively intact. Dade County, Florida, is the foremost example of this approach. This strategy was primarily a move toward centralization. Its only manifestation of decentralization was the creation of four multipurpose subregional centers to serve those populations farthest from the central city hall. According to an ACIR case study:

"Dade County has not generally addressed itself to the question of decentralizing resources and policymaking except through the Community Action Agency and the Model City organization, both of which function as divisions of the county manager's office." (Substate Regionalism, Vol. II, p. 12).

In short, the obstacles to achieving this form of government, even if the neighborhood dimension were to gain functioning power, are immense. Usually such a restructuring requires amendments to the state constitution, or at least a locally drafted charter referendum which would require majority approval both inside and outside the county's central city (ACIR, Substate Regionalism, Vol. III, p. 96). Although provided for in concept, the lack of real formal decentralization to complement centralization at the county level is a serious flaw.

A third variety is the metropolitan umbrella, such as the structure established by the Minnesota leigslature in 1967. It differs from the two previous types in that the upper tier is an instrument of the state, responsibile to the state legislature and not directly to the citizens of the Twin Cities region (ACIR, Substate Regionalism, Vol. III, p. 96). It is not an implementing governmental unit which shares responsibility with lower tier units but rather a review structure for the proposals of municipal units. As such, it possesses some limited veto power. However, the Twin Cities experience did spawn a reaction in the municipalities in the direction of "community councils as a way of better representing minorities . . . in decision-making, and partly as a way of getting participation in decisions on major city projects from the neighborhoods" (ACIR, Substate Regionalism, Vol. II, p. 134).

All two-tier system concepts involved the notion of a strengthened neighborhood or community capacity for input; and in each case the notion was relatively unheeded. Public hearings were presumed to be adequate barometers for neighborhood sentiment. In some cases federally supported neighborhood organizations well into the process of phasing out were included for lack of a better conception of what the role of the neighborhood should be.

In no instance have the initiated systems addressed themselves to resource imbalances among neighborhoods or between neighborhoods and the central city. Although the appearance of redistribution was presented in both Toronto and Dade County, the fiscal approach was to "balance" the needs of the constituent municapalities. Even if a redistribution of resources had occurred, it is difficult to imagine that the benefits would have accrued to the neighborhoods: they would first have had to break out of the still-centralized political and administrative control operating at the municipal or city level.

The two-tier federated city approach, as it has been practiced, has not contributed to devolution of responsibility to lower levels. In fact, existing systems have ignored the fact that the success of the areawide organization could be significantly enhanced by strengthening the role of constituent neighborhood units. The two-tier idea in its many forms focuses on city-region relations rather than neighborhood-city relations; thus it decreases the neighborhood-oriented citizen's potential for assuming an effective role in urban policy implementation.

(1) City-county consolidation as a decentralization model. This proposal merges a county's constituent municipalities into a single unit of government. It has enjoyed greater success in terms of implementation and acceptance than federation.

The Indianapolis consolidation is perhaps a representative example of what could occur in other areas. Under the Unigov Bill, the consolidation was carried out in response to pressures from outside the city—from the suburbs and the state legislature—without much involvement on the part of urban residents. Low-income minority groups were particularly opposed.

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Though at first glance the Indiana approach is similar to federated models, it actually allows far more metropolitan decision-making discretion. At first it called for the creation of community councils to represent neighborhood viewpoints (ACIR, Substate Regionalism, Vol. II, p. 93.) Subsequently, the state authorized a system of community boards which could both contract with the city-county to perform certain neighborhood services and could also review metropolitan policy from the neighborhood perspective. The extracity members of the consolidated county, however, balked at th's movement toward more community input. Even after such proposals were modified they still refused to implement them by failing to designate community or neighborhood boundaries.[15]

Several apparent objectives guide those in favor of consolidation: a political desire on the part of extra-city residents to defuse the impact of burgeoning minority and community groups in the city, and a belief that local government is less efficient than regional-metropolitan government.

Conversely, the strength inherent in the consolidation approach is its potential for achieving a really comprehensive redistribution or resources among city neighborhoods and the suburbs. Certainly, the theoretical relationship between neighborhoods and suburbs in consolidation is one of legal equality (whereas in the federated system, suburbs are granted more local autonomy than neighborhoods).

(2) Urban charter movement as a decentralization model. One of the first examples of the urban charter movement was in Newton, Massachusetts, in November 1971. A provision in the new charter allowed the City Council to establish service area boundaries within which, through petition from 20 percent of the area voters, a Neighborhood Area Council could be established. Such NACs were vested with authority to administer a number of city functions in cooperation with the City Council. Newton's charter is one of the nation's clearest city mandates in support of neighborhood government. Because the onus is entirely on the residents, no neighborhoods have yet petitioned for that power.

Although it is through charter revision that neighborhoods can become real components of government, a major obstacle is the idea of a new charter commission and a popular referendum. An exorbitant amount of time, energy, and money is required to establish and implement charter commissions, and the myriad issues commonly brought up in a charter referendum often obscure the neighborhood decentralization question.

(3) Home rule legislation as a decentralization model. Such a strategy in recent years has encouraged the establishment of neighborhood advisory councils or other forms of city hall outreach efforts, including the establishment of "little city halls." Yet, home rule movements are not as strongly oriented toward the neighborhood as other charter or ordinance approaches. They usually are a step toward increasing the powers of city government and more often than not are a mechanism for more centralization at the city executive level.

(4) Municipal ordinances as a decentralization model. These approaches are not overly diverse. For example, Portland's City Ordinance 137816 established neighborhood associations and empowered them to serve as boards of review on policies and projects directly affecting themselves. Both Eugene, Oregon, and Chula Vista, California, have established similar procedures. Without an amendment to the city charter or a revision in the state legislature, a city ordinance can do little more than formalize a cursory citizen participation process.

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A POLICY FRAMEWORK FOR DECENTRALIZATION AT THE LOCAL LEVEL

Clearly, the primary focus of any decentralization strategy must be the city. New forms of neighborhood decentralization must be prudently phased in so that the capacity of neighborhood-level government is carefully developed through incremental successes, and residents are not overwhelmed by excessive demands for sophisticated participation. Similarly, the payoff from decentralization does not occur overnight. Any restructuring of city government must undergo a period of gestation and maturation before its planned results can be seen.

A phased neighborhood decentralization efforts is a process. Each program recommendation in urban decentralization is double-edged: on the one hand it is a concrete activity designed to yield some major improvement in the administrative delivery of services, while on the other it contributes to the process of bringing more democracy and control to the people of urban neighborhoods.

A neighborhood decentralization model: Phase I—Political

Restructuring city government should ideally occur in two multidimensional phases. The first phase should lay the building blocks for the long-range success of the program. Objectives should include a functionally adequate definition of neighborhoods, an initiation of services delivery and political decision-making at the neighborhood level, and the development of a plan to guide neighborhood decentralizaton toward fruition.

Political decentralization must be encouraged gradually: thus, the first step in Phase I would be the creation of neighborhood boards where no advisory structure exists, both to work with officials administrators of city agencies toward identifying current municipal services inadequacies and unmet needs and to begin studying the neighborhoods to see how much responsible control and authority the local areas really want.

On both the administrative and political level, decentralization must be a pluralistic strategy sensitive to neighborhood differences. Neighborhoods not at the state of seeking local self-government need not be forced to match the mode of decentralization in more self-supportive neighborhoods. But no neighborhood should be allowed to opt out of the decentralization process completely because the resulting structural imbalance could cripple the effectiveness of the overall policy. Formation of these advisory boards is a step toward identifying the range of compatible forms of decentralization.

Though only advisory, the neighborhood boards should be vested with some executive powers as soon as possible to begin testing and refining their roles. Support may wane after the initial mobilization of residents unless the boards find substantive functions to serve.

The electoral track record of new neighborhood units has not been impressive until they have been accorded legitimacy of role and function. Therefore, in their advisory form, neighborhood boards would best be filled by mixing appointments by the mayor or city council with candidates elected by neighborhood residents. This avoids embarrassing the new neighborhood organization by the low electoral turnout normally garnered by any new institution. Further, experience has shown that unless a strong and cohesive community grass-roots organization is already in existence, an elected board chosen by local residents in a small voter turnout and the election of relatively unrepresentative board members. The mayor's appointments show support of the program and lend the boards an aura of credibility.

Another key aspect of the initial phase of decentralization is the installation of a neighborhood manager to facilitate administrative aspects of the process. Initially, this individual would be appointed by the mayor because day-to-day neighborhood management and advocacy are difficult without established effective access to the existing bureaucracy. A manager experienced in dealing with the bureacracy will be in a much better position to garner governmental response than one isolated from the central apparatus.

Though appointed by the city executive, the neighborhood manager must be responsible to the neighborhood board. Interaction with the board should include reporting on programs and decisions that impact upon the neighborhood, receiving the advice and comments of the neighborhood on possible implementation of these issues, and assisting the boards to define the nature of the neighborhood and its desire for administrative and political decentralization. Assuming that routine functions can be handled easily, the board's concentration on significant policy issues would make its right of review almost tantamount to a local veto of mayoral decisions.

The manager should not serve as a complaint center or "little city hall." His appointment is a first step toward neighborhood government. His duties are to begin the devolution of the administrative dominance of the central bureaucrecy and to refocus resources on neighborhood needs. Certain measures must be taken to ensure positive functioning of the district manager's office.

All citizen boards within a defined area should be geographically coterminous so that that fragmentation and conflict do not occur.

Administrative tasks best accomplished at the local level should be identified as early as possible and services delivery restructured accordingly.

Identification of relevant personnel in each services delivery agency should be undertaken so that, as services are decentralized, each neighborhood can communicate with appropriate administrative decision-makers.

As a framework for these first steps, the city should establish an office of neighborhood government to serve as referee in cases where the central bureaucracy balks at the activities of managers and boards and to plan the transition between Phase I and Phase II activities.

A neighborhood decentralization model: Phase II—Administrative

As neighborhoods organize and become aware of their potential roles in decentralization, the advisory nature of neighborhood boards can give way to greater local control over services delivery. in other words, the beginnings of a linkage between political and administrative decentralization can be made.

Several necessities for a Phase II program of administrative decentralization are apparent.

(1) Statutory identification of local service districts as coterminous with city neighborhoods. Two criteria would influence the identification of districts: Is it a "natural" neighborhood clearly known and appreciated by its residents? And does the district make sense from the standpoint of municipal services delivery? Expanding the criteria merely complicates the standards of neighborhood deviation, opening the process to politically gerrymandered boundary identification and other distortions.

(2) Neighborhood advisory boards reconstituted as neighborhood councils and vested with local legislative and executive powers. Having gradually assumed more responsibility for local decision-making and implementation of municipal programs, an advisory board soon becomes an untenable governmental mechanism. Representatives of wards or precincts should be elected to a council and vested with the authority to govern the neighborhood in a manner similar to the city council. Because a number of city functions are best left at the mayoral level, neighborhood governments should exercise self-governance within a framework of partnership with city government, other levels of government, and other neighborhoods (Mudd, "Beyond Community Control," p. 60 and Zimmerman, The Federated City, p. 24).

(3) The city council reconstituted as a council of neighborhoods. Two methods could achieve this restructuring: city council members could be elected from districts comprised of groups of neighborhoods, or the council could be reconstituted as a congress of city neighborhoods, where each neighborhood either elects or appoints a representative to his body. The latter option is more unwieldly and adds one more layer of municipal elections. Nonetheless, it is a major step toward a more direct democratic or representative form of city government.

In addition, such a council could be of sufficient size to allow a committee structure better able to assist the mayor in treating major policy questions than could a much smaller city council. As a body of neighborhood representatives, it would also be in a better position to articulate detailed neighborhood problems than council members elected from larger districts or on an at large basis.

(4) The position of Neighborhood Manager, previously only advisory, formalized to a responsibility for the performance of municipal functions at the neighborhood level. A neighborhood manager might be selected by local election similar to choosing a mayor; appointment by the neighborhood council, much like the appointment of a city manager; or designation of the president of the neighborhood council as the local chief executive officer. Variations from neighborhood to neighborhood can easily be tolerated.

(5) Municipal services appropriately performed on a neighborhood level devolved to neighborhood council control. The neighborhood is not totally capable of self-governance; nor for that matter, is the city. However, in Phase I the City Office of Neighborhood Government should have evaluated the needs, desires, and administrative capabilities of all neighborhoods to identify which functions can be assumed on a local level and which should be retained by the city. Allowing for variation in local demand and structure, this need not be the same for all neighborhoods. Neighborhoods should also be allowed the option of contracting either to the city or to a private firm to provide certain neighborhood services.

(6) Neighborhood councils authorized to raise revenue, receive budgetary grants from the city government, and spend those monies in a manner appropriate for the functions they are to perform (Zimmerman, The Federated City). It is not sufficient for neighborhood councils to control local resources; for underprivileged neighborhoods that only places the poor in charge of their own poverty. The process of funneling monies to neighborhoods must be redistributive in nature, designed to rectify previous imbalances. Provision must also be made for the neighborhood unit to be able to raise additional funds within the district (through such devices as user charges, service fees, and property tax surcharges) to supplement basic neighborhood revenues.[16]

Footnotes at end of article.

(7) The role of the city government and executive reoriented. This reorientation would specify overall city policy and future planning; would resolve neighborhood disputes, with the assistance of the Office of Neighborhood Government; and would administer the responsibilities assigned to the city level in the functional disaggregation of municipal services.

Elimination of routine bureaucratic duties by transferring program responsibility from city hall to neighborhood councils frees the city executive for the policy planning and political spokesmanship needed to confront some of the more critical problems frequently lost in preoccupation with pressing minutia.

(8) The city's budget or fiscal office authorized to perform a regular audit of neighborhood governmental finances. To guarantee fiscal responsibility at the neighborhood level, the legislative mandate should spell out standards of anticipated fiscal responsibility. Failure to meet these standards would call forth a warning, and failure to comply would be cause for the auditing agency to ask the city council either to mandate changes or to dissolve the neighborhood government and call for new elections.

Costs of decentralization

The outlined strategy for decentralization creates linkages between administrative and political aspects and both permits and encourages citizen participation. Yet this or any strategy will only succeed if it meets the preconditions for change. Failure to meet these preconditions will destroy incentives for reinvestment and vitiate any chances for effective decentralization.

This decentralization program is a partial attempt to deal with a major group of preconditions—the provision of effective public services. Citizens and city officials together must undertake comprehensive reviews to determine the connections between public actions, credit policies, and the viability of neighborhoods. Then they must ensure that these policies are aligned with and supportive of decentralization efforts. For example, tax policy, zoning, and licensing procedures must be appropriate, and the city must use its powers to assure an adequate credit supply from the private sector. Finally, the city must provide resources for decentralized neighborhood government.

Decentralization of municipal services and urban decision-making will alter the expenditure structure of the average city. During Phase I the largest obstacle is start-up cost since a new city agency must be staffed and financed, neighborhood manager slots filled, and financially reimbursed neighborhood residents elected or appointed to local boards. In addition, initial research and program costs must be funded.

As a proportion of the total city budget, however, these costs are relatively low. For New York's recent charter proposal, total cost to effectuate decentralization amounted to less than one percent of the total budget. A more critical issue, though, is the potential economies to be achieved through an appropriate scale of municipal governance and services delivery. Start-up costs should be viewed as an investment to be repaid through higher quality services, decreased resident alienation, and mobilized community support.

A new system of municipal revenue distribution must accompany the process of neighborhood decentralization. The redeployment of finances should consider these three basic needs.

First, despite variations in neighborhood size, structure, and desired responsibility, a minimum threshold of resources should be set to ensure that neighborhoods are able to provide a basic level of services. Just as there are probable size boundaries below which the provision of public services is neither efficient nor feasible, a minimum budget threshold is also necessary.

Second, that portion of city revenues not needed to finance city hall operations should be distributed to neighborhood councils on a formula basis. Suggested components of such a revenue-sharing formula might be population, poverty, and/or housing condition (abandonment rate, amount of substandard housing). Obviously, a formula must redress the imbalance of resources and services in the city.

The stress on poverty, through both income and housing criteria, has a two-fold rationale: treating poverty requires a major commitment of resources in disproportionate amounts (poverty has always outlasted underfunded and underfocused ventures) and the key to addressing poverty and its most visible manifestation, urban decay, is through reliance on the neighborhood. Neighborhood preservation efforts which half the deterioration and abandonment of inner-city housing stock have been due, in part, to the concentration of public resources in neighborhood units. A formula distribution of funds, including revenue sharing funds, should be associated with neighborhood decentralization. This will increase the potential for leveraging private investment.

Third, neighborhood priorities may warrant other expenses not covered in the formula allocation. Some of these costs should properly be included in state and federal categorical grants. Neighborhood government, like centralized city government, will need the assistance of other governmental units to meet unexpected costs or special purpose activities. However, neighborhood governments should be authorized to raise additional revenues locally (Hallman, Government by Neighborhoods, p. 56).

PRINCIPLES, OBSTACLES, AND POLICY OPTIONS AT STATE AND FEDERAL LEVELS

Most decentralization efforts fail because of two interrelated problems: first, in most cases, local efforts do not deal directly with the issues of devolving power to citizens on a neighborhood level; and second, the administrative and political arrangements among city, state, and federal government units are not supportive of such a process. This discussion defines the problem of devolving power in more specific terms and identifies several policy options at the state and federal level which support the devolution of power.

Principles of guiding the devolution of power

Resource allocation under citizen control must be a fundamental component of any decentralization strategy. While most governmental units follow a strategy of allocation of some resources to neighborhoods, distributed monies and service relate to perceptions of a fairly small number of public officials. Often the criteria for defining need are predicated on a complex convergence of administrative, political, and economic forces having little to do with reality.

Citizens determine their resource needs quite subjectively, guided by three interrelated principles: equity, security, and sufficiency.

Citizen definition of the principle of equity is their investment (objective or subjective) being equal to their return and their neighborhood getting its fair share of resources compared to other parts of the city. Thus, when citizens invest through the tax system, they expect a return in services and amenities; or when such neighborhood institutions as local banks or small businesses are patronized, there is an expectation that the bank or business will reinvest in the neighborhood.

The return is not within the complete control of the citizens or even local officials. On the contrary, it is often influenced by local and regional external market characteristics and perceptions of risk. In neighborhoods

where the risk is higher, less reinvestment occurs and money flows out of these areas. When an actual or perceived state of inequity exists, the following usually occurs:

(1) If residents have sufficient resources, they will opt out of the neighborhood or refuse to invest socially, physically, and economically;

(2) the private sector will further exploit the neighborhood by utilizing real property for purposes of tax write-offs or engaging in speculation by holding property without making improvements for gain in the distant future; and

(3) the public sector is more likely to provide minimal services as there is less accountability to the neighborhood.

The citizen defines the principle of security in terms of economic, physical, and social factors.

In terms of economic security, the issue is whether the neighborhood has the infrastructure to support the economic needs of its residents—available credit and various forms of subsidies. The economic infrastructure comprises those institutions such as local banks, community development corporations, and community credit unions which can provide credit at reasonable interest rates. Likewise, a neighborhood infrastructure is imperative if such subsidy programs as food stamps, concentrated code enforcement, and high risk revolving loan funds are to function effectively.

Physical security is defined by the level of confidence residents and merchants have toward the public safety and criminal justice systems. When police and citizens are alienated from each other, a breakdown in mutual accountability can be expected Consequently, insecurity among citizens increases and results in limited support of the criminal justice system—unwillingness to participate on juries, report crime, and serve as witnesses. Police react by further isolating themselves from the neighborhood, which reinforces the entire process. The public safety and criminal justice system infrastructure is composed of those neighborhood-based networks, organizational and cultural, which can increase accountability between the system and the citizenry and provide support for each sector.

Residents define issues of social security in the context of a broad range of health, human services, and educational programs. Although several factors determine where a person falls on a security-insecurity continuum, the level of security in this area is almost always influenced by rate. At issue is the fact that the methods different groups of people use to solve social problems and cope with crises in a racially and ethnically diverse society are unknown.

Human service systems are often developed without regard for the unique elements of neighborhood life, resulting in a quasi-apartheid system of human services delivery—neighborhood approaches through community multiservice centers for minorities and the traditional institutional or agency system for whites. The consequences are that minorities receive inadequate care and poor and working-class whites are caught in between, too poor to afford their own physicians but unwilling to attend a public-supported clinic. For security needs to be met in this area, the delivery system must be fully integrated with the neighborhood cultural and organizational infrastructure.

Sufficiency is defined in terms of people feeling a sense of security so that they are able to participate in the processes of governance, deal successfully with problems confronting their community, and exercise some degree of control over locality-relevant institutions. In the absence of these conditions high levels of alienation eventually lead to social disorganization.

The degree to which people feel "sufficient" is often determined by how the neighborhood defines itself and how others view it. Those neighborhoods with strong ethnic, racial, or class identities have more ability to influence and deal with their problems. Yet public officials and scholars often view these communities in perjorative terms. A result is that policymakers do not build on the neighborhood strengths and often initiate policies with negative impacts. The need to understand the social and cultural dynamics of neighborhoods is perhaps the most significant challenge confronting the decentralization movement.

Obstacles inhibiting neighborhood change

Experience of the sixties suggests that a resource approach to neighborhoods by itself will not support viable neighborhood decentralization. Structured into the system are a complex set of legal, administrative, and fiscal disincentives which independently and collectively make it difficult to effectuate change. They determine the extent to which people evaluate and react to their equity, security, and sufficiency needs.

These policies can be group into the broad categories of public actions, public services, and credit. The three are inextricably related and failure in any area can jeopardize the long-term chances of success for any form of administrative or political decentralization.

Public actions are local and state tax policies, ordinances, regulations, executive orders, and judicial decisions which impact the neighborhood.

Municipal officials and courts' officers pass local ordinances and make judicial decisions on the basis of discrete problems. These decisions are often implemented in isolation from activities occurring in the city as a whole or in particular neighborhoods. Thus local laws and judicial decisions can serve either as incentives for improvement or change or as disincentives that exacerbate decline.

An Office of Minority Business Enterprise report points to a number of laws and administrative procedures which contribute to decline. For example, a major problem in many inner-city neighborhoods is the absentee landlord. In most cities, however, municipal record of property ownership is dependent upon the good will of property owners: there is no compulsion in the system to force a landlord to disclose ownership. Moreover, the report observes that the system embodies a "Catch-22" mechanism. The basic record system is organized by name of owner rather than land parcel and one must know the owner's name to deal with the system. Thus citizens and political leaders concerned with abandoned or deteriorated properties in neighborhoods are often prevented from making absentee owners of those properties accountable for their condition (James McClaughry, "Obstacles to Neighborhood Revitalization," pp. 4–6).

Few cities have been able to deal with this problem successfully. A recent report by the National Endowment for the Arts on neighborhood conservation states:

"The key problem remains a dearth of new potential owners. Many localities find few alternatives to the proverbial slum lord. Homesteading, co-oping and community ownership are frequently explored alternatives, but most experience to date indicates that these have worked only in a limited number of cases and then only when property has not substantially deteriorated prior to conversion . . . Failing such tools, local government often finds itself with no option but to refrain from using the legal powers to take property, and to deal instead with an owner in whom it has little confidence." [17]

A second problematical area concerns existing statutes governing physical improvements. In this context McClaughry points to two distinct disincentives: increased tax assessments on improved properties and the gap between building codes and construction technology. In the first instance, McClaughry cites Philadelphia and notes:

"One deterrent to property improvement in the inner city has been the present system of real estate taxation. . . Until recently, whenever any property was substantially improved, its assessment increased. In inner-city neighborhoods, an increased assessment is a penalty which often causes the owner either to forego making improvements or, in the extreme, disinvest. . . In other words, the priorities must be reversed in the inner city: those who improve their properties should be rewarded . . . and those who choose to let their properties run down . . . should pay more." ("Obstacles to Neighborhood Revitalization," pp. 30–31).

In periods of economic scarcity the property tax generally, and taxes on improvements specifically, hit those homeowners and landlords with marginal incomes the hardest. The NEA report notes that the property tax is designed to extract the maximum revenue out of improvements. Unfortunately, in a depressed economy it serves to accelerate decline by creating a climate which discourages structural or other improvements (Chapter II, p. 19). Further, local ordinances do not differentiate between tax on land and tax on improvements. This gives an advantage to speculators who own inner-city "cow pastures" which remain fallow for years and contribute to the general depression of a neighborhood.

Code enforcement can contribute to neighborhood decline through housing abandonment if not properly utilized. However, without code enforcement housing deterioration probably would increase. Code enforcement can serve as a catalyst to property improvement where the housing market is stable, but in declining areas it often serves to weaken the market since owners perceive any investment as a serious risk.

If code enforcement is to be effective, it must be implemented through cooperative efforts with residents. But McClaughry's "Obstacles to Neighborhood Revitalization" indicates that codes can inhibit citizen involvement in neighborhood improvement (p. 18). He notes that building codes were formulated in other eras in response to then existing construction competencies. These building codes today can prohibit perfectly sound and cost-effective physical improvements.

"In the first instance, the codes can be an obstacle because their rigidity does not allow them to keep up with construction technology . . . If a citizens' group wants to redevelop a parcel of land, they have to meet the current building codes. In Chicago, for instance, the group could not put up low-cost modular or prefabricated dwelling units because such construction is not in conformity with the code."

Zoning is possibly the most signficant public action in any strategy to revitalize a neighborhood. In most cities with strong mayors, zoning ordinances and variances are generally influenced by political forces. However, if utilized properly, zoning powers serve as a major incentive for neighborhood restoration. Elliott and Marcus in an article for the Hofstra Law Review note the following:

"The concept of incentive zoning is based on the premise that certain uneconomic uses and physical amenities will not be provided in new development without an economic incentive. By amenity, we refer to a non-revenue producing building feature, be it plaza, park, covered pedestrian space, arcade, on-site subway access, etc. By incentive, we mean economic advantage to a developer not present under traditional zoning, such as additional floor area beyond the district's stipulated maximum." [18]

Incentive zoning can be used as a tool to

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protect the character of a neighborhood, as well as inducing the provision of community services and physical amenities. Many communities have not fully realized the potential of incentive zoning and still have on the books clauses which favor industrial and discourage residential properties in older, inner-city neighborhoods. Other cities encourage "over-zoning" practices, which cause unnecessary expansion and new construction and encourage speculation at the expense of stable residential use. (NEA, Neighborhood Conservation, Chapter II, p. 13)

Many other public actions serve as obstacles to neighborhood revitalization. Examples include processes of foreclosure, tax delinquency procedures, eminent domain in urban renewal, and licensing.

Public services delivery is the primary role of municipal government. However, the problems of delivery are often complicated by the functional organization of the city's management system. Often cities view their service functions (e.g., sanitation, police protection, fire protection, public works, parks, and recreation) as discrete functions designed to give either convenience or services to their residential or business population, and not part of an integrated process meeting the varied needs of different neighborhoods.

Decision-making among managers and line workers in a municipal system is influenced by perceived and actual socioeconomic weights given to particular neighborhoods. Differential socioeconomic ranking results in differential service patterns which in turn influence the perceived value of neighborhoods by public officials, businessmen, and investors. On a citywide basis, decisions are biased toward higher socioeconomic groups. The inequitable distribution of city services stimulates conditions in which declining equity occurs in given sectors of the city and this, in a vicious circle, negatively affects considerations of reinvestment on the part of residential and commercial property owners, banks, financial institutions, and businesses.

As these dynamics become more pervasive, community and private sectors of the city come to depend upon public services. Concurrently the city loses its financial base, real property declines, and the demand for services increases. A process of insolvency is established. Such conditions lead to triage strategies. The NEA report states:

"The city must then choose between the politically equally hazardous alternatives of focusing its efforts on a neighborhood well down the road of decay, or one whose fate lies in the balance, and where a judicious use of tools could swing it back to health . . . the answers are elusive and costly." (Chapter I, p. 5).

Citizen organizations seeking to reverse these inequities must deal with overbureaucratized city agencies and a maze of red tape. McClaughry notes that community organizations do not usually have the expertise to handle the bureaucracy ("Obstacles to Neighborhood Revitalization," p. ii). It becomes even more complicated as the conditions responsible for inequity inextricably link public actions and public services and influence credit decisions of local financial institutions.

Credit policies directly influence the relationship between actions of financial institutions and the process of neighborhood decline. Lack of institutional investment is, if not the principal cause of decay, an important contributor to inner-city decline.

This disinclination to invest is a series of progressive steps by which lending institutions extricate themselves from neighborhoods they predict will deteriorate. One of the leading tactics is "redlining," so called because more blatant practitioners draw red lines on area maps around negatively targeted neighborhoods.

Redlining may consist of outright refusal to accept mortgage or home improvement loan applications, or it may involve a number of subtler forms of discrimination including awarding mortgage loans for inordinately short terms and high downpayments, refusing to lend on properties older than a prescribed number of years, stalling appraisals to discourage potential borrowers, underappraising, refusing to lend amounts below a minimum figure, and fixing unusually high closing costs. As a policy it is defended on the grounds that investment in high-risk areas is equivalent to mismanagement of depositor funds and is ultimately counterproductive, both for the depositor and for the lending institution.

Because of the immediate consequence of a decision to redline is the withdrawal of monies required to maintain a community's health, disinclination to invest insures that decline will occur. Local depositors living in a target area find that their savings, instead of being converted to mortgage and home improvement loans for local use, are directed to less risky areas—often new suburbs. The residents of a redlined neighborhood are thus doubly victimized, by the bank insuring the neighborhood's gradual decline and then depriving them of the use of their own savings.

Neighborhoods in which private funds are not available lack the economic infrastructure to meet a variety of loan demands. A goal in these neighborhoods is to build a mechanism which can accumulate enough capital through member deposits to meet loan demand and achieve economic sufficiency.

Policy options at State and Federal levels

Just as city policies must support decentralization efforts, so must state and federal policies aim at revolving disincentives while fulfilling various preconditions appropriate to each level of government. At federal and state levels, major efforts must encompass removal of legal barriers to decentralization, provision of resources, and reorientation of agencies and programs. The following discussion presents several policy options.

A principal problem in writing legislation has been to define the appropriate role of the federal government. For the purposes of this chapter, we define the role as having three major areas of concern: structuring financial resources, reorientation of federal programs and agencies, and provision of technical assistance through model legislation.

(1) Structuring Financial Resources. Policy must support programs which can redistribute resources and provide subsidies and general incentives for reinvestment. Resource allocation must be a fundamental part of any decentralization strategy; here the federal government has the most direct impact.

The national tax system handles redistribution most efficiently. The Neighborhood Government Act of 1975 (S. 2192) introduced by Senator Mark Hatfield amends the Internal Revenue Code of 1954 and is intended to encourage neighborhood control by returning tax monies to the local level. First introduced in 1971, the bill would turn over approximately 60 percent of federal tax revenues to local corporations. Although fraught with serious problems, the bill offers a working model and should be considered a vital preliminary step.

Neighborhood conservation and improvement through federal subsidy has been a part of urban-oriented legislation since World War II. The current Revenue Sharing Act provides a suitable framework for subsidizing neighborhoods. Toward this end, the Alliance for Neighborhood Government, which represents over 40 neighborhood organizations, approved two relevant resolutions: to support amendments to the proposed Revenue Sharing Act of 1976 that would insure "pass-through" funds to neighborhood groups and to amend the 1974 Housing and Community Development Act to require it to recognize and fund neighborhood organizations.[9] Inherent in each proposal, however, is the development of criteria to determine equitable subsidies for differing neighborhoods. Funding guidelines would have to be developed and a formula for allocating money defined to distribute funds with sufficient flexibility to meet varied needs.

A multiplicity of federal subsidy programs impact directly or indirectly on the neighborhood. However, no comprehensive analysis of their effect has been made. Before future options are developed, a comprehensive assessment of current practices in code enforcement, urban homesteading, and mortgage insurance is needed. Further, criteria for utilization of revenue sharing funds, community development block grants, and Title II special revenue sharing for social services at the neighborhood level must be developed.

Unless policies stimulate confidence, provide incentives and capital investment, and can offset the complex web of structured disincentives and neighborhood disinclination to invest, early neighborhood decentralization efforts cannot succeed. For neighborhoods to remain viable, a financial climate must be created which can attract both large and small scale reinvestment. Given the expectation that public subsidies will be limited, policy options should provide direct incentives to lenders at a neighborhood level (NEA Neighborhood Conservation). A possible mechanism is the Financial Institutions Act of 1975.

This bill (S.1267) expands competition, provides improved consumer services, strengthens the ability of financial institutions to adjust to changing economic conditions, and improves the flow of funds for mortgage credit. Titles III, V, and VI of this act are particularly relevant to neighborhood decentralization.

Title III (lending and investment powers) represents a comprehensive revision of the Home Owner's Loan Act of 1933. That Act mandates that savings and loan associations invest only in residential real estate financing. Title III sets forth a new category of permissible investments. Thirty percent of assets from federal associations would be available for educational loans, consumer loans, development and construction loans on residential property, and community development loans. The Act also allows savings and loan associations to invest unlimited sums in assets other than residential mortgage loans.

Title V (credit unions) amends a number of sections of the Federal Credit Union Act. Key amendments permit more flexible procedures for organizing credit unions and modernizing their organizational structure. These amendments provide a basis for neighborhood corporations to establish community development credit unions. Nonetheless, a key policy still remains the capitalization of credit unions in poor and workingclass neighborhoods.

Title VI (government insured and guaranteed mortgage loans) amends the National Housing Act to improve the flow of funds for mortgage credit. The bill grants savings and loan associations new powers to invest in commercial paper, corporate, state, and local bonds, and removes percentage limitations on investments in nonhousing loans. These new powers can have a negative effect on the availability of mortgage credit. Although it is difficult to assess the impact, a recent HUD study estimated a withdrawal of between $15 and $20 billion from the resi-

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dential mortgage market.[30] Because the Act increases deposit powers for thrift institutions and enables these institutions to compete with commercial banks, a larger amount of loanable funds could well be available for mortgage loans; thus offsetting the possible negative effects resulting from alternate investments by savings and loans.

(2) Reorienting Regulatory Agencies and Programs. If certain regulatory agencies do not function adequately, policy options promoting incentives and redistribution are meaningless. Of critical concern is the Federal Home Loan Bank Board, which would be given increased powers through the Financial Institutions Act.

Congress empowered the Board to safeguard citizen housing needs. However, evidence presented during House and Senate hearings on redlining and disinvestment indicate that the FHLBB has been more vigilant in attending the safety and soundness of its member savings and loan associations than it has in encouraging them to meet the housing needs of their respective communities. Board representatives testified against the Home Mortgage Disclosure Act of 1975 (S. 1281), which would improve public understanding of the role of depository institutions in home financing. During the hearings testimony clearly showed that the regulatory agency did not actively intervene in those cases in which savings and loan associations were discriminatory in their lending patterns.

Another problem is that regulatory agency board members are often retired savings and loan association officials or others with close ties to the industry. While their accumulated expertise is of vital importance to effective regulation, nevertheless, their relationship to the industry makes objectivity difficult.

Since incentive programs must directly confront and offset disinvestment practices, the role played by regulatory bodies is crucial. Therefore, practices of the following agencies should also be assessed: the Federal Deposit Insurance Corporation (FDIC), the Federal Savings and Loan Insurance Corporation (FSLIC) (which regulates not only federal institutions but also the majority of state-chartered institutions utilizing their deposit insurance), and the Federal Reserve Board (FRB).

Although the transition from categorical programs to community development block grants has virtually eliminated direct federal funding of neighborhood programs most agencies are still engaged in various research and demonstration projects which impact on neighborhoods. The Department of Housing and Urban Development, in collaboration with the FHLBB, has funded Neighborhood Housing Service demonstration programs in 20 cities. The Department of Commerce, through the Economic Development Administration and the Office of Minority Business Enterprise, has sponsored several economic revitalization projects. The Department of Health, Education and Welfare has carried out many demonstration programs on neighborhood approaches to human services, health care, mental health, and drug abuse. The Law Enforcement Administration Agency, under the National Priorities Program, has allocated funds for citizen initiative programs in crime prevention, criminal justice, and corrections.

Unfortunately, federal demonstration programs are guided by no comprehensive policy. Agencies have no program priorities. Most of the money is discretionary and not subject to Congressional oversight.

(3) Future Directions. The problems of decentralization are myriad. They relate to the degree of autonomy to grant neighborhoods, the separation of overlapping jurisdictions delivering city services, and conditions appropriate to meaningful citizen participation. Clearly, the federal government must provide technical assistance and guidance in dealing with these issues.

An Omnibus Neighborhood Act needs to be enacted to serve as a model for a comprehensive approach to restructuring procedures of governance. This Act could help cities and their residents define a workable mix of centralization and decentralization of services, necessary financial systems providing subsidy and incentive programs, federal programs appropriate to local conditions, and strategies generating relevant oversight of regulatory bodies, given neighborhood problems and priorities.

To begin to developed such an Act, the Senate Committee on Banking, Housing and Urban Affairs should hold hearings on neighborhood-related issues. These hearings should focus on the full range of existing programs; assess city and state laws pertaining to neighborhood decentralization; and identify legal, administrative, and political obstacles. Further, a Presidential Commission on Neighborhood Life should be convened to develop a more refined set of policy options.

The role of state government centers on enabling legislation, the reorientation of regulatory agencies, and the provision for technical assistance through programs. States have only recently become actively involved with decentralization.

(1) Enabling Legislation. In 1970 the Advisory Commission on Intergovernmental Relations put forth model legislation which would enable cities and counties to devolve power to the neighborhood. Since then, action on various decentralization models has occurred in Minnesota, Indiana, Pennsylvania, New York, Michigan, and California.

A review of these legislative actions suggests that the state must take the lead role in providing the legal framework for neighborhood decentralization by strengthening cities' home rule powers. State enabling legislation on home rule must include or be accompanied by amendments to state statutes in areas as disparate as land use controls, uniform health codes, taxation codes, and licensing requirements. Since congruence between local decentralization objectives and state law is necessary, the latter must be sufficiently flexible to insure that the varied needs of different cities in the state are met.

Provision of financial resources is crucial to the existence of any decentralized unit of government. State governments have an important role in funding neighborhood governments, both through direct provision of monies and structuring the tax system to remove disincentives for individual and corporate investment in neighborhoods. Numerous supportive tax incentives are possible (e.g., tax credits for businessmen and landlords who improve properties and deductions on individual state income taxes for contributions to community organizations).

Policy issues concerning home rule have implications beyond financing. Localities need many powers to support decentralization, but in most states these powers can only be delegated if authorized by the state constitution or by statutes. At issue are the range of police powers like eminent domain, promotion of public health, safety and general welfare, as well as bonding and lending authority. Considerable devolution of legal powers must be forthcoming from state government.

Citizen leadership from neighborhood organizations must also become involved on a state level if appropriate linkages between state law and the goals of decentralization are to be made. A practical way to effectuate this through a citizen commission authorized to study the linkages and insure congruence between local needs and state law.

(2) Regulatory Agencies and Programs. Regulatory agencies have the power to remove obstacles to neighborhood development in land use, planning, housing and building, as well as banking. States can play an important role in the area of credit for home mortgages and home improvement loans. Often state banking officials do not see community development as a priority. However, Massachusetts, Illinois, and the District of Columbia have taken actions toward reversing these trends. Illinois has passed a mandatory disclosure bill, and in 1975 the District of Columbia considered withdrawing funds from institutions with poor lending records in the inner city. Massachusetts adopted by executive order the views of a special task force on mortgage disclosure. In New York, several bills on increasing mortgage dollars to neighborhoods have been introduced.

States must begin to investigate methods for reversing disinvestment and removing investment barriers. States should also consider appropriate strategies with respect to deposit and use of their funds. They could align the distribution for deposit of state monies with goals of greater credit availability for neighborhoods. Another strategy being discussed in New York and elsewhere is the creation of state banks to hold the majority of state deposits and coordinate, based on their deposits, the availability of credit.

State programs also can support reinvestment in older neighborhoods. State housing and financing agencies are developing a promising group of programs with a full range of services. Recently, it was shown that an HFA can assist in rehabilitation, provide direct loans to developers or, as in Minnesota, develop mortgage purchase programs. These agencies can be an important force in assisting neighborhoods to deal with problems of aged, handicapped, and racially mixed housing. (At this time, however, HFA's are primarily servicing suburban housing needs and are not being utilized in inner-city neighborhoods.) Modification is imperative.

Several states, including Massachusetts, Pennsylvania, and New Jersey, have developed various demonstration grant programs, but eligibility is generally restricted to redevelopment authorities in municipalities. For these programs to support decentralization more effective, direct "pass-through" to neighborhood groups is important. Equally important is the provision of technical assistance to neighborhoods. Clearly, state support of the work of the proposed City Office of Neighborhood Government should have high priority.

Although neighborhood approaches to governance and services delivery do not represent a panacea for all problems, it is an area of overriding concern for urban policymakers. The challenge to government at all levels is to devise creative policies which can support political and administrative decentralization. This chapter has presented several conceptual schemes in order to provide a foundation for possible city, state, and federal policy options.

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By Mr. BAYH:

S. 418. A bill to provide for the establishment of Multipurpose Service Centers for displaced homemakers, and for other purposes; to the Committee on Labor and Public Welfare.

DISPLACED HOMEMAKERS ACT OF 1977

Mr. BAYH. Mr. President, we have taken several steps forward in recent years toward achieving greater participation by women in the labor force. Changes in laws governing discrimination in education and employment combined with a heightened awareness on the part of the public as to the value of women in the work force has resulted in women accounting for three-fifths of the increase in civilian employment in the last decade. Unfortunately, one class of women has not as yet benefitted from this progress—the so-called displaced homemaker. These women, who have been homemakers for a majority of their lives, face a myriad of problems when death, divorce, or loss of other family income forces them back to the labor market. In order to help these women become self-sufficient, productive members of the labor force, I am introducing today the Displaced Homemakers Act of 1977.

This legislation has had an eloquent spokesperson in the House of Representatives, Congresswoman YVONNE BURKE. Congresswoman BURKE introduced the displaced homemakers bill in the 92d Congress and reintroduced H.R. 28 on January 4, 1977, a similar bill was introduced in the Senate last Congress by Senator Tunney. Hearings were held in the House last Congress by Congressman HAWKIN'S Equal Opportunity Subcommittee, and we are looking forward to further hearings in both the House and Senate early in this session.

I. NEED FOR LEGISLATION

The middle-aged woman who has spend most of her adult life working in the home often finds it very difficult to take on the role of providing support for herself or her family following divorce or the death of her spouse. She is often unprepared to overcome the barriers of entering the labor force without marketable skills or training. Too often these women fall between the cracks of Federal programs. They are frequently ineligible for social security benefits because they are too young, or they are divorced from the wage earner. They are ineligible for Federal welfare assistance if they are not physically disabled and their children are past a certain age. They are unable to apply for unemployment insurance because they have engaged in unpaid labor in the home.

Who qualifies as displaced homemaker? Displaced homemakers are those women who are not in the labor force, who are between the ages of 35 and 64, and who are single, widowed, divorced, or separated. In order to serve potential displaced homemakers before they are destitute, the definition employed by the legislation now also includes those mothers who are being supported by governmental assistance or spousal support but whose children are within 2 years of reaching their majority.

It is difficult to pinpoint exactly how many people would qualify as displaced homemakers because homemakers do not often appear in Government statistics and their contributions to the economy is not recognized. However, the Alliance for Displaced Homemakers of Oakland, Calif., has estimated that over 2.2 million women fell into this category as of March 1973. Additionally, a large number of women can be categorized as potential displaced homemakers. Married women between the ages of 34 and 64 who are not in the labor force and who have no children under 18 totalled 7.5 million in March 1973. Moreover, 15 million women out of the labor force who currently have minor children will be without benefits when their children reach the age of 18.

Statistics on women in the middle years speak dramatically on the need for displaced homemakers legislation.

In 1973 there were 9,851,000 widows and 3,275,000 divorced women, a 41-percent increase in widows since 1950 and 166-percent increase in divorces since 1950.

Between the ages of 40 and 54, the number of widows increases more than five times and the number of divorces doubled;

Thirty percent of the unemployed women looking for part-time jobs were 55 years old and over;

Thirty-five percent of female heads of households were widowed in 1975;

Over the past decade, single parent families headed by women have grown 10 times as fast as two-parent families;

Only 47 percent of all divorced mothers are awarded child support and only 21 percent collect support regularly;

The highest rate of labor force participation for the women family heads was among those 45 to 54 years of age where nearly 7 out of every 10 of these women worked.

II. SUMMARY OF LEGISLATION

The bill I am introducing today is identical to the legislation introduced by Congresswoman BURKE, H.R. 28. Specifically, this legislation provides for the establishment of multipurpose service centers to offer job training and placement services, counseling and referral services in health care, education, legal problems and financial management as well as outreach and information services relating to already existing programs.

Under the provisions of the bill, the Secretary of Health Education and Welfare may award up to $10 million in fiscal 1978 in matching grants for the creation of 50 multipurpose centers; 90 percent of the funds will be provided by the Federal Government, with 10 percent of the funds allocated by the State. Sites for the centers are to be determined by the Secretary with special attention being paid to existing services and facilities for displaced homemakers and needs of both urban and rural communities.

The bill also calls for a 1-year study and report to the Congress on the feasibility of the appropriate procedures for including displaced homemakers under unemployment compensation programs. While homemakers make an invaluable contribution to the welfare and economic stability of this country, there is no unemployment insurance for a homemaker who is "laid off".

III. SUPPORT FOR LEGISLATION

The concept of assistance to the millions of displaced homemakers in our Nation has received a great deal of support. At the national level support has come

from a broad range of groups including:

Alliance for Displaced Homemakers;
American Association of Retired Persons (AARP);
Association of Family Conciliation Courts;
B'nai B'rith Women;
California Rural Legal Assistance Agency;
California State Commission on the Status of Women;
Church Women United;
Grey Panthers;
National Association of Social Workers;
National Commission on the Observance of International Women's Year;
National Council of Negro Women;
National Council of Senior Citizens;
National Organization for Women and N.O.W. Task Force on Older Women;
National Women's Political Caucus;
Sociologists for Women in Society;
Wider Opportunities for Women (W.O.W.);
Women's Equity Action League;
Women For;
Women in Communications, Inc.;
Women's Lobby;
YWCA.

Presently, California and Maryland have established centers similar to those called for in our legislation, and I understand the Florida Legislature has authorized a center for that State.

Statistical evidence indicates clearly that women are entering the labor force in increasing numbers for basic economic reasons. Older women, whether to support their children or themselves, are often ill-prepared to enter the job market. If they do breach the barriers of agist and sexist discrimination they are still likely to be employed at menial, low level occupations which provide only marginal income. This cycle can be broken only by supplementing their inadequacies of earlier education and training with counseling and training programs designed to provide better paying job opportunities. It is this need which would be addressed by the Displaced Homemakers Act of 1977.

In order that my colleagues can further understand the need for such legislation, I ask unanimous consent that a number of articles dealing with displaced homemakers be inserted in the RECORD at this time.

I also ask unanimous consent that a copy of the legislation itself be printed in the RECORD.

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

S. 418

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

SHORT TITLE

SECTION 1. This Act may be cited as the "Displaced Homemakers Act".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress hereby finds that—

(1) homemakers are an unrecognized and unpaid part of the national work force who make an invaluable contribution to the welfare and economic stability of the Nation but who receive no health, retirement, or unemployment benefits as a result of their labor;

(2) an increasing number of homemakers are displaced in their middle years from their family role and left without any source of financial security because of divorce, the death of their spouse, or the loss of family income;

(3) displaced homemakers often are subject to discrimination in employment because of age, sex, and lack of any recent paid work experience; and

(4) displaced homemakers often are without any other source of income because—

(A) they are ineligible for social security benefits because they are too young, or because they are divorced from the family wage earner;

(B) they are ineligible for Federal welfare assistance if they are not physically disabled and their children are past a certain age;

(C) they are ineligible for unemployment insurance because they been engaged in unpaid labor in the home.

(b) It is the purpose of this Act to require the Secretary of the Department of Health, Education, and Welfare to establish Multipurpose Service Centers to provide necessary training, counseling, and services for displaced homemakers so that they may enjoy the independence and economic security vital to a productive life.

DEFINITIONS

SEC. 3. For purposes of this Act—

(1) the term "displaced homemaker" means an individual who—

(A) has worked in the home for a substantial number of years providing unpaid household services for family members;

(B) is not gainfully employed;

(C) has had, or would have, difficulty in securing employment; and

(D) has been dependent on the income of another family member but is no longer supported by such income, has been dependent on Federal assistance but is no longer eligible for such assistance, or is supported as the parent of minor children by government assistance or spousal support but those children are within two years of reaching their majority;

(2) the term "Secretary" means the Secretary of the Department of Health, Education, and Welfare.

MULITPURPOSE SERVICE CENTERS

SEC. 4. (a) The Secretary is authorized and directed to establish a minimum of fifty Multipurpose Service Centers for displaced homemakers (hereinafter referred to as "Centers") not later than two years after the date of enactment of this Act.

(b) Each Center shall include the following services:

(1) job counseling services which shall—

(A) be specifically designed for displaced homemakers; and

(B) operate to counsel displaced homemakers with respect to appropriate job opportunities;

(2) job training and job placement services which shall—

(A) develop, by working with State and local government agencies and private employers, training and placement programs for jobs in the public and private sectors;

(B) assist displaced homemakers in gaining admission to existing public and private job training programs and opportunities; and

(C) assist in identifying community needs and creating new jobs in the public and private sectors;

(3) health education and counseling services in cooperation with existing health programs with respect to—

(A) general principles of preventative health care;

(B) health care consumer education, particularly in the selection of physicians and health care services, including, but not limited to, health maintenance organizations, and health insurance;

(C) family health care and nutrition;

(D) alcohol and drug addiction; and

(E) other related health care matters;

(4) financial management services which provide information and assistance with respect to insurance, taxes, estate and probate problems, mortgages, loans, and other related financial matters;

(5) educational services, including—

(A) outreach and information about courses offering credit through secondary or postsecondary education programs, including bilingual programing where appropriate; and

(B) information about such other programs which are determined to be of interest and benefit to displaced homemakers by the Secretary;

(6) legal counseling and referral services; and

(7) outreach and information services with respect to Federal employment, education, health, public assistance, and unemployment assistance programs which the Secretary determines would be of interest and benefit to displaced homemakers.

(c) Supervisory, technical, and administrative positions relating to Centers established under this Act shall, to the maximum extent feasible, be filled by displaced homemakers.

(d) Trainees in a program established under subsection (b)(2) of this section, who have demonstrated a financial need to the satisfaction of the Secretary, shall be paid a stipend not less than the Federal minimum wage, established by the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) while engaged in such program.

SELECTION AND ADMINISTRATION OF CENTERS

SEC. 5. (a) In selecting sites for the Centers established under section 4 of this Act, the Secretary shall consider—

(1) the location of any existing facilities for displaced homemakers and of any existing services similar to those listed in section 4(b), which might be incorporated into a Center;

(2) the needs of each State, and of the various regions of the country for a Center (although the Secretary shall not be required to select a site in each State); and

(3) the needs of both urban and rural communities.

(b) As soon as possible after the selection of a particular site for a Center under subsection (a), and in any case not later than two years after the date of enactment of this Act, the Secretary shall select a public or nonprofit private organization to administer each Center. The selection of such an organization shall be made after consultation with State and local government agencies, and shall take into consideration the experience and capability of such organizations in administering the services to be provided by the Center.

(c) The Secretary is authorized to make grants to the organizations selected under subsection (b) for the purpose of establishing and maintaining the Centers created under this Act. Each organization shall be eligible for grants equal to 90 per centum of the total cost of establishing and maintaining a Center under the following circumstances:

(1) an initial grant equal to 90 per centum of the total cost of establishing a Center shall be made when funds equal to 10 per centum of such costs have been committed by the State;

(2) grants equal to 90 per centum of the total cost of maintaining a Center shall be made for each fiscal year, or part thereof, after the enactment of this Act, when funds equal to 10 per centum of such costs have been committed by the State during that fiscal year.

(d) As soon as practicable and in any case not later than six months after the date of enactment of this Act, the Secretary shall issue regulations prescribing the standards which shall be met by each Center in accordance with the policies set forth in this Act, Continuing grants for the maintenance of each Center shall be contingent upon the determination by the Secretary, based upon evaluations under section 6 of this Act, that the Center is in compliance with the regulations prescribed by the Secretary.

(e) The Secretary shall consult and cooperate with the Secretary of Labor, the Commissioner of the Social Security Administration, the Commissioner of the Administration on Aging, and such other persons in the executive branch of the Federal Government as the Secretary considers appropriate, to facilitate the coordination of Centers established under this Act with existing Federal programs of a similar nature.

EVALUATION

SEC. 6. (a) The Secretary, in consultation with appropriate heads of executive agencies shall prepare and furnish to the Congress evaluations of the Centers established under this Act including—

(1) a thorough assessment of each Center; and

(2) recommendations concerning the administration and expansion of such Centers at the local, State, and Federal levels.

(b) The Secretary shall submit to the Congress the first of the evaluations required by subsection (a) of this section not later than eighteen months after the date of enactment of this Act. Subsequent evaluations shall be made every two years.

STUDY OF FEDERAL PROGRAMS

SEC. 7. (a) The Secretary, in consultation with appropriate heads of executive agencies shall prepare and furnish to the Congress a study to determine the feasibility of and appropriate procedures for allowing displaced homemakers to participate in—

(1) programs established under the Comprehensive Employment and Training Act of 1973 (29 U.S.C. 801 et seq.);

(2) work incentive programs established under section 432(b)(1) of the Social Security Act;

(3) related Federal employment, education, and health assistance programs; and

(4) programs established or benefits provided under Federal and State unemployment compensation laws by consideration of full-time homemakers as workers eligible for such benefits or programs.

(b) The Secretary shall submit to Congress the reports required by subsection (a) of this section not later than one year after the date of the enactment of this Act. The final report shall contain a detailed statement of the findings and conclusions of the studies conducted under section 7, together with such recommendations for legislative or other action as the Secretary may consider appropriate.

CONTRIBUTIONS

SEC. 8. The Secretary may, in carrying out the provisions of this Act, accept, use, and dispose of contributions of money, services, and property.

NONDISCRIMINATION

SEC. 9. No person in the United States shall on the ground of sex, age, race, color, religion, or national origin be excluded from participating in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 10. There are authorized to be appropriated such sums, not to exceed $10,000,000 for the fiscal year ending on September 30, 1978, and not to exceed $15,000,000 for the fiscal year ending September 30, 1979, as are necessary to carry out the provisions of this Act. Any funds appropriated but not expended during a fiscal year may be used, to the extent provided in an appropriation Act, in any subsequent fiscal year.

[From the Cleveland Plain Dealer, Jan. 16, 1976]

"DISPLACED HOMEMAKERS" ORGANIZE: MIDDLE AGE ISN'T THE END OF THE ROAD

(By Glenda Daniel)

Middle-aged women are the last hired and first fired. Somewhere between 3 and 6 million of them are looking for work right now, and an energetic crusader named Laurie Shields, who heads an "old girl network" called the Alliance for Displaced Homemakers, is determined to help them find it.

"We're a minority you may not have thought much about," she said. "But our plight is very real—especially those of us recently divorced or widowed.

"People our age (she is 55) were raised to believe marriage meant security. Most laws still seem to assume that. The assumption, unfortunately, is unwarranted."

Mrs. Shields, a former advertising copywriter and marketing specialist, began digging into statistics five years ago.

A new widow who hadn't worked for money since 35, she learned from prospective employers that she was highly qualified but unemployable because her age put her into an "over the hill" category and because she had "no recent employment history."

She found she was far from alone in her predicament. There are 12 million widows in the country, many of whose husbands made no financial provisions for them.

Among women over 65, some 47% have incomes of less than $2,000 a year and only 12% receive $5,000 a year or more.

Divorce in the middle years is becoming more common, too. Census bureau figures show a quarter of divorces filed are after 15 or more years of marriage.

Only 66.5% of women aged 55 to 64 are still living with husbands. And alimony has become unfashionable, because so many younger women are declaring they don't need it.

Laurie Shields jokes about the problem. "What's a mother to do?"

She could have stayed home and cried—because she was too young to get Social Security—might never get it, in fact, because she "fell between the cracks" of the system.

Because her previous work as a homemaker involved no direct cash payments and left her ineligible, therefore, for unemployment benefits.

Because her health insurance, a fringe benefit of her late husband's job, had expired when he did.

Instead, she contacted her local (Alameda County, Calif.) chapter of the National Organization for Women and asked what could be done for her and all the women like her.

Through Tish Sommers, who headed NOW's Task Force on Older Women, she learned a bill had been introduced in the California legislature which would set aside funds for a pilot project, a training and job placement center in Oakland to serve "mature women."

Tish Sommers told her: "We need to come out of the closet on age. Although our role has changed, we are not disposable."

"I bought a pair of tennis shoes to capitalize on my little old lady image, borrowed my daughter's yellow Volkswagen and started to barnstorm the state," Mrs. Shields said.

Women she met were encouraged to call or write all their friends, and the "old girl network" was born. The bill passed both legislative houses with huge majorities.

"How could I oppose it?" one senator remarked to Mrs. Shields. "It would be like voting against my mother."

Gov. Edmund G. Brown Jr., pressured by tons of mail, signed the bill into law an hour and half before his deadline. Many of the women who lobbied for the measure had never been involved in politics before.

"They got a real charge out of the experience. It was direct confirmation; they could really affect their own destiny," said Mrs. Shields.

Money for the center was allocated this month. There will be four full-time employes, and the rest of the funds will be used to pay women in training for job placement.

"We don't want to take jobs away from other people who need them," Mrs. Shields said. "But we have made up a list of 23 occupations for which displaced homemakers are most likely to be qualified. Our six-month training program will reinforce that qualification."

She lists a few that she discussed at a meeting this month in Washington, D.C., with the Homemakers Committee of the National Commission on Observance of International Women's Year.

Marital dissolution counselor.

"Her in-service training," said Mrs. Shields, "would take place at the center. Assisted by a law student, under supervision of a lawyer, the trainee will coordinate a divorce counseling group within the center.

"She will attend specific courses on domestic law, engage in supervised study and visit legal aid offices. We expect to place her in a legal aid office or with a private law firm."

Widow-to-widow counselor.

"The trainee will coordinate a widows' service group at the center. She will become expert in specific areas of law dealing with probate and other legal and personal problems related to widowhood.

"Within six months, we expect to place her at a senior center, legal aid office or women's center.

"You can see that in each of these cases, as with all the others, the trainee becomes an auxiliary staff member of the center. Also, during the six months she will be training her successor."

Aging programs information specialist.

"She will learn to set up information and referral services dealing with questions on Social Security, Medicare, rehabilitation, etc. She should eventually be a valuable staff addition to any programs funded by the Older Americans Act."

Other job categories for which the women at the Almeda Center will be trained include home health care technician, nursing home ombudsman, self-employment specialist (to counsel women interested in setting up their own businesses in such areas as house repair and painting, plant care or bookkeeping), crafts exchange coordinator, government funding specialist and money management specialist.

"Homemakers are invariably adept at the fine art of stretching a buck," Mrs. Shields pointed out.

The Alliance for Displaced Homemakers was the official lobbying body for the California bill. It could have been disbanded when that bill became law, but Laurie Shields had other ideas.

Thanks mainly to her organization's efforts and those of NOW's Task Force on Older Women, bills similar to the California one are being introduced in two other state legislatures (Maryland and New Jersey).

Minnesota, Pennsylvania and Arizona are reported to have parallel bills under study, and federal bills are pending in both houses of Congress.

Rep. Yvonne Braithwaite Burke's (D-

Calif.) bill in the House has been referred to the House Committee on Education and Labor and assigned to that body's subcommittee on Equal Opportunities.

Sen. John V. Tunney's (D-Calif.) Senate bill has been referred to the Senate Committee on Labor and Public Welfare but hasn't been assigned yet to a subcommittee.

Laurie Shields has returned her daughter's Volkswagen and opted for a plane ticket instead. She hopes to meet with women's organizations in the home states of all the congressmen and senators who are on the crucial committees that will consider the two bills.

"The old girl network is getting bigger every day," she said proudly.

The address of the Alliance for Displaced Homemakers, also NOW Task Force on Older Women, is 3800 Harrison Street, Oakland, California 94611.

[From the Ladies' Home Journal, February 1976]

THE DISCARDING OF MRS. HILL

Dorothy Hill's husband died of stomach cancer last February. Mrs. Hill was 53. Her two daughters flew in for the funeral and spent a few days in the Hill house, to keep their mother company. Then they went home. And Mrs. Hill, who had been a housewife for 31 years, began trying to cope by herself.

What follows is not about personal loss. It is more basic than that. It is about survival. What happened to Dorothy Hill could have happened anywhere in this country; the details would vary from state to state, but the story would end the same way.

One morning, shortly after the funeral, Mrs. Hill sat down at her husband's big steel desk to think about money. The private insurance was gone after three months of medical bills. The savings account was close to empty; the mortgage payment alone would finish it off within a few months. And there was no widow's pension: Mr. Hill had died before retirement, which, according to his company's plan, did not entitle her to any money.

Mrs. Hill made a list. She always made lists when she felt panicky. On one side of the paper she wrote "Out," and underneath that, "House. Utilities. Taxes. Food." On the other side she wrote, "In," and under that, "Social Security. Part-Time Work?"

She paused. They had talked about this before he died, but only briefly; he had been so sick. She had not been able to be practical. She had not been able to think.

Mrs. Hill called the Social Security office. Her voice was apologetic. "I realize I'll have to come down there and fill out forms and so on," she said to the woman who answered. "I just wondered approximately how much I'm entitled to."

"How old are you?" the woman asked.

"Fifty-three," said Mrs. Hill.

"Minor children?"

"No."

"Are you disabled?"

"Not that I know of," Mrs. Hill said.

"Your monthly benefit will depend on your husband's average earnings, of course," said the Social Security woman. "But you will not begin receiving the benefit until your 60th birthday."

Mrs. Hill was silent for a moment. She transferred the receiver from her right ear to her left and waited until her voice was steady. "I'm sorry," she said. "Would you say that again, please? I don't think I understand."

"Widows without minor children are eligible for Social Security at age 60," the woman said.

"*Sixty,*" Mrs. Hill repeated, almost whispering.

"Disabled widows may collect at 50," the woman said. She spoke patiently, with the stiffness and impersonality of a government pamphlet. "Widows caring for minor children may collect at any age. But in your case the eligibility age would appear to be sixty."

"What about that special new thing?" Mrs. Hill asked. "What do they call it? The supplemental program?"

"SSI," the woman said. "Supplemental Security Income. That's available to those who are blind, disabled or over 65."

"What about housewives?" Mrs. Hill asked, her voice rising. "What about women who were completely dependent on their husbands for support? Isn't there any coverage in the meantime? Is this just a hole they get dropped into ?"

"The period before sixty is—" the woman hesitated, "one of noncoverage."

"But I'm only fifty-three!" cried Mrs. Hill. "I don't have any income! What am I supposed to do for seven years?"

"I'm sorry," said the Social Security woman.

Mrs. Hill hung up.

Two weeks later she began looking for a job. She made an appointment with an employment agency, one of the few that did not list openings for *Brite Gals, Attractive* in its newspaper classifieds. The employment counselor, a smiling young woman, met Mrs. Hill at the front desk. "We'll just do a preliminary interview this time, Dot," she said, smiling. Mrs. Hill winced; only her closest friends called her Dot. "Let's go over your work history and goals."

Work history. Mrs. Hill had typed in a steno pool for two years before her marriage, a job she had not particularly liked; after that, 30 years at home.

"I'm a housewife," she said. "I did some typing a long time ago, but my husband and I agreed that I would quit when we married. My work history is as a housewife."

The young woman's smile disappeared. "No recent outside work at *all?*"

Mrs. Hill tried to improvise. "I was very active in the Red Cross. I helped organize free public lectures."

"I mean paid work," the young woman said.

"No," said Mrs. Hill.

The young woman sighed. "Dot, we're going to have some problem placing you. Our employers almost always want recent work experience." She opened a large black book and began leafing through pages of job descriptions. "We do run into this from time to time—the woman returning to the work force—and it's a real problem. There's the factor of health—"

"My health is fine," Mrs. Hill said, more sharply than she had intended.

"I'm sure it is." The young woman smiled again. "But the nature of secretarial work has also changed quite a bit since you got your experience. The demands are different. Technological changes and so forth."

"I'm perfectly willing to learn," Mrs. Hill said. "I have a good memory. I learn quickly."

There was a pause. Then Mrs. Hill said, "It's more than that, isn't it? Employers want young people, don't they?"

"Perhaps it might be wise for you to consider alternatives, in light of your particular kind of experience," the young woman said. Her cheeriness had become brisk, signaling dismissal. "Have you thought about volunteer work?"

Mrs. Hill stood up quickly. "I *can't* do volunteer work," she said. "I have to *eat.*" She was so angry that her hands were shaking. "I have spent the last thirty years of my life doing work that I thought was productive and important. Sometimes I liked being a wife and mother, and cooking dinners, and washing clothes and dishes, and keeping the house clean. Sometimes I hated it. But I always assumed that it was something worthwhile, something that needed to be done." She took a deep breath, "Now you tell me that my experience is only good for volunteer work; that I'm expected to go on working without pay."

"OUGHT TO BE INSULTED"

Mrs. Hill was afraid she might start to cry in public. "I ought to be insulted. But I have a house payment due in nine days, and $400 in the bank, and I don't know how I'm going to live. I'm too frightened to be insulted."

She spent her morning with the classified section of the newspaper and a pen, circling ads that looked promising. A sales company wanted trainees: NO EXP. NEC. Mrs. Hill called to ask for an application, "I'm 53," she said, bracing herself. The man on the other end said he was sorry, but the program was only open to those under 35—being an apprenticeship and so on. It wasn't much good training people who were going to retire right off, after all.

If housewives made a salary, she throught one night, *I'd be eligible for unemployment insurance.*

She called the Welfare Department. It was just out of curiosity Mrs. Hill told herself. She was not serious about welfare, but she was curious. "I just wondered," she said to the man who answered, "what I'd be eligible for, if I were thinking about applying, I mean."

The man asked what her income was.

"I don't have one," said Mrs. Hill. "I don't have any money." She was appalled by the simplicity of it.

Family and marital status?

"Widowed," Mrs. Hill said. "My children are grown. They live out of the state."

FEW ALTERNATIVES

Well, the man explained, that eliminated Aid to Families with Dependent Children. "Your alternative would be General Assistance. Provided you meet all the requirements, you would be eligible for around $115 a month, and food stamps."

One hundred fifteen dollars a month.

"What are the requirements?" asked Mrs. Hill.

"We'd send some forms off to your children first, just to make sure they are unable to support you," the welfare worker said. "Then we'd make sure that your housing payments don't exceed $96 a month, and that there is no other source of income for you."

"Wait a minute," said Mrs. Hill. "What if my housing costs more than that? I mean, I have a home, and my payments are more than $96."

It would be necessary, the man said delicately, for her to find other living arrangements.

Mrs. Hill closed her eyes. "For $96 a month?"

Sometimes public housing is available if private apartments prove too expensive, the man said.

"Thank you," said Mrs. Hill. She put the receiver down. *I'm going to be sick,* she thought.

Mrs. Hill wrote to her daughters. "You know I am not a woman's libber," she told the younger one, who was. "But I feel as though after a life of contributing to my home and family, I've been left hanging in mid-air. I can't believe this is happening." They sent checks, for $75 and $150, which Mrs. Hill did not deposit. She put them under the glass paperweight and tried not to look at them.

Someone suggested part-time baby-sitting. Mrs. Hill made up some 3x5 cards that said, "Childcare, In Your Home. Experienced Older Woman. Reliable." She tacked the cards up in laundromats and supermarkets, and placed an ad in the newspaper. The next week a woman called to ask whether Mrs. Hill would come look after her son on Thursday afternoon. Mrs. Hill spent four hours with the child, a docile, five-month-old baby who needed his diapers changed twice. She made $6.50. She deposited her daughters' checks.

Mrs. Hill has a part-time job now, in a small nursing home near the hospital where her husband died. She makes $260 a month, and is not eligible for medical benefits because she works only 25 hours a week. The nursing home employs nine older women under similar conditions; they can give work to more ladies that way, the owner explains, even though they have a limited budget.

She will probably lose the house.

I know Dorothy Hill. Her name is different. We met in California, where I worked with a mutual help employment center for women over 40. I was young enough to be her daughter, young enough to be granddaughter to some of the bewildered and angry women who came in because they suddenly had no means of support. Often they had not yet realized what would happen to them. *I've been a homemaker all my life,* they'd say, *I lost my husband, no insurance. Tell me what I can do.* And others would have to tell them, slowly, that if they are under 60 they may not collect Social Security; that they are probably not eligible for welfare; that all they can do is plunge into a job market that has no use for women whose experience consists of a lifetime as wife and mother. The center tries to help. It was founded by two older women who know a great deal about constructive anger. They organize weekly discussion groups, conduct a revolving-door system of staffing to provide the women with job references, and explain how to file charges of sex and age discrimination. All useful. Sometimes productive. But the essential exhausting work, is listening.

Over and over, the women tell different versions of the same story. *I thought I was going to be taken care of.* Twenty, 30 years ago, they made a deal, entered into the contract: I'll stay home and you support me. This is my occupation: Homemaker. It was supposed to be a fine thing for women to do—arguably, the only thing, for women not possessed of a certain selfish fever—rewarding, vital, patriotic, a pedestal buttressed by magazines and television programs and textbook illustrations.

WOMEN IN THE MIDDLE

But the change has begun. The roles are shifting. And there are women among us who have been caught in the middle; the pedestal has been jerked out from under them, without warning: the 44-year-old housewife who is denied alimony by a "with-it" judge; the 53-year-old widow who has lost touch, in these days of isolation and groping for self, with the church or family that might once have taken her in.

Displaced homemakers, my friend Tish Sommers call them. Tish is 60. A displaced homemaker herself (she was divorced at 57, after 20 years without paid work), she is one of the founders of the older women's employment center, head of the N.O.W. Task Force on Older Women and a thoroughly committed feminist. Tish spends most of her time organizing now. *This is what it's like,* she tells lawyers and church groups and gerentology conventions, *to be a dependent woman suddenly thrust out on your own.* And to everyone, she gives the statistics: 37 percent of American women over 40 have no husbands, according to the March 1974 census. More than a million women under 60, without minor children, widowed or divorced, are out of the labor force. One out of three marriages ends in divorce. Perhaps most chilling: a "prime risk" group of 6.1 million, married women under 60 is not in the labor force. Six million potential Dorothy Hills.

Think of the displaced homemaker as temporarily disabled. It is not a physical disability, but a woman who agrees at 22 to forego the paid labor forces for a lifetime as homemaker may be crippling herself as surely as if she had lopped off one hand. Even those women eligible for government programs—S.S.I., welfare's Aid to the Totally Disabled, Social Security's special provisions for disabled widows—may not pursue these options. For most of the women I talked to, women who refuse to abandon their belief in America, government money is still laced with shame. Charity. The dole. Besides, they want *jobs,* something to relieve the special ache that Mrs. Hill's story does not talk about: the need to matter, to be useful again.

That means job training. Last year the federal government allocated $3.6 billion to the Comprehensive Employment and Training Act (CETA), a program of job development for the disadvantaged. But CETA is geared toward the young unemployed—many of the jobs are industrial or involve apprenticeships with age limits. So N.O.W.'s Task Force on Older Women and Rep. Yvonne B. Burke (D., Calif.) have worked up their own legislative alternative, using the principle behind CETA. According to Rep. Burke, "There was a time when your relatives took you in. Today, that is no longer prevalent. We have to put in a system to take over the role the family once played."

The proposed legislation she has sponsored is titled the Equal Opportunity for Displaced Homemakers Act. It calls for federally-funded job training and the development of special community service positions for older women. "It is the purpose of this Act," the bill reads, "to provide the necessary training, jobs, services and health care for displaced homemakers, so that they may enjoy the independence and economic security vital to a productive life. Homemakers are an unrecognized part of the work force who make an invaluable contribution to the welfare of the society as a whole." It is a serious piece of legislation and, coupled with enforcement of existing laws against age and sex discrimination, a possible answer.

When Tish was on TV, as a guest on a national morning news program, she gave a little speech about displaced homemakers. At the end, she mentioned the address of the N.O.W. office in Chicago. Two days later, the onslaught of letters began: 500 by the end of the week. 300 the following week.

One letter is special in its despair. The handwriting is neat at first, careful, round penmanship; then, as the story unfolds, the words jumble together and the script becomes harder to read, until by the last paragraph it has dissolved into a savage scrawl. "My divorced husband is dead," this woman writes. "I am not eligible for Social Security. No one wants to hire an older woman. No one even wants one around. I find I have no courage even to keep on trying. I am so tired of being old and being fat . . . I am beginning to think that Russia is more humane than the United States. It allows older women to earn money for their own support, cleaning streets."

WHAT TO DO IF YOU ARE A "MRS. HILL"

1. Contact one of the following groups for information and moral support:

The Alliance for Displaced Homemakers, 6422 Telegraph, Oakland, Calif. 94609. (Write them for the address of the branch nearest you.)

The Gray Panthers, P.O. Box 3177, Washington, D.C. 20010.

National Organization for Women, Task Force on Older Women, 434 66th St., Oakland, Calif. 94609.

Jobs for Older Women, 3102 Telegraph Ave., Berkeley, Calif. 94705.

Widows Consultation Center, 136 E. 57th St., New York, N.Y. 10022.

Family Service Association of America. (For your local branch, check in the yellow pages or write the national office, 44 E. 23rd St., New York, N.Y. 10010.)

Also, *Prime Time,* a publication "for the liberation of women in the prime of life" costs $7 for 11 issues, with special rates available for those unemployed or on Social Security. Write: *Prime Time,* 168 W. 86th St., New York, N.Y. 10024.

2. Remember age and sex discrimination are against the law. You do not need absolute proof to file a complaint, but it helps to have written records of names, dates and who said what.

If you suspect sex discrimination, contact your local Department of Labor Equal Employment Opportunities Commission. If you suspect age discrimination, call your State Fair Employment Practices Commission, or the Wage and Hour Division of the nearest Department of Labor Office. A clue to age discrimination might be an interviewer's frequent references to night hours or "the strenuous demands of the job." Mysteriously, some employers seem to find secretarial work more taxing than the 80-hour week you put in as a homemaker.

3. Don't isolate yourself. Don't wait for a friend to call; dial her yourself. Consider a semi-communal housing arrangement with friends or neighbors in similar circumstances. Organize a political action group, a discussion group, by advertising in the local paper or by working through existing organizations.

IF YOU ARE A POTENTIAL "MRS. HILL"

1. Know what could happen if you lost your husband through death or divorce. You might start by answering these questions:

What insurance policies name you as beneficiary? Are they straight-life or term (your insurance agent can explain the difference—and what it means in dollars and cents)?

If your house is mortgaged, is there insurance on the mortgage?

Does your husband have a pension plan? If so, what are the eligibility provisions?

If you lost your husband, would you and your family be eligible for Social Security?

If you need expert advice, see an insurance agent, a bank officer or a financial counselor.

2. Get work experience *now.* Volunteer work can get you training and references and should be listed on a resume as the solid experience it is. Also, courses at community colleges or high schools—usually inexpensive or free—can help you brush up on old skills or learn new ones. Ask if the school assists with job placement.

IF YOU SUPPORT THE DISPLACED HOMEMAKERS BILL

1. Write your own U.S. Representative and Senator urging them to co-sponsor the bill (House Bill 7003, Senate Bill 2353). You can also obtain copies of the bills from them.

2. Write Rep. Augustus Hawkins, Chairman of the House Equal Opportunity Subcommittee, requesting public hearings on the bill so that opinions can be voiced and suggestions made.

[From the San Francisco Chronicle, Oct. 5, 1976]

WHERE OLDER WOMEN LEARN NEW SKILLS

(By Ruthe Stein)

Margaret Harralson felt like "a fish out of water" two years ago when, after 39 years of being a homemaker, her marriage broke up and she was forced to look for another job.

Harralson, who at 59 had reared two children, now grown, had never worked and was convinced she had no marketable skills, a feeling reinforced by the counselors at job placement agencies who told her that employers were not interested in hiring older women.

But she had to find a job—her spousal support would run out in three years, and the payments on her San Ramon house ate up most of what there was.

By the time she found her way to the

Displaced Homemakers Center, an employment training and placement program for women in Harralson's situation, "I was grasping at anything that might give me a feeling of security—financial as well as emotional."

That's far from the image Harralson projects these days. Dressed in a crisp print dress, looking well-groomed and self-assured, she talked with confidence about her plans for a career as a paralegal, making use of the considerable knowledge she acquired going through her own divorce.

"I'm hoping to help other women facing a divorce, by taking time to listen to their personal fears and problems and by demystifying the law for them," said Harralson, who also heads workshops on family law at the Displaced Homemakers Center.

There are between 3 and 7 million displaced homemakers in this country—women like Harralson, who, after being wives and mothers for all their adult lives, suddenly find because of a divorce or the death or unemployment of their spouse that they are forced to look for jobs.

A group of persistent older women decided this was a problem the California legislature should be aware of. They formed the Displaced Homemakers Alliance last year and successfully lobbied for a state bill providing $190,000 for the two-year pilot program which Harralson participated in. Maryland and Florida have passed similar bills, and legislation is in the works in 17 other states.

The Displaced Homemakers Center, which opened in May on the Mills College campus in Oakland, has been more successful than its optimistic founder Tish Sommers had hoped.

The first group of 14 interns made it through a six month job counseling and training program in half that time, and ten of them are already employed in jobs ranging from printer's apprentice to paralegals in a senior center, Sommers said.

The women, who are in the 40 to 60 age range, were selected over dozens of applicants because of the ability they had demonstrated in the past to cope with problems. They are paid a stipend of up to $300 a month (depending on their financial needs) while they go through the program.

Aliyah Stein, who is coordinator for the interns, recalled that when they begin self-awareness and assertiveness training workshops at the center, most were in sorry shape. "They came in feeling incredibly vulnerable. Ofter their husbands had just left them for a younger woman." By discussing their common experiences, they were able to help each other make the adjustment to living alone.

In a workshop called "Creative Job Focus," the women were asked to look at the skills they had acquired during their years as homemakers and to determine how those could be translated into jobs. Stein recalled one woman who came in saying, "I haven't done anything. I've only raised 11 children on food stamps."

"We had to make them realize they had been wearing a thousand hats," Stein said.

Two graduates of the Displaced Homemakers Center are putting their skills to work at a nutrition site for Spainish-speaking senior citizens, Edie Fiorentino, who used to regularly cater dinner parties for 50 to 100 people in the Native American community, of which she is an active member, thinks nothing of serving lunch to the 30 senior citizens. "The only difference I can see is that now I'm getting paid for it." Regina Contreras, who reared nine children "so I'm pretty well organized," is now coordinating the recreational activities at the site.

Milo Smith, director of the Displaced homemaker, said they have had exceptional cooperation from employers in providing on the job training and even creating jobs for the women. All she has had to do is remind them that it could be their mother. "Once they get the picture it's hard for them to turn us down. It's like turning down apple pie and motherhood."

Several social service agencies are training a new crop of interns as paralegals, community workers and in the home health care field.

A little assertiveness training has gone a long way for several of these older women. Counselor Stein delights in telling the story of one of their interns who had helped her husband build a successful contracting business, only to have him leave her for his secretary.

Three months at the Displaced Homemakers Center helped her to realize that she was eminently qualified to apply for a job as a bookkeeper for an apartment management firm.

"An article had just appeared in Newsweek about the center in which she was quoted," Stein said, "and when the man she was applying to walked in she was thumbing through the magazine. She said to him, 'Oh, I just found out I'm in Newsweek.' He was very impressed.

"When she came back to the center she told us she had the courage to ask him how she should feel about her chances of getting the job. The phone call came through while she was here—she had been hired."

[From Response, United Methodist Women, September 1976]

NOT A HANDOUT BUT A HAND UP

(. . . any human being anywhere will blossom into a hundred unexpected talents and capacities simply by being given the opportunity to use them."—DORIS LESSING.)

(By Laurie Shields) *

Today's homemaker, particularly the woman in her middle years, who through death or divorce finds herself without the security of an income, is becoming painfully aware that unpaid work, the labor of love in home and community, have no marketable value when she needs a job.

The expectations and planned futures of many women are being frustrated by a variety of social forces and natural events. Women are outliving men. The Department of Labor indicates there are 12 million widows in this country and their median age is 56.

The rise of "no fault" divorce laws has caused a jump in the divorce rate from 34 divorces per 1,000 in 1960 to 63 per 1,000 in 1974. Last year the divorce figure topped a million for the first time. One fourth of the divorces filed in this country are after 15 or more years of marriage.

Late in 1974, a handful of older women in Oakland, Calif., some widows, some divorced, but al. of them frustrated in their attempts to get jobs which would provide an honest living, decided their court of last resort was the state legislature. Led by Tish Sommers, then national coordinator of the Task Force on Older Women, of the National Organization for Women (NOW) they spelled out their plan to a young feminist attorney, Barbara Dudley, who drafted the first "Displaced Homemakers" bill. The title was deliberately chosen to make the point that women in their middle years, formerly full-time homemakers, were forcibly exiled through no fault of their own from the mainstream of society.

Designated SB825, the first Displaced Homemakers Bill was introduced in the California State Senate April 10, 1975. It called for setting up just one multipurpose center geared to meet the needs of older women who had found all existing programs ineffective and particularly deficient in job placement.

The bill called for testing a theory of creating new jobs within communities—jobs that wouldn't simply create another layer of bureaucratic slots, but would instead fill unmet community needs. A provision for a well-woman health clinic was added since preventive care during middle years cuts down the incidence of illnesses often termed chronic in old age.

The two-year test program was to be funded for a total of $200,000, a figure based, not on experience since there was no precedent for this innovative legislation, but on the practical "we'll-make-do" philosophy of former homemakers who had dealt with tight budgets all their married lives. Newly-inaugurated Governor Jerry Brown had stated he would not approve any new legislation funded in excess of $200,000.

In May 1975 the Alliance for Displaced Homemakers was formed to organize support for passage of the California bill and to form a network within other states to generate interest in the national bill (HR7003/10272) introduced in the House of Representatives by Rep. Yvonne B. Burke. (A companion bill was filed in the Senate in September by Senator John V. Tunney.) I was asked to head the group, not because I had any record of political experience, but I was a widow with a need to supplement a fixed income and I had politics as a life-long avocation.

Our first office was a single desk in a community center established by Congressman Ron Dellums of Oakland. Word of the intent of the bill and the existence of ADH spread as we gradually were "discovered" by the media.

Letters began to flow in, convincing proof that the problem was neither confined to one county in northern California nor to the state boundary lines:

" I have just read a story and it sure describes me. I am divorced, will be 59 in June, haven't worked in 30 years and am ill, which worry and stress isn't helping. I'm supposed to receive spousal support but it's sporadic. He says if he's pushed he'll leave the country. Before this happens I need to find an alternative if there is one."

" a widow after 39 years of marriage I've got a bleak outlook for the future. After medical bills, funeral and umpteen other bills, it left me with no home or money and scared to death to go out to look for a job I don't even know how to do—especially at 57 . . "

Knowing the problem existed was one thing; how to organize action was another. Homemaking is an isolated occupation. Most of the women writing believed theirs to be a unique experience. Moving them to collective action in their own behalf could follow only after they realized the common problem called for a common solution.

We didn't believe the displaced homemakers bill offered an answer to every problem but we felt it did serve as a vehicle to focus attention on the special needs of women we described as "falling through the cracks" of existing assistance programs, all of which were geared either to the very young or the very old.

As quasi-lobbyists we were ineligible for funding through traditional sources such as foundations. We knew we had to take the message "to the people" as politicians are fond of saying. With minimal private dona-

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* Ms. Shields is a 56-year-old widow. A Midwesterner by birth, she was a journalism major who headed for New York to pursue a career in advertising and merchandising. In the late sixties she began work with her husband on a book dealing with Ireland's Abbey Theatre and the acting careers of her husband, Arthur Shields and his brother, Barry Fitzgerald. Following her husband's death in 1970 she moved to Ireland and continued work on the book. Late in 1974 her mother's illness brought her back to the U.S. Needing to supplement her income, she experienced first-hand the barriers many older women face if they try to re-enter the labor market after years of homemaking.

tions and the commitment of one member who assumed a bank loan, we decided to concentrate our organizing efforts in the districts of legislators sitting on committees scheduled to hear the bill. I didn't know it then, but it was the beginning of my own new career as a traveling organizer.

Within the districts an effort was made to contact every woman's group: NOW chapters, other feminist organizations, and in particular, the "traditional" women's groups, church women, "Y" members. Every woman was asked to form a link in the "old girls' network" and using her own contacts of friends and relatives, help to spread the word. In short order, a massive letter-writing campaign was under way.

Confounding even the experts, SB825 passed in California with near unanimous decisions in each of the committees, by a large majority in the Assembly and unanimously in the full Senate. In 121 working days after its introduction, SB825 was signed by Governor Jerry Brown on September 25, 1975. At the time he told the press, ". . . this bill appropriates a modest sum for one project in one county in one state."

Yet by the spring of the following year Maryland had passed its Displaced Homemakers Act. six other states had bills filed pending legislation action, four others were in the process of drafting. National groups such as the American Association of Retired People (AARP), the National Council of Senior Citizens (NCSC) and the President's National Commission on the Observance of International Women's Year endorsed the need for such legislation.

With mail often running as high as 300 to 400 letters a month, the Alliance for Displaced Homemakers quickly outgrew the single desk office. By pooling resources, the Task Force on Older Women, NOW and the Alliance transformed an old flat in Oakland into a shared office. (It also became my home when I gave up a studio apartment and moved into the one and only bedroom.)

In Oakland we had started with the premise that we had a right to work, to use our years of homemaking in new ways to fill a socially useful function while at the same time providing independence for ourselves. Our experience with the California bill convinced us that where there's a bill, there's a way. Our daily mail clearly indicated a need for action in every state, encouraging state bills and generating national pressure for passage of a federal bill.

A New York woman wrote:

". . . I don't know where to turn. I'm 57, alone with no assets. Except for part time jobs as a waitress I've never worked outside the home and find now that I am not qualified for a self-supporting job. I can't bear the thought of welfare."

From Texas:

". . . My husband died about three years ago. Since then I've been very discouraged. We were married almost 32 years and I worked out very little. I enjoyed my home and family. I only want a chance to prove myself . . . there's bound to be a number of things I could make a good living at if I only knew where to start. . . ."

One of the more poignant letters came from a small Midwestern town:

"To me the future looks pretty dark. I am a widow, age 45, I have three married daughters. One lives 130 miles from me. Another lives 100 miles away. My youngest lives 3 miles away. I quit school at the age of 16. The population of my town is 136. I don't work. I lost my husband three years ago. My mother-in-law lives next door. She lost her husband one year ago. I guess that has no bearing on the subject."

In January, 1976 ADH submitted a proposal to the women's divisions of some of the country's leading religious denominations. We asked for a minimum grant which would allow me to travel across country publicizing the legislation and organizing women to act in their own behalf One of the first to respond was the Women's Division, Board of Global Ministries, The United Methodist Church.

At the request of the Women's Division, Board of Global Ministries, I did a swing through some of the Southeastern States-Louisiana, Mississippi, Florida, Georgia and South Carolina. The format was basically the same at each stop. Interviews by local media people followed by an afternoon or evening of explanatory talk. Some of the visits were coordinated by local United Methodist women, others by members of local NOW chapters. Some were the result of combined efforts. If the goal was to encourage individual state bills, the trip was successful. Florida's bill, introduced April 19 quickly moved through committees and as of this writing seems certain to become the third Displaced Homemaker Act in the country.

Louisiana had a drafted bill ready to file when the session re-convened shortly after the visit. There was hope of one being prefiled in Mississippi for consideration in January. Rep. Eleanor Richardson of Georgia, whose occupation in the State Roster is listed as "homemaker," publicly expressed her support of the legislation on a radio program prior to her departure to attend the United Methodist General Conference in Portland.

Later trips scheduled for May and June carried me through the Southwest (funded by the Council on Women and the Church, United Presbyterian Church of the U.S.A.) and the upper Midwest and Northwest (funded by NOW national Action Center) As this article is being read I will again be on the road, visiting Mid-Western and Southern states not covered in the earlier trips. At least one of these journeys will be financed by the original grant from the Women's Division, Board of Global Ministries.

All of the existing bills and acts call for a two-year test project. The national legislation similarly outlines a two-year testing of one or more centers in each of the states. What is the goal of such programs? We see it as being two-fold: changing the women as we change the social setting.

Efforts have been made in the past to tackle the problem of jobs for the mature woman. They failed because they were limited to readying women (through education or counseling) for an unreceptive job market. Such services are essential but they are only half the solution. The other half calls for defining and developing new jobs which are not in competition with others who need to work also. There is little, if any, social value in splitting the pie into even smaller pieces.

The centers envisaged would focus on employment, either full or part-time, but would offer supportive services as well: to build self-esteem, to explain woman's changing role and status, to develop a positive attitude toward aging and to learn the fundamentals of health care. The heart of such experiments will be a trainee program for displaced homemakers who are willing to pioneer new jobs.

In California, where the first center opened its doors May 15, trainees are being readied for such positions as:

Marital dissolution counselor attending specific courses on domestic law at community colleges, with supervised study and apprenticeships in local legal aide and private practice offices;

A crafts exchange coordinator developing and exploring outlets for self-employed older women to produce crafts and promote mail order services for their products;

A money management specialist working as an apprentice with experts in the field, organizing money management workshops and assisting other trainees on financial matters.

All trainees receive stipends while learning All administrative costs have been kept to the lowest figure There are only five paid staff members at the California center and each receives the same salary

Homemaking is still, and no doubt will continue to be, the occupational preference for a majority of women Fifty-seven percent of married women are still employed full-time as homemakers. What we in the Alliance for Displaced Homemakers believe and are working with total commitment to achieve is a revitalized awareness of the contribution to the welfare and economic stability homemakers contribute to the nation

We do not feel that the love and devotion of the wife and mother who "looketh well to the ways of her household and eateth not the bread of idleness" should be rewarded with a struggle for survival or a place on the welfare rolls when her days as wife and mother are over.

Emotional judgments aside, there is ample reason why the special problems of the woman in her middle years should be of concern to the nation as a whole. It has been projected that by the year 2000 twenty percent of the population will be women over 60. We might not have all the answers, but we had better start asking the questions!

Shortly after my trip through the South, I received a letter from a woman who attended one of the meetings.

"You're right—there are a lot of good resources with a world of experience and wisdom going to waste with the 'older' women who just don't know how or where to apply for work. Even worse, we haven't yet learned to work together. We are still bound into our tight little groups. We're not always open to working with women who don't fit our mold. But most, if not all of us. have several good years left. I like being busy and constructive. I would like to see my life constructive to the end. I think most women want that and I want to work with them toward that end."

By Mr. HASKELL:

S. 419. A bill to test the commercial, environmental, and social viability of various oil shale technologies and for other purposes: to the Committee on Interior and Insular Affairs.

FEDERAL OIL SHALE COMMERCIALIZATION TEST ACT

Mr. HASKELL. Mr. President, I am introducing today legislation entitled the Federal Oil Shale Commercialization Test Act. This bill is needed because of the failure of past attempts by the Federal Government and private industry to supply national energy policymakers with a definitive answer to the question of whether our oil shale can be developed on a commercial scale with acceptable environmental and social consequences.

Oil shale is a national energy resource of enormous proportions. It is estimated that there are some 600 billion barrels of oil contained in high grade and medium shale. An additional 1.2 trillion barrels are contained in lower grade shale deposits. This compares with the Saudi Arabian reserves of about 150 billion barrels and a total of 368 billion barrels in the entire Middle East. As we struggle to solve our energy problems, it is essential that we continue to explore all potential sources. The magnitude of the oil shale resource demonstrates that it is potentially a major contributor to our energy supply picture.

Development of oil shale has had a history of false starts dating to the 1860's. The discovery of oil in Pennsylvania put

an end to this early interest. Cheap east Texas oil cut short a revival of interest in the 1920's. Shortly after World War II, the Bureau of Mines tested a series of retorting methods at its Anvil Points facilities in Colorado. Since that time there has been intermittent interest in shale, both in private industry and the Government.

The most recent Federal attempt to test the commercial viability of oil shale began in earnest in 1971 with Interior Secretary Rogers Morton's announcement of the prototype oil shale leasing program. The primary purpose of this program was to ask private industry, in Secretary Morton's words: "Are you ready?" The unanimous request for suspension of the shale leases last summer suggests that the answer is "No." Although there are still some encouraging signs of life in certain projects, the Federal effort to test the commercial viability of oil shale through making choice Federal lands available to private industry has failed. While the leases are in suspension, we cannot obtain the information necessary to make a national policy decision regarding oil shale development. The bill which I am introducing today will cause the necessary research to move ahead in a timely fashion. With the Federal Government supplying all of the capital necessary, we are sure we will obtain the answers we need.

The purpose of the legislation is to establish a program within ERDA to test two—possibly three—oil shale retorting technologies to determine whether they are commercially and environmentally feasible. The program will also evaluate the social impacts which would result from oil shale commercialization. Should a technology tested prove workable on a commercial and environmental basis, it is the intent of the legislation to make it available to anyone who wishes to use it, subject to the patent provisions included in the bill.

Finally, the test program is to be carried out with the maximum possible public participation and access to information. It is my belief that much of the opposition to oil shale development has resulted from the feeling on the part of local governments and public interest groups that they are being shut out of the process. This should not continue to be the case. Therefore any information developed by this program or brought to it by the contractors will be available to the public.

The proposals from non-Federal entities for oil shale commercialization tests will be selected by the Administrator of ERDA in accordance with his evaluation of the commercial potential and the social and environmental impacts of the proposals submitted. One would use the in situ or modified in situ oil shale retorting technology. The projects selected should be only so large as necessary to test the commercial and environmental viability of the process. The projects would be limited in size to restrict the social and environmental impacts of the program to only those which are necessary to provide us with the needed information.

After the selection of the proposals, the Administrator would enter into contracts with the private firms. The facilities would be located on Federal land and the entire cost of each would be paid by the Federal Government. The Secretary of the Interior would be directed to enter into an agreement with the Administrator to make Federal land available to him for the duration of the program.

Although the costs of a two-test program would depend upon the actual projects selected, I estimate that the in situ test would cost between $80 and $100 million, while an aboveground retorting facility would cost between $330 and $400 million. Thus, the full cost of such a program would probably range between $410 and $500 million.

In determining the location of the test facilities, the Administrator must consider the social and environmental impacts of both the tests and of the full-scale commercial operation which might follow. The facilities are to be located on areas of Federal land which contain sufficient oil shale resources to permit commercial operation of the plants, should the facilities tested prove viable. The Administrator must also choose sites which contain medium-grade shale. A true test of the economics of oil shale development, one which will give us an indication of the commercial potential of an industry, will require the use of oil shale of a grade which is typical to the resource.

One of the keys to the success of any oil shale venture is the active involvement of the State and local governments as well as the public-interest groups. Therefore, the bill contains a provision which requires the Administrator to notify local government representatives as soon as he determines the location of a facility. Moreover, he must continue to work with the local representatives both directly and through the mechanism of the Social Impact and Environmental Advisory Panel which is established by the bill. I believe these provisions will permit citizen environmental groups and local officials to participate in the planning and decisionmaking process which affects them so directly.

At the conclusion of the tests, the Administrator is to decide whether either of the facilities tested is commercially and environmentally viable. This determination is to be made only after at least one public hearing is held in the areas most directly affected by potential oil shale development. The decision process will center around a set of specific criteria for evaluation which are set forth in the legislation. It is my hope that the Office of Technology Assessment, which is now studying oil shale technology and programs at the request of Senators JACKSON, METCALF, and myself, will assist us by supplying information as to how these criteria might be amended so all parties concerned will be able to objectively evaluate the success or failure of the processes tested.

One of the most often voiced complaints about the prototype oil shale leasing program is that the stated purpose and the criteria for evaluating whether that purpose was being accomplished were not specific. Some have asserted that the Department of the Interior, rather than admit the failure of the program, has changed its definition. Whatever the validity of this assertion, the specific criteria for evaluation of the processes tested as a result of this legislation are included precisely to avoid this question. I view the criteria for evaluation as an important and essential part of this legislation, and I hope that those who testify on the bill will direct their attention to this section.

If the Administrator determines that either or both of the processes is commercially and environmentally viable, he will offer the Federal facility for sale on a competitive basis. The Secretary of the Interior will lease a tract of land to the successful bidder in accordance with the provisions of section 21 of the Mineral Lands Leasing Act of 90. The tract is to be big enough to permit the commercial operation of an oil shale plant.

I regard it as essential that if, in fact, there can be a shale industry, it be operated by private industry.

The patent provisions of the legislation are structured such that the results of the test program will be available to anyone who wishes to develop oil shale. All patents which result directly from the program will belong to the Federal Government. For the purposes of this legislation, the Administrator cannot exercise the discretion permitted him under the Federal Nonnuclear Energy Research and Development Act of 1974 to grant exclusive license for any process. This restriction is consistent with ERDA's present regulations in that no private capital will be required for the program. Therefore, the incentive of granting exclusive licenses is not needed.

Any non-Federal participant in the program will be required to license, for a reasonable fee, any background patents which are essential to the commercial operation of the technology developed by the program. Again, this is generally consistent with ERDA's position that the purpose of Federal energy research, development, and demonstration efforts is to develop technologies which will be generally available. It is specifically not the purpose of this legislation to develop a successful technology the use of which is legally restricted to one corporate entity.

As a matter of fact it is my hope that the program envisaged by this legislation, if successful, will enable many new companies to enter the shale business and thus foster competition.

The successful bidder for the demonstration facilities, should they prove commercially viable, will have free use of any patents developed during the test program. In addition, he will be able to obtain a license upon payment of a reasonable royalty, from the non-Federal participant for any process brought to the project by the participant.

Another issue which has been of particular interest to State and local government officials throughout the debate on energy development, especially in the West, has been the question of how to handle the social and economic impacts caused by energy facilities. The 94th Congress passed several measures aimed

at dealing with this problem. One such measure, which I had sponsored since my first days in the Senate, was the amendment to the Mineral Lands Leasing Act of 1920 which permits some of the money received by the States under that law to be spent for purposes other than schools and roads. However, this provision alone may not be sufficient to deal with all of the problems. Therefore, the bill includes a series of impact assistance provisions which will permit the State and local governments to deal effectively with the impacts which will be a result of the facilities authorized.

The Administrator is to submit a report to Congress within 180 days after enactment of the legislation. This report is to include a comprehensive plan and program to acquire information and evaluate the environmental, economic, social, and technological impacts of the program. The Administrator is also directed to submit an annual report on the status of the program.

It is my hope that as consideration of this legislation proceeds the study now being undertaken by the Office of Technology Assessment will provide us with assistance in determining the final form of the bill. Their technology assessment of the various oil shale processes, as well as their analysis of past Federal programs should prove very valuable.

I should emphasize that the legislation which I am introducing today will and should of necessity be modified and refined as a result of the hearing and markup process. On Friday January 14 I met with a great many representatives of the industry in Denver on the general concept of the legislation. The participants in this discussion raised several points which probably should be carefully considered.

The first of these was that the sale price of a plant assuming viability should probably not be, as provided in the legislation, the full investment made by the Federal Government. The reason for this is that in the course of a demonstration plant a great deal of experimental work has to be done which would not be necessary if the plant were not in effect a test and that therefore some lesser upset price than the full investment might be appropriate when the plant is disposed of to a private organization.

The second of these raised the question as to whether private land and also Federal land now subject to lease should be considered as a possibility for locating a demonstration plant. This suggestion raises a great many complexities, and I make no comment on the value of the suggestion except to point it out.

The third principal suggestion made by the participants in the conference related to the lead time necessary to prepare the requisite environmental impact statements. It was pointed out that since one of the principal purposes of the program is to test the environmental impact and viability of a process, it might be appropriate to shorten the initial impact statement process. I have not had a chance to think this through but certainly it seems logical that when the actual activity is an experiment in environmental consequences the matter is placed in a different perspective than the normal situation of a major Federal action which does not have as its purpose a test of environmental consequences.

These were the principal points made at the meeting in Denver, and I feel sure that these and others will be raised during the hearing and may serve to modify the proposed legislation.

By Mr. RANDOLPH:

S. 420. A bill to provide authority to institute emergency measures to minimize the adverse effects of natural gas shortages and curtailments, and for other purposes; to the Committee on Commerce.

NATURAL GAS EMERGENCY ACT OF 1977

Mr. RANDOLPH. Mr. President, we are aware that the eastern two-thirds of the United States is being affected by severe natural gas curtailments. Shortages are extending to residential as well as other priority users.

The Federal Power Commission has estimated that approximately 200,000 to 300,000 workers have been idled by natural gas shortages caused by the prolonged cold wave.

Following a meeting at the White House on last Friday, the press reports that the Carter administration is considering limited emergency legislation. Because of my similar concern, I sent a telegram to President Carter last week urging his support for immediate enactment of Federal authority providing for 120-day purchase of intrastate natural gas by priority pipelines and high priority customers. Other Members of this body including the Senator from South Carolina (Mr. HOLLINGS) support similar authorities.

Mr. President, on January 14 it was my privilege to introduce a more comprehensive measure, S. 271, which is consistent with broader emergency natural gas legislation previously approved by the Senate. This measure, however, contains some controversial provisions which would sufficiently delay its enactment and would be of limited value in coping with our present natural gas shortages. For this reason, it is my purpose today to propose a minimum measure containing 120-day emergency purchase authority. On January 21, I approved a "Dear Colleague" letter requesting the support of other Senators to achieve enactment of such essential legislation. Cosponsorship is being sought at this time.

I recognize that several more comprehensive measures also have been introduced. Some of these contain allocation authority which is controversial. Enactment of allocation authority could delay Senate approval of this essential legislation. However, it is recognized that there may be limited situations where allocation is necessary to avoid adverse effects upon public health.

I ask unanimous consent that the text of this measure as well as my telegram to the President and the Federal Power Commission release of January 11, 1977, setting forth State-by-State summaries of natural gas curtailments be reprinted in the RECORD.

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

S. 420

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

SHORT TITLE

SEC. 101. This title may be cited as the "Natural Gas Emergency Act of 1977".

FINDINGS AND PURPOSES

SEC. 102. (a) The Congress finds and declares that the Nation will suffer severe shortages of natural gas during the heating season from the date of enactment through March 1977. The Congress further finds and declares that such imminent shortages in our Nation's natural gas supply constitute an emergency which can be alleviated by providing for limited exemptions from regulation of natural gas.

(b) The purpose of this Act is to grant the Federal Power Commission authority to allow natural-gas companies which transport natural gas in interstate commerce with inadequate quantities of natural gas to meet the requirements of their high priority consumers of natural gas to purchase natural gas from sources not in interstate commerce and from other such companies on an emergency basis free from the provisions of the Natural Gas Act (15 U.S.C. 717 et seq.), except for the reporting requirements of such Act.

DEFINITIONS

SEC. 103. For the purposes of this Act—

(a) The term "natural-gas distributing company" means a person involved in the distribution or transportation of natural gas for ultimate public consumption for domestic, commercial, industrial, or any other use, but such term does not include a natural-gas company as defined in section 2(6) of the Natural Gas Act (15 U.S.C. 717a(6)).

(b) The term "high priority consumer of natural gas" means an essential user whose supply requirements cannot be served by an interstate pipeline which is a priority interstate purchaser as determined by the Commission.

(c) The term "independent producer" means a person, as determined by the Commission, (1) who is not affiliated with a person engaged in the transportation of natural gas in interstate commerce, and (2) who is not a producing division of such a person engaged in the transportation of natural gas in interstate commerce

(d) The term "United States" means the States, the District of Columbia, Puerto Rico, and the territories and possessions of the United States.

(e) The term "Administrator" means the Administrator of the Federal Energy Administration.

(f) The term "Commission" means the Federal Power Commission.

(g) The term "essential user" means a user, or a class of users, who satisfies criteria to be established by the Commission, by rule, as indicative of a user for which no alternative fuel is reasonably available and whose supply requirements must be met in order to avoid substantial unemploymnet or impairment of food production or the public health, safety, or welfare.

EMERGENCY EXEMPTIONS

SEC. 104. Section 7(c) of the Natural Gas Act (15 U.S.C. 717f(c)) is amended by designating the two unnumbered paragraphs thereof as paragraphs (1) and (2), by deleting the period at the end of paragraph (2) as designated hereby, and inserting in lieu thereof the following: ": *Provided further*, That within 15 days after the enactment of the Natural Gas Emergency Act of 1977, the Commission shall by regulation

exempt from the provisions of this Act, except for reporting requirements, any activities, operations, facilities, or services relating to the transportation, sale and delivery, transfer, or exchange of natural gas from any source, other than any offshore Federal lands, by an independent producer, a natural-gas company which transports natural gas in interstate commerce, a person who transports natural gas in other than interstate commerce, or a natural-gas distributing company to or with a natural-gas company which transports natural gas in interstate commerce which does not have or which under reasonably foreseeable circumstances may not have, a sufficient supply of natural gas to meet the requirements of its high priority consumers of natural gas and which is curtailing during the heating season from the date of enactment through March 1977 pursuant to a curtailment plan on file with the Commission. Exemptions granted pursuant to this proviso shall be for periods of no more than 120 consecutive days. Persons who are exempt under section 1 (b) or (c) of this Act shall not have their exempt status affected in any way by making the sales or deliveries contemplated by this subsection: *Provided further*, That the Commission shall have no power to deny, in whole or in part, recovery by any natural-gas company in its jurisdictional rates of the amount paid by it for natural gas delivered to it pursuant to sales and contracts as described herein, except to the extent that an interstate transporter purchases natural gas from an affiliate at a rate in excess of the price paid by the transporter to nonaffiliated sellers in comparable sales transactions: *Provided further*, That natural gas sold and delivered or transported pursuant to any exemption granted under section 104 of the Natural Gas Emergency Act of 1977 shall not be or become subject to the jurisdiction of the Commission because of such sale and delivery or transportation whether or not such sale is a sale for resale in interstate commerce or such transportation is in interstate commerce: *Provided further*, That any contractual provision prohibiting sales or transportation entitled to any such exemption or terminating any other obligations of any gas supply or sales contracts as a result of such sales or transportation shall be unenforceable in respect to any such sale or transportation: *Provided further*, That it shall be a violation of the Natural Gas Act (as amended) for any natural-gas distributing company to charge residential users and small users (as defined by the Commission) rates which reflect any costs incurred by an interstate transporter as a result of purchases of natural gas made pursuant to an exemption granted under this section: *And provided further*, That no first sale of natural gas after enactment and prior to expiration of the Natural Gas Emergency Act of 1977 shall be made at a price which exceeds the highest wellhead price (as determined by the Commission) at which natural gas was sold during the period of November 1, 1975, through December 31, 1976, in the State in which such first sale is made.".

EMERGENCY PURCHASES BY CURTAILED CONSUMERS

SEC. 105. (a) The purpose of this section is to allow curtailed high priority consumers of natural gas to purchase natural gas from the intrastate market by enabling them to arrange for the transportation of such gas by regulated interstate pipeline companies.

(b) The provisions of the Natural Gas Act shall not apply to the use of the facilities of a natural gas distributing company for the transportation of natural gas produced by an independent producer from lands, other than any land or subsurface area within the Outer Continental Shelf as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)), and sold by such a producer directly to a high-priority consumer of natural gas: *Provided*, That the rates applicable to the use of such facilities for the transportation of natural gas described in this subsection are subject to regulation by a State commission. The transportation of natural gas exempted from the provisions of the Natural Gas Act by this subsection is hereby declared to be a matter primarily of local concern and subject to regulation by the several States. A certification from such State commission to the Commission that such State commission has regulatory jurisdiction over rates and service of such person and facilities and is exercising such jurisdiction shall constitute conclusive evidence of such regulatory power or jurisdiction.

(c) Pursuant to the substantive and procedural provisions of this section the Commission may in its discretion issue a certificate of public convenience and necessity upon filing of an application by a natural-gas company to transport natural gas produced by independent producers from lands, other than any land or subsurface area within the Outer Continental Shelf as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)), and sold by such producers directly to existing high-priority consumers of natural gas whose current supply of natural gas is curtailed due to natural-gas company curtailment plans on file with the Commission: *Provided, however*, That in issuing a certificate pursuant to this subsection, the Commission need not review or approve the price paid by a high priority consumer of natural gas directly to an independent producer.

EXPIRATION DATE

SEC. 106. (a) This Act shall expire on midnight April 4, 1978.

(b) The expiration of this Act and the authority granted under this Act shall not affect any action or pending proceedings not finally determined on the date of such expiration, or any action or proceeding based upon any act committed prior to such date.

JANUARY 21, 1977.

The PRESIDENT,
The White House.

DEAR MR. PRESIDENT: Due to extremely cold weather, natural gas curtailments are now affecting residential as well as other priority users. Shortages are so severe that schools and public buildings are being forced to close in West Virginia and the Eastern two-thirds of our country.

Approximately 1,000 homes in the Bradley, Maple Fork and Prosperity regions of West Virginia were without natural gas supplies last week and some 40 Fayette County schools closed, with a student enrollment of 12,793. These are a few examples of the much larger national problem.

Because of my concern, and in anticipation of this problem, in September, 1976, I urged enactment of the emergency natural gas legislation which had been previously approved by the Senate. Subsequently, on January 14, 1977, I introduced S. 271, the Natural Gas Emergency and Conservation Act. The critical provisions of this measure concern emergency purchase of intrastate natural gas. Your support for immediate enactment of such 120-day purchase authority for priority pipelines and high priority customers is essential. I am prepared to introduce such a bill early next week and ask for its immediate consideration.

JENNINGS RANDOLPH,
U.S. Senator.

FPC RELEASES STATE-BY-STATE SUMMARY OF GAS CURTAILMENTS

The Federal Power Commission today released a report prepared by its staff summarizing on a state-by-state basis the net natural gas requirements, curtailments, and deliveries projected as of September 30, 1976, for the 1976–77 winter.

The report was prepared by FPC's Bureau of Natural Gas based on data filed with the FPC (Form No 16) by interstate pipeline companies.

The summary also includes the difference between 1976–77 winter requirements, curtailments, and deliveries, as projected April 30, 1976, and September 30, 1976. The FPC on December 6 (Release No. 22761) published statistical information on curtailments by major companies. That release did not contain a state-by-state breakdown.

Printouts of additional FPC Form 16 detailed information are available for public inspection in the Commission's Office of Public Information. Arrangements can be made through that office to purchase copies of the printouts or of the computer tape.

The staff summary accompanies this new release.

FEDERAL POWER COMMISSION—SUMMARY BY STATE OF ACTUAL FIRM DELIVERIES, FIRM CURTAILMENTS, AND FIRM REQUIREMENTS FOR 1975–76 WINTER COMPARED TO PROJECTED FOR 1976–77 WINTER

On December 6, 1976, in News Release No. 22761, the Federal Power Commission released statistical information on requirements and curtailments as reported by interstate natural gas pipeline companies in their Form 16 reports.

At page 5 of the staff report accompanying the news release was a statement indicating that additional reports based on the Form 16 data but showing substantially more detail were in preparation. This report provides a detailed breakout of net deliveries, curtailments and requirements for each state comparing actual for the heating season 1975–1976 and projected for the heating season 1976–77. Additional detail of deliveries, curtailments and requirements by each pipeline company for each state on an annual as well as heating season basis is available in the Commission's Office of Public Information as a computer printout.

There are some differences in calculated net total volumes between the December 6, 1976 report and the total volumes related to this more detailed report. These differences are attributable to rounding error and certain reporting inconsistencies between the Form 16 Summary Schedule No. 1 and Customer Schedule No. 1A. Staff is currently revising the format of both these schedules in an attempt to eliminate these inconsistencies in the future.

It should be noted that the projected data are based on occurrence of normal weather, and supply-demand factors projected as of September 1976. Weather experienced to date for the current heating season has been considerably below normal. Further, in evaluating the increased requirements shown by the report for the 1976–1977 heating season, in comparison with the 1975–1976 heating season, it should be noted that a warmer than normal heating season was experienced and may be an important factor in the increased requirements shown for the 1976–1977 heating season.

It should be carefully noted that the curtailments shown in this report represent curtailments by interstate natural gas pipeline companies to their customers. Since about 90 percent of gas sold by interstate pipeline companies is delivered to distributors who in turn provide natural gas to ultimate consumers, the curtailments shown in this report are largely curtailments at the wholesale level.

Several major factors served to ameliorate the impact of pipeline curtailments upon the ultimate consumer in the past winter. These factors include warmer-than-normal winter

weather, continued conversion to alternate fuels, conservation by fuel consumers, reduced gas demands due to industrial activity impacted by economic recession, increase in privately owned natural and synthetic gas supplies by distribution companies, emergency purchases or transportations of natural gas by or through interstate pipeline companies, and continued expansion of underground storage capability by interstate pipelines and distribution companies.

The impact of interstate pipeline curtailments upon ultimate consumers cannot be determined from this report. However, the Commission currently participates on a joint basis with the Federal Energy Administration in developing information directed at the end-user level to determine the impact of the curtailments to ultimate consumers. The results of the most recent survey, based on FPC Form No. 69, and FEA Form No. G-101-P-1 were released November 12, 1976, by the Federal Energy Administration in a report entitled, "Projected Natural Gas Curtailments and Potential Needs for Additional Alternate Fuels, 1976-1977 Heating Season".

In addition to this joint survey, the Federal Power Commission published on October 6, 1976, Commission staff reports in Docket No. RP76-16, *et al.*, (the so-called omnibus hearings) which examined among other things the end-use impact of curtailments on the customers of 19 pipeline companies whose FPC Form No. 16's had projected the most significant levels of curtailments this winter. A summary of these reports was issued December 9, 1976, FPC News Release No. 22765.

The omnibus report concluded that if winter weather is normal, the impacts of natural gas curtailment would generally be manageable but that colder than normal winter weather could result in industrial production losses and possibly unemployment. Recognizing the need for an information-gathering technique to understand the general nature of curtailment impacts as a result of colder than normal weather as the current winter progresses, the Commission on December 17, 1976, issued a letter order which was sent to 28 major interstate pipeline companies. The letter order indicated that information concerning certain curtailment impact areas would be requested every two weeks (or more frequent if necessary) to assist the Commission in monitoring the ongoing operation of curtailment programs, and to determine the existence or imminence of significant dislocation such as production losses or unemployment due to natural gas curtailment by interstate pipelines.

COMPARISON OF ACTUAL (1975-76) AND PROJECTED (1976-77) INTERSTATE PIPELINE NATURAL GAS FIRM DELIVERIES, FIRM CURTAILMENTS, AND FIRM REQUIREMENTS BY STATES

[For winter period November through March (volumes in million cubic feet)]

	Actual winter, 1975-76	April projection, winter 1976-77	September projection, winter 1976-77	Increase or (decrease) from April projection
Alabama:				
Deliveries	109,750	108,270	107,118	(1,152)
Curtailments	24,568	30,303	39,340	9,037
Requirements	134,318	138,573	146,458	7,885
Arizona:				
Deliveries	61,407	58,391	60,780	2,389
Curtailment	28,920	47,884	45,495	(2,389)
Requirements	90,327	106,275	106,275	0
Arkansas:				
Deliveries	91,734	88,693	90,587	1,894
Curtailments	56,893	64,719	66,776	2,057
Requirements	148,627	153,412	157,363	3,951
California:				
Deliveries	620,836	535,185	552,915	17,730
Curtailments	94,315	168,294	150,564	(17,730)
Requirements	715,151	703,479	703,479	0
Colorado:				
Deliveries	127,082	128,947	135,141	6,194
Curtailments	15	11,036	33	(11,003)
Requirements	127,097	139,983	135,174	(4,809)
Connecticut:				
Deliveries	36,639	37,445	37,293	(152)
Curtailments	4,473	5,295	4,603	(692)
Requirements	41,112	42,740	41,896	(844)
Delaware:				
Deliveries	1,573	832	790	(42)
Curtailments	708	770	1,625	855
Requirements	2,281	1,602	2,415	813
District of Columbia-Maryland-Virginia: [1]				
Deliveries	62,940	65,610	66,870	1,260
Curtailments	10,523	7,339	6,583	(756)
Requirements	73,463	72,949	73,453	504
Florida:				
Deliveries	32,055	32,597	33,342	745
Curtailments	13,438	15,030	14,898	(132)
Requirements	45,493	47,627	48,240	613
Georgia:				
Deliveries	139,779	142,937	146,432	3,495
Curtailments	7,432	8,502	26,319	17,817
Requirements	151,439	151,439	172,751	21,312
Idaho: [2]				
Deliveries	32,589	32,613	33,013	400
Curtailments	7,777	9,140	0	(9,140)
Requirements	40,366	41,753	33,013	(8,740)
Idaho and Washington: [2]				
Deliveries	16,910	17,829	17,764	(65)
Curtailments	3,566	2,780	2,903	123
Requirements	20,476	20,609	20,667	58
Illinois:				
Deliveries	580,559	551,052	554,552	3,500
Curtailments	61,887	82,979	70,666	(12,313)
Requirements	642,446	634,031	625,218	(8,813)
Indiana:				
Deliveries	267,323	250,529	269,812	19,283
Curtailments	83,622	107,119	84,134	(22,985)
Requirements	350,945	357,648	353,946	(3,702)
Iowa:				
Deliveries	152,317	151,480	152,300	820
Curtailments	[3] 16,712	25,824	23,932	(1,892)
Requirements	169,029	177,304	176,232	(1,072)
Kansas:				
Deliveries	149,517	149,932	148,586	(1,346)
Curtailments	50,688	61,223	60,776	(447)
Requirements	200,205	211,155	209,362	(1,793)
Kentucky:				
Deliveries	110,571	106,325	107,795	1,470
Curtailments	23,002	29,590	28,313	(1,277)
Requirements	133,573	135,915	136,108	193
Louisiana:				
Deliveries	111,869	103,201	102,794	(407)
Curtailments	123,315	140,981	141,030	49
Requirements	235,184	244,182	243,824	(358)
Maine:				
Deliveries	1,006	1,020	1,020	0
Curtailments	0	0	0	0
Requirements	1,006	1,020	1,020	0
Maryland: [1]				
Deliveries	52,279	50,453	52,841	2,388
Curtailments	16,750	17,813	16,432	(1,381)
Requirements	69,029	68,266	69,273	1,007
Massachusetts:				
Deliveries	82,266	86,753	87,906	1,153
Curtailments	7,165	8,249	7,009	(1,240)
Requirements	89,431	95,002	94,915	(87)
Michigan:				
Deliveries	270,467	255,247	254,916	(331)
Curtailments	22,812	23,660	36,212	12,552
Requirements	293,279	278,907	291,128	12,221
Minnesota:				
Deliveries	155,575	151,427	148,911	(2,516)
Curtailments	14,483	21,091	19,551	(1,540)
Requirements	170,058	172,518	168,462	(4,056)
Mississippi:				
Deliveries	66,750	61,986	61,707	(279)
Curtailments	57,839	67,965	69,297	1,332
Requirements	124,589	129,951	131,004	1,053
Missouri:				
Deliveries	190,351	203,573	203,152	(421)
Curtailments	35,672	39,791	35,903	(3,888)
Requirements	226,023	243,364	239,055	(4,309)
Montana:				
Deliveries	7,760	8,239	8,453	214
Curtailments	0	0	0	0
Requirements	7,760	8,239	8,453	214
Nebraska:				
Deliveries	74,386	74,351	76,622	2,271
Curtailments	7,820	10,690	11,455	765
Requirements	82,206	85,041	88,077	3,036
Nevada:				
Deliveries	10,134	6,989	7,172	183
Curtailments	8,499	13,030	12,846	(184)
Requirements	18,633	20,019	20,018	(1)
New Hampshire:				
Deliveries	4,524	4,664	4,691	27
Curtailments	121	143	116	(27)
Requirements	4,645	4,807	4,807	0
New Jersey:				
Deliveries	134,834	127,106	126,831	(275)
Curtailments	40,321	49,130	47,516	(1,615)
Requirements	175,155	176,236	174,346	(1,890)
New Mexico:				
Deliveries	17,169	14,739	14,763	24
Curtailments	8,415	9,187	8,851	(336)
Requirements	25,584	23,926	23,614	(312)
New York:				
Deliveries	360,467	367,528	369,487	1,959
Curtailments	45,589	64,688	62,510	(2,178)
Requirements	406,056	432,216	431,997	(219)
North Carolina:				
Deliveries	51,096	36,434	38,940	2,506
Curtailments	33,451	48,891	48,321	(570)
Requirements	84,547	85,325	87,261	1,936
North Dakota:				
Deliveries	13,696	14,179	13,201	(978)
Curtailments	0	0	0	0
Requirements	13,696	14,179	13,201	(978)
Ohio:				
Deliveries	440,510	460,630	478,876	18,246
Curtailments	156,846	153,371	132,476	(20,895)
Requirements	597,356	614,001	611,352	(2,649)
Oklahoma:				
Deliveries	26,742	26,815	26,484	(331)
Curtailments	2,799	3,706	4,001	295
Requirements	29,541	30,521	30,485	(36)
Oregon: [4]				
Deliveries	3,861	3,818	3,908	90
Curtailments	976	1,081	1,026	(55)
Requirements	4,837	4,899	4,934	35
Oregon and Washington: [4]				
Deliveries	58,720	58,483	59,994	1,511
Curtailments	15,176	16,481	15,512	(969)
Requirements	73,896	74,964	75,506	542

	Actual winter, 1975–76	April projection, winter 1976–77	September projection, winter 1976–77	Increase or (decrease) from April projection
Pennsylvania:				
Deliveries	326,689	320,827	325,451	4,624
Curtailments	84,228	109,454	100,335	(9,119)
Requirements	410,917	430,281	425,786	(4,495)
Rhode Island:				
Deliveries	11,910	13,492	13,650	158
Curtailments	1,665	1,928	1,704	(224)
Requirements	13,575	15,420	15,354	(66)
South Carolina:				
Deliveries	40,179	37,436	38,219	783
Curtailments	7,922	8,940	9,843	903
Requirements	48,101	46,376	48,062	1,686
South Dakota:				
Deliveries	14,668	15,277	15,925	(252)
Curtailments	785	1,117	998	(119)
Requirements	15,453	16,394	16,023	(371)
Tennessee:				
Deliveries	107,493	103,619	103,683	64
Curtailments	22,978	33,468	33,421	(47)
Requirements	103,471	137,087	137,104	17
Texas:				
Deliveries	50,539	54,206	54,511	305
Curtailments	6,593	10,607	12,268	1,661
Requirements	57,132	64,813	66,779	1,966
Utah:				
Deliveries	416	791	923	132
Curtailments	0	0	0	0
Requirements	416	791	923	132
Vermont [5]				
Virginia: [1]				
Deliveries	51,021	48,453	51,082	2,629
Curtailments	20,017	23,888	22,166	(1,722)
Requirements	71,038	72,341	73,248	907
Washington: [2 4]				
Deliveries	39,866	39,614	38,933	(681)
Curtailments	8,764	5,692	3,514	(2,178)
Requirements	48,630	45,306	42,447	(2,859)
West Virginia:				
Deliveries	64,934	65,321	68,281	2,960
Curtailments	18,716	19,768	16,832	(2,936)
Requirements	83,650	85,089	85,113	24
Wisconsin:				
Deliveries	203,506	206,401	205,189	(1,212)
Curtailments	8,665	9,444	21,109	11,665
Requirements	212,171	215,845	226,298	10,452
Wyoming:				
Deliveries	22,046	22,713	21,677	(1,036)
Curtailments	2,748	3,132	2,683	(449)
Requirements	24,794	25,845	24,360	(1,485)
Combination: [6]				
Deliveries	10,614	10,657	8,313	(2,344)
Curtailments	0	0	0	0
Requirements	10,614	10,657	8,313	(2,344)
Total:				
Deliveries	5,671,926	5,515,108	5,602,695	87,587
Curtailments	1,269,669	1,595,210	1,521,897	(73,313)
Requirements	6,941,595	7,110,318	7,124,592	14,274

[1] Columbia Gas Transmission Corp. did not provide a breakout between District of Columbia, Maryland, and Virginia, for Washington Gas Light Co.
[2] Northwest Pipeline Corp. did not provide a breakout between Idaho and Washington for Washington Water Power Co.
[3] Corrected value.
[4] Northwest Pipeline Corp. did not provide a breakout between Oregon and Washington for Cascade Natural Gas Co. and Northwest Natural Gas Co.
[5] Vermont is served by locally manufactured gas and imported Canadian gas.
[6] Columbia Gas Transmission & Trunkline have reported a small volume of gas not attributed to any State.

By Mr. RANDOLPH (for himself, Mr. ABOUREZK, Mr. ALLEN, Mr. BURDICK, Mr. HARRY F. BYRD, JR., Mr. CASE, Mr. CANNON, Mr. CLARK, Mr. GRAVEL, Mr. HASKELL, Mr. HATFIELD, Mr. HUDDLESTON, Mr. HUMPHREY, Mr. JACKSON, Mr. JOHNSTON, Mr. LAXALT, Mr. MAGNUSON, Mr. MATHIAS, Mr. MCCLURE, Mr. MCINTYRE, Mr. MORGAN, Mr. MUSKIE, Mr. PEARSON, Mr. PELL, Mr. RIBICOFF, Mr. STONE, Mr. THURMOND, and Mr. WILLIAMS):

Senate Joint Resolution 13. A joint resolution designating "Energy Conservation Month"; to the Committee on Interior and Insular Affairs.

ENERGY CONSERVATION

Mr. RANDOLPH. Mr. President, for myself and 27 cosponsors, I introduce a joint resolution of importance, not only to the Members of the Senate, but to the American people as a whole.

Besides this Senator there are 20 Democrats and 7 Republicans who are cosponsors of this resolution in support of an Energy Conservation Crusade and Energy Conservation Month.

As the first energy action of the 94th Congress, on February 5, 1975, this body approved a similar resolution introduced by this Senator and cosponsored by 67 Members of this body.

Mr. President, the joint resolution I introduce today is cosponsored by 27 Members of this body in recognition of the importance of energy conservation as a fundamental element of a national energy policy.

Speaking about natural gas shortages, President Carter declared last Friday that, "without public—energy—conservation, there may not be enough energy to allocate." The Chief Executive instructed Dr. Schlesinger to work with congressional leaders to develop emergency legislation to augment or legal means to distribute equitably our available supplies of natural gas.

Recognizing the importance of energy conservation the President also directed officials of all Government facilities to turn their thermostats down to 65 degrees in the daytime and lower at night. He also called on all Americans to do the same.

The resolution I introduce today endorses this proposal by President Carter by calling for an Energy Conservation Crusade. The measure would declare as Energy Conservation Month the period from February 16 to March 15, 1977, to reemphasize our national commitment to eliminate wasteful uses of energy.

With effective national leadership by Federal, State, and local governments and by all segments of business and industry, the American people can achieve an estimated energy savings equivalent to 5 million barrels of oil per day.

However, achievement of any substantial savings through energy conservation will involve millions of individual decisions by American consumers and, in particular, by the business community. A major national commitment will be required by American business.

I hope that this Energy Conservation Crusade resolution will receive prompt consideration and vigorous implementation.

Mr. President, I ask unanimous consent to have printed in the RECORD, at this point in my remarks the names of the Senators who are cosponsors of this resolution.

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

Mr. Abourezk, Mr. Allen, Mr. Burdick, Mr. Byrd of Virginia, Mr. Case, Mr. Cannon, Mr. Clark, Mr. Gravel, Mr. Haskell, Mr. Hatfield, Mr. Huddleston, Mr. Humphrey, Mr. Jackson, Mr. Johnston, Mr. Laxalt, Mr. Magnuson, Mr. Mathias, Mr. McClure, Mr. McIntyre, Mr. Morgan, Mr. Muskie, Mr. Pearson, Mr. Pell, Mr. Ribicoff, Mr. Stone, Mr. Thurmond, Mr. Williams.

Mr. RANDOLPH. Mr. President, this sponsorship indicates that there is no partisanship whatever in this approach. We are not pointing the finger at anyone. Frankly, we are pointing our fingers at ourselves.

We all realize that an Energy Conservation Crusade with the Energy Conservation Month, will help us realize that we are challenged in a voluntary way to make this effort. Thus Americans can be made more aware that the problems related to the importation of oil from abroad can in a large measure be solved, by beginning our independence here, with the disciplines that we can build into our daily lives.

The resolution is in no way a gesture. If the President of the United States will proclaim this Energy Conservation Crusade, if he will designate the month indicated as Energy Conservation Month, and will call upon the American people, through his leadership, then we, through our cooperation, can do much in our hour of need.

Mr. President, I ask unanimous consent that the resolution be reprinted in the RECORD.

S.J. RES. 13

Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled, That it is hereby declared to be the sense of the Congress that wasteful energy consumption in the United States must be eliminated at this time when our country is experiencing unprecedented economic and energy problems and is faced with severe shortages of energy, and requests the President to issue a national proclamation calling for a National Energy Conservation Crusade and declaring the period from February 16 to March 15, 1977, as "Energy Conservation Month." In

the observation of Energy Conservation Month—

The President is called on to publicize information for government, industry, and consumer use on appropriate energy conservation measures and to direct the Federal establishment to institute all available actions to reduce energy consumption without reducing the level of essential services being provided to the American people;

Governors, county executives, mayors, and other responsible officials are called on to examine the activities of State and local government and wherever possible institute comparable measures to those of the Federal government to promote energy conservation;

Business and industry are requested to examine their energy consumption practices and institute measures to eliminate unnecessary energy consumption and improve efficiency of use of available energy supplies, to curtail ornamental lighting and nonessential lighted advertising, to adjust business hours to reduce energy consumption, and to modify building operating and maintenance practices to promote energy conservation; and

The American people are called on to take the initiative in conserving available energy supplies by observing the 55 mile per hour speed limit on highways, by reducing the use of energy to heat and cool homes, offices, schools, and commercial establishments, by increasing the utilization of mass transportation facilities, carpools, compact cars, and stick-shift motor vehicles, and by installing insulation in their homes.

SEC. 2. The President is requested to report to Congress by March 31, 1977, on the steps taken to promote energy conservation and their results and on any recommendations for legislation he believes necessary to implement a continuing program of energy conservation.

SEC. 3. The President is requested to report monthly to the American people and the Congress on the status of energy conservation initiatives and their effectiveness, domestic energy supplies, domestic energy shortages on the economy of and employment in the United States.

By Mr. GARN (for himself, Mr. BARTLETT, Mr. CURTIS, Mr. DANFORTH, Mr. EASTLAND, Mr. HATCH, Mr. HATFIELD, Mr. HELMS, Mr. LUGAR, Mr. PROXMIRE, Mr. YOUNG, and Mr. ZORINSKY):

Senate Joint Resolution 14. A joint resolution proposing an amendment to the Constitution of the United States for the protection of unborn children and other persons; to the Committee on the Judiciary.

By Mr. GARN (for himself, Mr. BARTLETT, Mr. CURTIS, Mr. DANFORTH, Mr. EASTLAND, Mr. HATCH, Mr. HATFIELD, Mr. HELMS, Mr. LUGAR, Mr. PROXMIRE, Mr. YOUNG, and Mr. ZORINSKY):

Senate Joint Resolution 15. A joint resolution proposing an amendment to the Constitution of the United States for the protection of unborn children and other persons; to the Committee on the Judiciary.

Mr. GARN. Mr. President, today I join with my colleagues, Senators BARTLETT, CURTIS, DANFORTH, EASTLAND, HATCH, HATFIELD, HELMS, LUGAR, PROXMIRE, YOUNG, and ZORINSKY, to introduce two life-protecting amendments to the U.S. Constitution. These amendments are identical to Senate Joint Resolutions 140 and 141, and Senate Joint Resolutions 10 and 11, which were introduced during the 94th Congress by Senator Buckley and many of the same cosponsors who join me today.

The amendments are essentially the same, although there is one potential major difference and several nuances which are related to style and drafting preferences. The potential major difference is found in the "private action" clause of the second proposed resolution. The language giving rise to the private action is found in section 2 and reads in relevant part, "No unborn person shall be deprived of life by any person . . ." This clause is important because it makes clear that the "right to privacy" upon which the Supreme Court based Roe against Wade and Doe against Bolton is subordinated to the right to life and permits "the Congress and the several States . . . to enforce [the amendment] by appropriate legislation" as provided by section 3 of the amendment without the requirement for "State action." The "private action" clause would therefore permit Congress to provide for Federal remedies against a private party—that is a doctor or hospital—permitting abortions contrary to the rights established by this amendment without regard to State involvement.

The first proposed resolution may also permit legislation aimed at private action. There is some precedent for this if such legislation is based on the "enforcement clause" of section 3.

It should be noted that both of these amendments provide an "exception clause" which clearly protects the rights of a mother whose death would be caused by continuation of the pregnancy. I believe a specific exception clause should be contained in any constitutional amendment designed to protect the right to life and that those amendments setting forth a specific clause of exception are preferable to those not containing such an exception and relying on the traditional legal doctrines of self-defense or legal necessity. There is some fear that without a specific exception clause in a constitutional amendment, the courts may overturn statutory enactments containing such clauses. This point can be clarified by requiring an exception clause. Also, the inclusion of the exception will increase the likelihood that the courts will interpret the amendment narrowly and not judicially enact exceptions not anticipated or desired by the Congress or the State legislatures which ratify the amendment. If exceptions to a human life amendment are to be limited to maternal lifesaving conditions, then that single exception should be clearly included in the language of the amendment itself.

Mr. President, while it is true that complexity and controversy surround many aspects of the human life amendment issue, I do not plan to present an extensive and detailed analysis at this time. This issue provokes high interest, intense emotion, and thoughtful analysis on both sides. The arguments cannot be adequately dealt with in an introductory speech and, indeed, it is my intention to cover here only a few of the most important questions raised by the proposed amendments, and then to briefly address myself to the question of why my colleagues and I are reintroducing them. The explanation will be relatively brief, but I trust it will go to the heart of the matter. Now, for some of the issues specifically raised by these amendments:

I do not believe that a States rights amendment is an adequate response to this country's present abortion law. One reason for that belief is that an amendment providing that the States may regulate abortion is unlikely, I think, to be on point with respect to Wade and Bolton. Suppose that a States rights amendment were ratified and that State X passed a restrictive abortion law and that such a statute were challenged in the courts of State X. The challenge could be based, for example, on the due process clause of the State's own constitution. As Prof. Robert M. Byrn has pointed out, in such a circumstance, the court may use Roe against Wade to invalidate the statute, reasoning that since the States rights amendment to the U.S. Constitution neither first, amended the State's constitution nor second, provided a Federal constitutional right of unborn children to live, that its decision must be based on the earlier U.S. Supreme Court precedents of Wade and Bolton.

The foremost reason, however, that I find a States' rights amendment inadequate is that it fails to account for the superior value of the right to life—a value which must not be subordinated to lesser claims, a right which should be protected by the supreme law of the land, a right which rises above the legitimate claims which are made in our federal system for "States' rights." I believe, and my belief is supported by a long history of rational humanitarianism and Judeo-Christian ethics, that certain rights are supreme and unalienable. There is no greater phrase in the political literature of this country than Jefferson's—

> We hold these truths to be self-evident, that all men are created equal, that they are endowed by their creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness."

One of the purposes of our Constitution is to recognize such noble rights and to codify them on our highest jurisprudential plane—to withdraw them and protect them from the vicissitudes of political controversy. The right to life must be cherished and protected because it is the right upon which all other rights are predicated. Who can dispute the fact that any other right is insignificant and, in fact, a nullity, unless it is preceded and founded on the right to life.

It has been alleged that a human life amendment such as those I am introducing, will disrupt American constitutional, property, tort, and other law. Let me emphasize that these amendments are carefully drafted to protect an unborn person's "right to life." The amendments refer to the 5th and 14th amendments to the Constitution, in which a right to life is inherent. I do not expect significant change in the tort and property rights of the unborn; there is no reason that a human life amendment would require that such rights be diminished or enlarged. It is well to re-

member in this regard that many of the limitations on tort actions with regard to the unborn are based on difficulties of proof rather than on a conclusion that the unborn child is not a being to whom legal duties are owed. Objections to the amendment on grounds that it will change requirements for census and congressional apportionment are without merit. These legal objections and others have been raised and rebutted and, as with other legislative questions, will never obtain a definitive answer until a court writes a definitive decision. Some apparently need to be reminded, however, that there is no basis in legal precedent or legislative intent to do other than protect the lives of the unborn. No one can say with certainty what a generation of judges may conclude on particular points that will be litigated, but we can make our intentions clear and support those intentions with law and reason. I believe the proponents have met this responsibility.

Some opponents of a human life amendment have alleged that all illegal abortions will become first degree murder if an amendment is ratified. I will again rely on Professor Byrn's research to refute such a claim. First, the law recognizes "degrees of evil" or degrees of malice. A State may exercise its police powers with discretion and it may single out certain classes of defenders for special treatment. There is extensive precedent showing that States have concluded that killing an unborn child is deserving of different punishment than killing a child after birth. State courts have also spoken of the life of an unborn child as "sacred and unalienable," yet they were not compelled to treat abortion as first degree murder. While it is true that legislatures have latitude in exercising their judgment, it must be remembered that the downgrading of a homicide from first degree to some other degree is not founded on any conclusion that a victim or class of victims are less than human beings. Legislative distinctions are based on degree of malice and public policy. The public policy aspect of such decisions may be illustrated by those homicide statutes exacting a more severe penalty for killing a policeman or a penal officer than for killing some other person.

It must be emphasized that although legislatures will be granted their traditional degree of discretion in grading homicides, a human life amendment will not permit a legislature to circumvent the clear intent of the amendment by enacting "farsical, grossly disproportionate and obviously inadequate penalties." The courts can be expected to pierce any veil of superficial compliance which denies the class of unborn persons the equal protection of the laws with regard to the right to life. Legislatures may legitimately downgrade the crime for rational reasons; they may not remove an entire class of persons from the protection of the law.

The related area of the effect a human right amendment would have on the rights and liabilities of women has also raised many questions, and justifiably so. Proponents of human life amendments are often accused of focusing solely on the fetus and never on the woman. This is an unjustifiable accusation. The rights, privileges, immunities, and protections of the law for women are of great concern to each sponsor of these amendments and similar amendments. It is unfortunate that some opponents have made right to life a "woman's" issue Our only intention in introducing and promoting a human life amendment is to expand to all human beings coming within the jurisdiction of the United States a right to life, irrespective of sex, race, political power, or any other criteria.

Generally, and in brief, rights of women under a human life amendment will be what they were in a State with restrictive abortion laws prior to Wade and Bolton. Some States penalized the woman consenting to an illegal abortion and others did not. There is no reason to believe that she will be subject to increased civil or criminal liability. Women's rights will likely be adjudicated in the same context in which homicide choices are made, and which are discussed above. Legislatures will have discretion in enacting legislation to effectuate purposes of the amendment, but legislatures will not be permitted to ignore the language and intent of the ratified amendment.

It is a widely held belief that if there is going to be equality between the sexes that a woman ought to be able to use her body in any manner she sees fit It is argued that a woman should be free to either carry the fetus to birth or to abort the unborn child, and that such a decision should be completely personal.

This argument has a certain appeal because we are all interested in maintaining personal privacy and personal integrity with decisions uncoerced by government. But the fetus is not just another part of a woman's body. The fertilized ovum which develops into a separate living human being cannot be considered a mere appendage to the woman's body. The columnist George Will recently said, the abortion issue is "being trivialized by Cant about 'a woman's right to control her body.' Dr. Leon R. Kass—a University of Chicago biologist—notes that 'the fetus simply is not a mere part of a woman's body. One need only consider whether a woman can ethically take thalidomide while pregnant to see that this is so.' Dr. Kass is especially impatient with the argument that a fetus with a heartbeat and brain activity 'is indistinguishable from a tumor in the uterus, a wart on the nose, or a hamburger in the stomach.' But that argument is necessary to justify discretionary killing of fetuses on the current scale, and some of the experiments that some scientists want to perform on live fetuses.

". . . Abortion advocates become interestingly indignant when opponents display photographs of the well-formed feet and hands of a 9-week-old fetus. People avoid correct words and object to accurate photographs because they are uneasy about saying and seeing what abortion is. It is not the 'termination' of a hamburger in the stomach."

Abortion-on-demand must not be equated with the advancement of the women's movement. On the contrary, abortion is an exploitation of the very dignity of womanhood. Permissive abortion makes possible the ultimate degradation of women. Fortunately, growing numbers of women are coming to this realization and groups of "feminists for life" are springing up around the country as women strive for equal rights and the protection of innocent life.

Another issue that has been raised regarding a human life amendment is the effect such an amendment would have on the poor. Again, this is a legitimate concern and one which must not be ignored. This country is dedicated to providing equal justice under law and to providing equal opportunities for the poor. These are noble goals.

It is often alleged that if a human life amendment is passed the rich will continue to have their abortions while the poor will be prevented from doing so. Even if this were true, it is irrelevant. This country cannot predicate its laws upon the practices of the wealthy, particularly when such practices deprive humans of their lives. "Equal justice under law" does not mean that the legislatures and the courts must legitimize the foibles, attitudes, and evils of the rich. The rich can obtain "quicky" divorces in foreign countries; they can fly to Las Vegas and gamble; they can obtain the best drugs; they can commit innumerable follies because of their wealth. There is no requirement to legalize such folly and, indeed, legislatures and courts have a responsibility to protect society from such errors. This point is made even more powerful by the fact that in the area of abortion we are dealing with human life.

I wish we would no longer hear that the standard of the decadent wealthy ought to be the standard for all, but I am afraid the argument will continue. In fact, it is now being argued that the Federal Government has a responsibility to pay for such decadence.

I will conclude this first part of my presentation, Mr. President, with reference to the charge that a human life amendment will have the effect of enacting religious dogma into law. I reject such a claim, but let me briefly address it. The Supreme Court has said that for a statute to "pass muster under the establishment clause" the law in question must first reflect a clearly secular legislative purpose; second, have a primary effect that neither advances nor inhibits religion; and third, avoid excessive Government entanglement with religion. I think this is a fair test also for a constitutional amendment and I believe there is no conflict between this test and a human life amendment.

Can any of us think of a legislative purpose more legitimate—and certainly secular—than the protection of innocent human life? If such a purpose is impermissibly shot through with religious dogma, then what will become of our criminal laws? Will it soon be alleged that homicide statutes are so rooted in religious tradition and teaching that they are constitutionally impermissible? Such an assertion would simply be nonsense

and the analogy to the abortion situation should be unmistakable.

It is difficult to see how a human life amendment would have a primary effect that either advances or inhibits religion. We are aware of the long lists of religious groups that favor permissive abortion because such lists have frequently been read on the floor of the Senate. If I were to follow the simplistic arguments of some who invoke the first amendment's establishment and free exercise clauses to oppose a human life amendment, I could argue that the Supreme Court's decision was constitutionally impermissible because of the large number of religious groups which favor it. Such an argument ignores secular reality and the constitutional truth that a law which has a valid secular purpose will not be struck down because it coincidentally embraces a religious view. Have we now reached the point where we shy from legislation based on moral principle? Will morality be rejected as a basis for American law? I hope not, for it must not. American law cannot be devoid of conscience.

Now that I have dealt with some of the particular issues raised by a constitutional amendment, I will address myself to a few facts and beliefs which impel my colleagues and me to support a human life amendment. Let me begin with evidence which I believe clearly shows the need for the law to protect the lives of the unborn as vigorously as it protects the lives of the born. The first piece of evidence is provided by a fetologist, a developmental biologist, an obstetrician-gynecologist, and a cytogenicist, and their statements may be found in the jurisdictional statement of the appellant in Byrn against New York City Health and Hospitals Corporation.

The jurisdictional statement compared an 8-week, "unquickened," "nonviable," unborn child—the unborn—a typical candidate for abortion—with an 8-day newborn—the newborn. The composite picture was set out in the affidavits as follows:

1. The newborn is genetically human; so is the unborn.

2. The newborn is genetically complete, unique and distinguishable from his mother; so is the unborn.

3. The newborn has a strongly beating heart pumping blood through his own circulatory system which is distinct from that of his mother; so does the unborn. The newborn's blood can be separately grouped; so can the blood of the unborn. The newborn can bleed; so can the unborn. The blood pressure and heart rate of the newborn are measurable; the same is true of the unborn. One of the indicia of human death is the irreversible cessation of the spontaneous functioning of the circulatory system. Conversely, the presence of spontaneous circulation signifies the presence of life. Both the newborn and the unborn are alive.

4. The newborn possesses a well-developed (though not completely developed) brain; so does the unborn. The brain of the newborn sends out impulses which are recordable on an EEG; but the same is true of the brain of the unborn, and there is substantial evidence that conscious experience is possible for the latter as well as the former. Another of the indicia of human death is the irreversible cessation of the cerebral function as evidenced by a flat EEG. Conversely, the presence of recordable brain impulses signifies the presence of life. Both the newborn is connected by an 'umbilical cord' to the 'mother' ship and if the cord should be cut the (nonviable?) astronaut dies and the mission is said to have been 'aborted'. Earthbound human beings may also be dependent on substitute life support systems—the newborn is an incubator, the intravenously-fed adult in an oxygen tent. Yet withal, they are live human beings—as is the unborn.

"(c) The newborn is not a part of his mother; neither is the unborn. The baby is never a part of the mother. In the biological sense, he is always a complete individual. An abortive act leaves the mother entire and whole and simply removes the baby from the life support system she had provided.'[62] (Developmental biology.) 'This emphasizes the biological separateness of the baby and the mother since the baby has a completely difference set of blood groups . . . .'[63] (Fetology.) 'Its existence is a biologically separate-existence from that of its mother.'[64] (Cytology-cytogenetics.) The unborn has his own 'individuality'.[65] (obstetrics-gynecology.)

"(d) Whether or not an individual is a live human being in fact does not depend on the number of people who are hypothetically and atlernatively available to provide him with nourishment and a healthful environment. There is no basis in science or elsewhere for the proposition that the more specifically dependent an individual is, the less human he is."

11. The newborn has been born; the unborn has not been born. But "[t]he life history of an individual is a genetic and biological continuum in which intra-uterine existence and birth are only events." "The prenatal period is now biologically regarded as part of the total lifetime of an individual. To a biologist birth is merely an event in an individual's total life." Puberty, too, is an event but the child before puberty is no less a live human being.

12. Quickening, viability, birth—none of these will make the unborn more alive, more human, more individual, or more in being—more of a living human baby—than he is at eight weeks. From this point of view, infanticide of the newborn and abortion of the unborn are indistinguishable.

13 Nor are the newborn, at eight days postnatal age, and the unborn, at eight weeks prenatal age, any more human, alive, or in being than younger unborn children. For instance, the unborn of four weeks gestational age, "has developed distinct organ situations with a beating heart and blood circulation." "Various tissues are interacting, one with another, and the result is a physiologically well-functioning total." "The primary brain is present . . . and shortly the fore-brain ultimately leading to the cerebral cortex, the highest and best developed region of the brain, will appear The baby now has its own blood and circulatory system and does not exchange blood with the mother."

14. Neither can the unborn of less than four weeks gestational age be called anything less than a live human being:

"My efforts have been directed primarily in the area of developmental physiology, molecular embryology and genetic theory. My work includes examination of the interaction of genes in the human individual. The moment of fertilization is, strictly speaking, the point wherein the sperm nucleus coalesces with the female nucleus in the ova. At that moment a new individual's life has commenced. Its genetic endowment is complete, determined, unique and distinguishable from the genetic endowment of the mother.

"Genetically and biologically, there is complete separability between the mother and the new individual The mother's role from that point is to provide nourishment and safe environment until birth. The life history of an individual is a genetic and biological continuum in which intra-uterine existence and birth are only events."

One of the most compelling statements in the affidavits supporting the jurisdictional statement came from the fetologist who said sometimes the unborn child receives intrauterine blood transfusions and that the unborn child "receives all the care and attention that any baby would receive after birth. In a real sense, these babies are my patients, indistinguishable in the womb from when they are born."

I find this short but thorough comparison between the unborn and the born powerful and compelling.

The important link between the medical facts and their necessary moral and legal implications has also been excellently expressed by Dr. Andre Hellegers, Director of the Kennedy Institute for the Study of Human Reproduction and Bioethics. Dr. Hellegers said:

. . . That the fetus is alive and not dead is undoubted. If it were dead, abortions would not need to be performed and there would be no child to raise. That the fetus is biologically human is also clear. It simply puts it into a category of life that is different than the cat, the rat or the elephant. So the human fetus represents undoubted human life and genetically it is different than any other animal life.

But I think what those who do not oppose abortion mean to actually convey is that this life is not sufficiently valuable to be protected. It has no value, no dignity, no soul, no personhood, no claim to be protected under the Constitution. That is not a biological question. That is a value issue. The issue hidden under such language as 'meaningful' life or 'potential' for life, or 'quality' of life. What is at stake goes far beyond the issue of abortion. The question is this: are there to be live (not dead) humans (not rats, cats, etc.) who are to be considered devoid of 'value', 'dignity', 'soul', meaningfulness', 'protection under the Constitution' or whatever phrase or word by which one wants to describe the inclusionary or exclusionary process?

"This is fundamentally why I am opposed to abortion. It is because it attaches no value to live biological human entities . . .

As the evidence continues to grow, I am gratified to see people of good faith change their attitudes toward abortion. One of the most notable of these is Dr. Bernard Nathanson, M.D., who once headed the Center for Reproductive and Sexual Health. Good Housekeeping called the center "the busiest licensed abortion facility in the Western World—where—from eight in the morning until midnight, 7 days a week, doctors working in 10 operating rooms performed vacuum aspirations on an endless parade of pregnant wombs. In peak months, more than 3,000 patients paying $150 apiece passed through."

After a long day at work, Dr. Nathanson faced himself in the mirror and remembers:

I said to myself: "All that propaganda you've been spewing out about abortion not involving the taking of human life is nonsense. If that thing in the uterus is nothing, why are we spending all this time and money on it?"

I became convinced that as director of the clinic I had in fact presided over 60,000 deaths.

He elaborates: "As early as six weeks we can detect heart function in embryos, with an electrocardiograph. We can record brain activity at eight weeks. Our capacity to measure signs of life is becoming more sophisticated every day, and as time goes by we will undoubtedly be able to isolate these signs at earlier and earlier stages in fetal development. To vehemently deny that life begins when conception begins is absurd!

The product of conception is a human being in a special time of its development, part of a continuum that begins in the uterus, passes through childhood, adolescence and adulthood, and ends in death. The fact that a fetus depends on the placenta for life and can't survive independently doesn't nullify its existence as a human being. A diabetic is wholly dependent on insulin, but that doesn't make him less human.

I had to face that fact that in an abortion, human life of a special order is being taken.

Finally, I quote from an editorial of California Medicine, the official journal of the California Medical Association. The editorial points to the relationship between medical knowledge and ethics and renders a precise and concise explanation of an emerging ethic which abandons intrinsic human worth and substitutes a graduated scale of "meaningfulness."

In defiance of the long held Western ethic of intrinsic and equal value for every human life regardless of its stage, condition or status, abortion is becoming accepted by society as moral, right, and even necessary. It is worth nothing that this shift in public attitude has affected churches, the laws and public policy rather than the reverse. Since the old ethic has not yet been fully displaced it has been necessary to separate the idea of abortion from the idea of killing, which continues to be socially abhorrent. The result has been a curious avoidance of the scientific fact, which everyone really knows, that human life begins at conception and is continuous whether intra- or extra-uterine until death. The very considerable semantic gymnastics which are to rationalize abortion as anything but taking a human life would be ludicrous if they were not often put forward under socially impeccable auspices. It is suggested that this schizophrenic sort of subterfuge is necessary because while a new ethic is being accepted the old one has not yet been rejected.

The medical evidence is overwhelming. The "thing" that is aborted is a tiny, helpless, developing human being. All other considerations must be subordinated to this fact. Privacy cannot be more important; convenience cannot be more important; the elimination of poverty cannot be more important; nor can any other concern override what must be our preeminent concern—life. Not the "quality of life," but existence itself. Not the "meaningfulness of life," but being itself. Life, existence, being: That essence upon which all rights are dependent must itself be reenshrined as a constitutional right because of the blindness of the court.

It has been said that the essence of civilization is the "agreement together in concord and amity respecting certain moral values." This common morality is frequently expressed in terms of law, and in law frequently in terms of "rights." We accept the premise that there are certain fundamental, inalienable rights which attach to human beings without regard to station or status in life. The just society attempts to define and secure such rights and to do so broadly and evenly.

As with other civil rights issues, what is at stake is the practical application of the right to life and all that right carries with it. Theory and sermons about rights and justice and equality are fine, but we are increasingly coming to the point where we deny in practice what we pronounce in theory. "The principle which has animated our society and which has a ring of absoluteness about it is that innocent human life may never be taken. That is something which is violated in practice, but which has never been violated in theory." Now, however, even the theory is being violated. The growing numbers of aborted babies which now reach into the millions, and the growing elective-abortion mentality are stabbing that animating principle. A human life amendment is intended to stop the assault on that principle and heal its wound.

Regarding the right to life, we may paraphrase a statement by Sir Patrick Devlin, a distinguished English judge:

It has got there because it is moral—but it remains there because it is built into the house in which we live and could not be removed without bringing it down.

The right to life is a great beam which runs through the house of this Republic and of all societies justly seen as good and worthy of imitation. I fear for the stability of the structure if that beam is removed. If the beam should be removed and the walls still stand are those who live therein safe?

Norman St. John-Stevas, M.P., has made the following conclusion which I find precise: "The acceptance of this concept—that is, the right to life—by the law has made a profound difference to our society. It is the premise not only of liberty, but perhaps even more of equality, and, above all, of fraternity. There have been, we should recall, other legal systems which have consigned the right to life to a class, and have excluded whole sections of society from its application. The great slave empires of the past—the Greek and Roman empires—were examples of such societies. We have had the recent example of the Third Reich of Hitler, which was based on the limited idea of the right to life." Today, great as well as insignificant countries are engaged in conscientious efforts to deprive their citizens of basic human rights, including the right to life.

It is the challenge of America to set the world's standard for human rights—a standard at once historical and timely, noble and egalitarian; a standard to which good men and women everywhere may rally; a standard based on the inalienable rights of life, liberty, and the pursuit of happiness—a human life and a human rights standard, a standard now requiring the ratification of a human life amendment and a standard to which we invite all to adhere.

ADDITIONAL COSPONSORS

S. 4

At the request of Mr. DOLE, the Senator from Florida (Mr. CHILES), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Maryland (Mr. SARBANES), the Senator from Wyoming (Mr. HANSEN), and the Senator from Nevada (Mr. LAXALT) were added as cosponsors of S. 4, to amend the Internal Revenue Code.

S. 21

At the request of Mr. DOMENICI, the Senator from Alabama (Mr. SPARKMAN) was added as a cosponsor of S. 21, to amend the Occupational Safety and Health Act of 1970.

S. 82

At his own request, the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 82, to amend title 18, United States Code.

S. 94

At the request of Mr. HOLLINGS, the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor of S. 94, the Postal Reorganization Act Amendments of 1977.

S. 146

At the request of Mr. GOLDWATER, the Senator from New Jersey (Mr. CASE) and the Senator from New York (Mr. JAVITS) were added as cosponsors of S. 146, to repeal the earnings limitation of the Social Security Act.

S. 170

At the request of Mr. HUMPHREY, the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of S. 170, to amend the Comprehensive Employment and Training Act.

S. 242

At the request of Mr. CHURCH, the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor of S. 242, relating to the determination of nonexcess acreages under Federal reclamation laws.

S. 243

At the request of Mr. NELSON, the Senator from Georgia (Mr. NUNN) was added as a cosponsor of S. 243, to amend the Small Business Act and the Small Business Investment act.

S. 256

At the request of Mr. PEARSON, the Senator from West Virginia (Mr. RANDOLPH) was added as a cosponsor of S. 256, the Natural Gas Act Amendments of 1977.

S. 257

At his own request, the Senator from Kentucky (Mr. FORD) was added as a cosponsor of S. 257, to establish incentives for energy conservation.

S. 260

Mr. DOMENICI. Mr. President, I ask unanimous consent that I be made a cosponsor of S. 260, a bill to amend title 18, United States Code, so as to impose mandatory minimum terms with respect to certain offenses.

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

Mr. DOMENICI. Mr. President, while I have some questions that the specific minimum sentences imposed in sections 4 through 7 of this bill may be too short, I am confident that the hearings on this bill will focus and resolve this question. Further, Mr. President, I feel very strongly that this type of legislation is necessary as an important part of our attempt to curb the soaring rise of violent crime. I, for example, have already introduced in this session S. 31, which provides for a separate and consecutive sentencing in felonies involving the use of firearms. Section 3 of S. 260 is almost identical to my S. 31.

Mr. President, in my view, the concept of minimum mandatory sentences needs to be quickly implemented and S. 260 is clearly a step in the right direction in our attempts to legislate comprehensive reform of our criminal justice system.

S. 268

At the request of Mr. LEAHY, the Senator from Minnesota (Mr. ANDERSON) was added as a cosponsor of S. 268, to establish an office relating to the fuel and energy needs of rural residents.

S. 273

At his own request, the Senator from Kentucky (Mr. FORD) was added as a cosponsor of S. 273, a bill relating to energy conservation.

S. 325

At the request of Mr. GLENN, the Senator from Minnesota (Mr. HUMPHREY), the Senator from Ohio (Mr. METZENBAUM), and the Senator from New Hampshire (Mr. MCINTYRE) were added as cosponsors of S. 325, relating to the allocation of natural gas.

S. RES. 43

At the request of Mr. JACKSON, the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of Senate Resolution 43, disapproving Energy Act No. 8.

S. RES. 44

At the request of Mr. JACKSON, the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of Senate Resolution 44, disapproving Energy Act No. 9.

SENATE RESOLUTION 48—ORIGINAL RESOLUTION REPORTED RELATING TO THE RELEASE OF ABU DAOUD

(Placed on the Calendar.)

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

S. RES. 48

Resolved, That it is the sense of the Senate that the release of Abu Daoud, a known terrorist who is accused of planning the murder of Olympic athletes in Munich in 1972, is harmful to the efforts of the community of nations to stamp out international terrorism.

SEC. 2. It is further the sense of the Senate that the United States should consult promptly with France and other friendly nations to seek ways to prevent a recurrence of a situation in which a terrorist leader is released from detention without facing pending criminal charges in a court of law.

SENATE RESOLUTION 49—SUBMISSION OF A RESOLUTION RELATING TO INTERNATIONAL ENVIRONMENTAL IMPACT STATEMENTS

(Referred to the Committee on Foreign Relations.)

Mr. PELL. Mr. President, last August 25 I introduced Senate Resolution 521 urging that the United States seek the agreement of other governments to a treaty requiring the preparation of an International Environmental Impact Statement for any major project, action, or continuing activity which may reasonably be expected to have a significant adverse effect on the physical environment or environmental interests of another nation or a global commons area. It was not possible for the Senate to act on that resolution because of the crowded calendar at the end of the 94th Congress. Accordingly, I am introducing my resolution again today.

Last December 10, the United Nations General Assembly approved by a 96-to-8 vote—with 30 abstentions—a draft treaty to ban the use of environmental modification techniques in warfare. This development is a great source of satisfaction to me, as this treaty appears to have come about as a result of Senate Resolution 281, including a draft treaty, which I introduced in 1972. That resolution was endorsed unanimously by the NATO North Atlantic Assembly on November 21, 1972, and, after being reintroduced as Senate Resolution 71, passed the Senate on July 11, 1973 by a vote of 82 to 10. With the entry into force of that treaty, a major step forward will have been taken to insure that the emerging sciences of environmental modification will be used solely for peaceful purposes to benefit mankind. But the dedication of most of the nations of the world to peaceful uses of environmental modification techniques—weather and climate modification for example—by itself will not insure that such techniques will be employed in such a way as not to cause harm to or even wreak devastation on another nation or on a global commons area such as the oceans even if there is no aggressive military motive involved.

Similarly, and perhaps more important, large-scale economic projects—for example, dams, canals, nuclear reactors, waste disposal systems and the clearing of virgin jungle and tropical rain forest land for agricultural development—could have unintended or unforeseen effects of a significant nature beyond the borders of the countries in which these projects are being conducted. In the most extreme case, a nation may adopt a self-serving policy and undertake a project for nonmilitary purposes knowing full well that it could have disastrous environmental consequences for a neighboring country.

That is why I am introducing today a Senate resolution calling upon the President to take the initiative in proposing multilateral negotiations on a treaty which would require the preparation of an international environmental impact statement for any activity which may reasonably be expected to have a significant effect on the environment of other nations or a global commons area. In the draft treaty which accompanies my resolution, no activity likely to have a significant environmental impact outside the borders of the conducting state may go forward until the office of the United Nations Environment Program—UNEP—and any other affected party to the treaty have an opportunity to make their views known. Neither

UNEP nor the government of an affected country could stop a state from conducting such an activity, but consultations would be required with a view toward finding ways to prevent or minimize the adverse environmental consequences across international boundaries.

A treaty along the lines of the one I have suggested would establish the principle that environmental modification activities cannot be carried out without considering the consequences of such activity beyond a nation's own territory.

The need for such a treaty has already been foreseen in part in Public Law 94–490, the National Weather Modification Policy Act of 1976 which became law on October 13, 1976 and of which I am proud to be a cosponsor. That act calls for the information of a national weather modification policy and program and requires the Secretary of Commerce to make recommendations for any legislation which may be required to implement such a policy and program "or for any international agreement which may be appropriate concerning the peaceful uses of weather modification." This act also states that it is the purpose of the Congress that one element in a national weather modification policy should be "to develop both national and international mechanisms designed to minimize conflicts which may arise with respect to the peaceful uses of weather modification."

More broadly speaking, the need for an international environmental treaty is based on the expectation that science and technology are going to be increasingly looked to for solutions to the problems of meeting the food, energy, resource, and transportation needs of a rapidly growing world population. Futurologists are already telling us that parts of the world are being transformed into postindustrial societies with "technotronic" economies far different from the kind of industrial economies we have known in the past. At least one eminent member of this fraternity, Herman Kahn, has stated recently that technology will make it possible for our planet to support a population of some 15 billion by the year 2176—or about four times the current world population—in reasonable comfort.

I am concerned, however, that the world will become so dazzled by and committed to technological solutions to problems without having a clear idea as to the totality and predictability of the effects which will be brought about in the environment. In an increasingly crowded and interpendent world, any misconceived or badly controlled application of technology is likely to have far-reaching—and often uncertain—effects on many parts of the world.

Mr. President, I would now like to cite some examples of the kinds of activities—some far in the future, some of a more here-and-now nature—which ought to be carefully scrutinized and to which world opinion ought to be brought to bear.

The examples which I wish to cite fall roughly into six general categories: transportation, energy production, resource development including sources of energy, waste disposal, disaster prevention, and food production.

Under the first category, transportation, if new canals are to be built—and from time to time there is talk of new canals being built through Central America and across the Kra Isthmus shared by Malaysia and Thailand—thought must be given to the effects of the interchange of marine systems created by the new waterways. In building the Suez Canal, engineers and government officials apparently gave no thought to the effects of mingling Red Sea and Mediterranean marine life. The hybridization of Red Sea and Mediterranean sardines has, for example, produced a smaller, less commercially attractive species. Similar considerations are involved in contemplating the building of oil and gas pipelines in the Arctic, in jungles, and perhaps also on the sea bottom.

In the field of energy production, the location of a nuclear powerplant near the border of another nation could, in the event of an accident or bad construction, cause radiation damage in the neighboring country or thermal pollution as water used for cooling is released into a lake, river, or estuary shared by several nations. Similarly, the construction of a dam to generate electricity could, as in the case of the Aswan Dam, greatly upset the marine ecology downstream. In the case of the Aswan Dam, the cutoff of nutrients flowing from the Nile into the Mediterranean has reduced the sardine catch in that sea to 3 percent of its pre-1965 level according to one authority.

The development of new mineral and energy producing resource supplies is proceeding apace. Deep sea mining for manganese nodules could begin on a large scale in the next 5 years, and the capacity for oil exploration companies to drill farther and farther out to sea is also increasing. But what changes will such activities create in the delicate ecologies of the deep seabed and the superjacent waters? Similar considerations are involved if mining is undertaken in Antarctia.

The disposal of wastes of all kinds, human as well as industrial, is going to be one of the major concerns of governments in the future as populations and economies expand. If a system of international environmental impact statements had been in effect 25 years ago, governments may have looked more seriously at alternatives to proposals to dump sewage at sea, chemicals into international rivers, and permit the construction of plants which rain acid on their neighbors.

Looking to the future, I am concerned about where the mounting radioactive wastes from nuclear powerplants are going to be dumped. I am also concerned about the consequences of the world's shipping fleets continuing to have accidents such as the one involving the Liberian tanker *Argo Merchant* off Nantucket Island and to dump into the oceans the quantities of oil permitted under the 1954 Convention for the Prevention of Pollution of the Sea by Oil. The world's merchant marine fleet has grown from 14,600 vessels with a tonnage of 121,900,000 in 1954, when the pollution convention was adopted, to 22,900 vessels and 556,600,000 tons in 1975. A Soviet scientist working for the U.N. recently reported that an oil slick on a square mile of water may reduce evaporation by as much as 50 percent, and the reduction of evaporation caused by oil slicks may help to explain current drought conditions throughout the world. I fear, also, that supposed antidotes to air and water pollution may be developed, the use of which may result in the cure being worse than the disease.

Preventing natural disasters is an age-old quest of man who has employed both shamans and science in an effort to escape the destructiveness of storms, drought, earthquakes, and floods. While the possibility of dealing effectively with these phenomena is currently either nil or uncertain, storm-steering, the release of geological tensions and modulation of precipitation may be possible in the future, but the confinement of the results of such activities to one nation may be impossible.

Finally, vast modifications of the environment could take place as part of the effort to feed the world's hungry. As one eminent scientist said recently,

> We have to find in the next 25 years, food for as many people again as we have been able to develop in the whole history of man 'til now.

The pressure of population growth could cause tropical nations to develop projects for the clearing of rain forests to create agricultural land without regard for what such activity might do to the ecology of an entire river valley in which many nations have an interest. As an example, the careless clearing and use of such land could lead to the formation of laterite, a brick-like substance which contributes to an increase in the run-off of rain and, therefore, flooding. Also, a country in a dry region may, in an attempt to increase food production, be tempted to steal rain by seeding clouds which normally drop rain over other countries as well.

More ominously, projects may be undertaken to counter the impact on food production if the cooling trend which climatologists have detected continues. If they are correct in their predictions of a return to the cooler climate which prevailed in the 17th to the 19th century, within two decades a shorter growing season would drastically restrict grain production in the high latitude areas such as Canada, the Soviet Union, and Northern Europe; and more frequent monsoon failures in South and Southeast Asia would significantly reduce output there. According to a 1974 unclassified CIA report based on a study by the University of Wisconsin, India would have a major drought every 4 years and could support only three-fourths of her

present population, China would have a major famine every 5 years, the Soviet Union would lose Kazakhstan for grain production, and Canada would lose over 50 percent in production capability and 75 percent in grain exports. Northern Europe would lose 25 to 30 percent of its present production. All told, as many as half a billion people could starve in the next two decades or so.

The recent droughts in the African Sahel region and in Western Europe have already generated speculation and anxiety about changes in the world's weather patterns. If nations perceive that the climatologists' predictions are correct, they may be tempted to take matters into their own hands and attempt to counteract the cooling trend and avoid the disastrous effects on their food production capability. One scheme to accomplish this is the melting of the polar ice cap. The ice that floats on the Arctic Ocean caps the vast moisture of that body and makes the polar area 20 degrees colder, because of reflected sunlight, than it would normally be if the ocean ice were melted. One way to melt the ice cap would be to divert southward the rivers in the Soviet Union that now bring fresh water, which freezes faster than salt water, into the Arctic Ocean.

The problem with such a scheme is that while the higher latitude areas of the world would be warmed, the totality of the effects produced are not known. For example, the entire grain production area of the Northern Hemisphere could be shifted substantially northward.

A more extreme approach to countering the cooling trend would be to melt continental glaciers which, unlike melting the Arctic Ocean ice cap, would add water to the ocean and flood coastal cities.

In proposing this treaty requiring international environmental impact statements, it is my intent to raise international consciousness as to the threats to the environment inherent in the search for technological solutions to such problems as food, energy, and climate change. Now is the time to begin the process of establishing international rules of the game in the field of environmental modification. By requiring international environmental impact statements—in effect internationalizing the basic elements of the National Environmental Policy Act in this country—it is my hope that the need for further international agreements and institutions to protect the world environment will be demonstrated. In the meantime, it is my hope and intention that the requirement for international environmental impact statements will serve to make governments and corporations more cautious in proceeding with projects which have significant environmental effects and to give serious consideration to alternatives.

Mr. President, twice before in the past decade I was involved in efforts to reverse the normal constitutional procedures by introducing resolutions calling upon the executive branch to negotiate treaties along the lines of draft texts included in those resolutions. In 1967 I introduced Senate Resolution 186 proposing a treaty governing the activities of nations in ocean space. Then in 1972, as I mentioned earlier, I introduced Senate Resolution 281 urging a U.S. initiative to seek negotiations for a ban on the use of environmental modification techniques in warfare.

The administrations of the day initially scorned both proposals but eventually came to recognize the merit in them. The ocean space resolution was followed in 1972 by the conclusion of a multilateral treaty banning the emplacement of nuclear weapons and other weapons of mass destruction on the seabed, and by the convening in 1973 of the Third Law of the Sea Conference which is still underway. The environmental warfare resolution led to treaty negotiations which began in 1975 and concluded successfully last year.

Today, I urge my colleagues to join me in a third effort.

In closing, I would like to share with my colleagues a statement which former EPA Administrator Train made during a May 5, 1976 Foreign Relations Committee hearing on the world environment. Although his remarks were unconnected with my current resolution, the treaty I am proposing is consistent with what he said. Mr. Train stated that:

> Increasing international cooperation on safeguarding our lifesupport systems is an urgent necessity. The alternative is to set back and wait for global disaster to overtake us. International environmental cooperation must be an integral part of American foreign policy.

Mr. President, I ask unanimous consent that the text of my resolution on a treaty to require international environmental impact statements be printed in the RECORD.

S. RES. 49

Whereas there is a vast potential for human betterment through those projects, actions, and continuing activities that modify the Earth (its land, its water, and its atmosphere) in environmentally sound ways that are consistent with the Earth's natural ecology and under careful controls designed to avoid or minimize any adverse environmental effects; and

Whereas there is potentially great danger to the world ecological system and to the well-being of individual nations if such activities are not controlled or conducted with sufficient regard to their potentially adverse effects on the physical environment or environmental interests of other nations or a global commons area: Now, therefore, be it

Resolved, That it is the sense of the Senate that the United States Government should seek the agreement of other governments to a treaty along the following general lines.

"The Parties to this Treaty,

"Recognizing the vast potential for human betterment through those projects, actions, and continuing activities that modify the Earth (its land, its waters, and its atmosphere) in environmentally sound ways that are consistent with the Earth's natural ecology and under careful controls designed to avoid or minimize any adverse environmental effects; and

"Aware of the great danger to the world ecological system and to the well-being of individual nations if such activities are not controlled or conducted with sufficient regard to their potentially adverse effects on the physical environment or environmental interests of other nations or a global commons area,

"have agreed as follows:

"ARTICLE I

"(1) No State shall undertake, nor permit to be undertaken, any major project, action, or continuing activity within its territory, the territory of another State, or upon any global commons area, as defined by conventional and customary international law, which may be reasonably expected to have a significant adverse effect on the physical environment or environmental interests of another State or States Party to this Treaty or on a global commons area unless these activities are carried out in accordance with the provisions of this Treaty.

"(2) No State shall undertake, nor permit its nationals or others subject to its jurisdiction or control to undertake activities referred to in paragraph 1 unless such activities are carried out in accordance with the provisions of this Treaty.

"(3) Before authorizing an activity referred to in paragraph (1), a Party to this Treaty will ensure that an International Environmental Impact Statement regarding the potential adverse physical environmental effects of such activity is prepared and submitted to the United Nations Environmental Program (UNEP) and to any other Party to this Treaty whose physical environment or environmental interests may be adversely affected by such activity, in cooperation with such Party and/or UNEP. The Parties to this Treaty also agree to prepare such a statement upon the request of UNEP or a potentially affected State.

"(4) The Party considering such an activity will not make a final decision to proceed until it has provided a reasonable opportunity for UNEP and any potentially affected State to make their views known as to the desirability of undertaking the activity. The Party considering the activity will also consult with UNEP and other concerned States with a view toward preventing or minimizing any adverse environmental consequences beyond the borders of the conducting State. Moreover, if the recommendation of UNEP or an affected State is negative, the States Party to this Treaty pledge themselves not to move ahead with the projected activity without prior international consultations in accordance with procedures to be recommended by UNEP.

"(5) In the event of an emergency affecting the safety of life or property, a Party may undertake a paragraph (1) activity before preparing an International Environmental Impact Statement or complying with the notification and consultation provisions (3) and (4) above. Any Party taking emergency action shall notify UNEP and other affected States forthwith that such emergency action is being taken. The Party claiming an emergency will also prepare an International Environmental Impact Statement as soon as possible after the activity is initiated, will provide a copy of the statement to UNEP and other potentially affected Parties, will give UNEP and such Parties the opportunity to comment, and will indicate what emergency conditions necessitated immediate action and what measures are being taken to assure that International Environmental Impact Statements will be prepared in a timely fashion in the future.

"ARTICLE II

"The States Party to this Treaty shall have a compulsory obligation to settle any dispute between them relating to the interpretation or application of this Treaty, including the need for and adequacy of an International Environmental Impact Statement, by a decision of the International Court of Justice or any other mutually acceptable, arbitral or

judicial body if the Parties to the dispute fail to reach agreement on a bilateral basis within 90 days of notification to UNEP by a Party to this Treaty that a dispute exists.

"ARTICLE III

"Five years after the entry into force of this Treaty, a conference of Parties shall be held at Geneva, Switzerland, in order to review the operation of this Treaty with a view to assuring that the purposes of the preamble and the provisions of the Treaty are being realized. Such review shall take into account relevant technological developments and consider the need for any compensatory claims arrangements arising from damages to a nation's physical environment or environmental interests resulting from activities of another State.

"ARTICLE IV

"(1) Any Party may propose an amendment to this Treaty. The text of any proposed amendment shall be submitted to the Depositary Governments which shall circulate it to all Parties to this Treaty. Thereafter, if requested to do so by one-third or more of the Parties, the Depositary Governments shall convene a conference, to which they shall invite all the Parties, to consider such an amendment.

"(2) Any amendment to this Treaty shall be approved by a majority of the votes of all the Parties to this Treaty. The amendment shall enter into force for those Parties accepting the amendment upon the deposit of instruments of ratification by a majority of all the Parties.

"ARTICLE V

"(1) This Treaty shall be of unlimited duration.

"(2) Each Party shall, in exercising its national sovereignty, have the right to withdraw from the Treaty upon 90 days notice to one or more of the Depositary Governments.

"ARTICLE VI

"(1) This Treaty shall be open to all States for signature. Any State which does not sign this Treaty before its entry into force in accordance with paragraph 3 of this Article may accede to it at any time.

"(2) This Treaty shall be subject to ratification by signatory States. Instruments of ratification and instruments of accession shall be deposited with the Governments of the United States of America,
, and, which are hereby designated the Depositary Governments.

"(3) This Treaty shall enter into force after its ratification by one-fourth of the signatory States.

"(4) For States whose instruments of ratification or accession are deposited subsequent to the entry into force of this Treaty, it shall enter into force on the date of the deposit of their instruments of ratification or accession.

"(5) The Depositary Governments shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification of and accession to this Treaty, the date of its entry into force, and the date of receipt of any requests for conferences or other notices.

"(6) This Treaty shall be registered by the Depositary Governments pursuant to Article 102 of the Charter of the United Nations.".

SENATE RESOLUTION 50—SUBMISSION OF A RESOLUTION DISAPPROVING THE PAY RECOMMENDATIONS OF THE PRESIDENT

(Referred to the Committee on Post Office and Civil Service.)

Mr. ALLEN (for himself, Mr. DOMENICI, Mr. BARTLETT, Mr. HELMS, Mr. HATCH, Mr. MCCLURE, Mr. HANSEN, Mr. DANFORTH, and Mr. WALLOP) submitted the following resolution:

S. RES. 50

Resolved, That the Senate disapproves all of the recommendations of the President with respect to rates of pay which were transmitted to the Congress pursuant to section 225(h) of the Federal Salary Act of 1967 on January 17, 1977.

SENATE RESOLUTION 51—SUBMISSION OF A RESOLUTION DISAPPROVING DEFERRAL OF CERTAIN BUDGET AUTHORITY

(Referred jointly, pursuant to the order of January 30, 1975, to the Committees on Appropriations, the Budget, Interior and Insular Affairs.)

Mr. DOMENICI (for himself, Mr. MAGNUSON, Mr. JACKSON, Mr. BAKER, Mr. SASSER, and Mr. SCHMITT) submitted the following resolution:

S. RES. 51

Resolved, That the Senate disapproves the proposed deferral of budget authority (deferral numbered D 77–51) for operating expenses for Program Support-Community Operations for certain communities associated with facilities of the Energy Research and Development Administration set forth in the special message transmitted by the President to the Congress on January 17, 1977, under section 1013 of the Impoundment Control Act of 1974.

Mr. DOMENICI. Mr. President, in a message to Congress last Monday, January 17, President Ford announced a series of rescissions and deferrals reducing fiscal year 1977 spending levels for a number of Federal departments and agencies. Several of the deferral actions represent proposed cuts in programs of the Energy Research and Development Administration, which if allowed to stand by congressional inaction, will serve to partially thwart the energy research, development, and demonstration programs carefully developed, and subsequently mandated by the Congress in the appropriation process. In addition, Mr. President, I know that deferral of these funds at a point this far into the fiscal year will, at least in some cases, create severe hardships and disruptions for the personnel attempting to carry out these programs.

As you know, Mr. President, under the Budget and Impoundment Control Act of 1974, these deferrals will take effect automatically unless in each case at least one House of Congress passes an appropriate disapproval resolution.

At this time, I would particularly like to call the attention of my colleagues to one of the ERDA-related deferrals, D77–51, which would withhold $5.4 million of ERDA funding for program support-community operations. The impact of this deferral will be felt in three geographic areas, Richmond, Washington, Oak Ridge, Tenn., and Los Alamos, N. Mex., where Federal Government in-lieu-of-taxes funding has traditionally provided support essential for local school and community operations. This program and these impact funds are necessary, and indeed essential, if the Federal Government is to be able to continue to attract and retain key scientists and technicians for the energy and defense programs at the outstanding national laboratory complexes in these communities.

In funding this program through Public Works Appropriation Act, Public Law 94–355, Congress provided a policy direction in which the administration subsequently concurred. This deferral action represents an arbitrary change in this policy taken without congressional approval.

Also, the affected communities and school systems have been counting on the availability of this money during the current fiscal year. Removal of these funds at this point in the fiscal year will severely upset ongoing programs, render useless much previous planning, and impose considerable financial hardships. Contrary to assurances in the Presidential message, the bulk of these funds are very much needed.

Mr. President, I believe these are compelling reasons for speedy congressional action to disapprove deferral of these program support-community operations funds. Accordingly, I am pleased to introduce, on behalf of Senators MAGNUSON, JACKSON, BAKER, SASSER, SCHMITT, and myself, a resolution disapproving Deferral 77–51. I urge my Senate colleagues to support this resolution.

NOTICES OF HEARINGS

SUBCOMMITTEE ON AGRICULTURAL PRODUCTION, MARKETING, AND STABILIZATION OF PRICES

Mr. HUDDLESTON. Mr. President, many grain elevator operators and grain inspection services have expressed concern over the fee schedule and record-keeping requirements announced by the Federal Grain Inspection Agency. Therefore the Senate Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices, which I chair, will hold a hearing Thursday, February 3, 1977, at 10 a.m. in room 6202, Dirksen Senate Office Building, regarding implementation of Public Law 94–582, the U.S. Grain Standards Act of 1976. Those wishing to testify please contact Hearing Clerk, Committee on Agriculture and Forestry, room 322 Russell Senate Office Building, Washington, D.C. 20510, (202) 224–2035. Witnesses are requested to limit their oral presentation to 10 minutes.

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

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

January 26. Full Committee, 10 a.m., room 3110, hearing, nomination of John O'Leary to be Administrator of Federal Energy Administration.

February 7. Minerals, Materials and Fuels Subcommittee, 10 a.m., room 3110, hearing, S. 7, strip mining legislation.

March 24. Full committee, 10 a.m., room 3110, hearing, oversight and informational hearing on Palau deepwater port.

DIRECT POPULAR ELECTION OF THE PRESIDENT

Mr. BAYH. Mr. President, the Subcommittee on Constitutional Amend-

ments has previously scheduled hearings on Senate Joint Resolution 1, proposing a constitutional amendment on the direct popular election of the President, for Thursday, January 27, 1977, and February 1, 2, and 3, 1977. There has been an additional day scheduled which will be February 7, 1977, beginning at 2 p.m. The hearing will be held in room 2228, Dirksen Senate Office Building, the Judiciary Committee hearing room.

Any persons wishing to submit written statements for the hearing record should send them to the Subcommittee on Constitutional Amendments, room 108, Russell Senate Office Building, Washington, D.C. 20510.

ADDITIONAL STATEMENTS

IN OPPOSITION TO THE CONFIRMATION OF F. RAY MARSHALL TO BE SECRETARY OF LABOR

Mr. HARRY F. BYRD, JR. Mr. President, in my entire tenure in the Senate, I have never cast a dissenting vote against a Cabinet nominee simply because I disagreed with some of his or her views.

Indeed, I have voted to confirm every Cabinet nominee of President Johnson, President Nixon, President Ford, and President Carter, although in several cases I have questioned the soundness of judgment which some of these Cabinet officers have subsequently exercised.

I shall break with that tradition when the Senate votes on the nomination of Dr. F. Ray Marshall to be Secretary of Labor.

I do not oppose the Marshall nomination because of his personal qualities of character.

I shall oppose the Marshall nomination because his stated positions on issues which will come before him—taken as a whole—constitute nothing less than extremism.

I would list particularly four areas of basic disagreement I have with Dr. Marshall. Their combined impact, in my view, renders him unsatisfactory for the post of Secretary of Labor.

First. Dr. Marshall has testified as to his intention to work actively to repeal section 14(b) of the National Labor Relations Act, the provision authorizing States to enact "right-to-work" laws. Virginia has such a law and is a right-to-work State. That philosophy of government and of individual freedom is deeply rooted in Virginia.

Second. Dr. Marshall has repeatedly voiced his support for collective bargaining for public employees, including the right to strike. Such activities are against the law and public policy of the Commonwealth of Virginia. The Virginia Supreme Court earlier this month ruled that such agreements were not legal under present Virginia law.

Dr. Marshall's testimony during his confirmation hearings suggests little faith in State and local control of government employment practices and policies. In that regard, he has expressed unequivocally what many of his present and former counterparts harbor privately but are reluctant to state publicly: The belief that all knowledge reposes in the Federal bureaucracy and that the States and localities are capable of little more than implementing those policies under the constant and watchful eye of the Federal Government.

Third. Dr. Marshall has strongly endorsed the "common site picketing" proposal, which was successfully vetoed by President Ford after a nationwide outpouring of public opposition.

Fourth. As a further indication of the extremist attitudes held by Dr. Marshall, he testified before the Committee on Labor and Public Welfare of his support for unionization of the military.

Dr. Marshall's candor is notable. However, his willingness to venture into policy statements on matters over which the Labor Department would have absolutely no control suggests a philosophy of adventurism and union-oriented zeal which is unprecedented in the history of that Cabinet post.

For a high official of Government to approve of unionizing the Nation's military force is to me not only astonishing, but reckless.

A "shopping list" of the legislative goals of the national labor unions could not have been more bluntly expressed than the stated positions of Dr. Marshall, had the union bosses themselves done the drafting.

I submit that the statements of Dr. Marshall show his philosophy of government to be one of massive federalism dominated by Big Labor.

Such extremism shows a total disregard for the avowed sentiments of the people across this Nation who are fed up with domination of Federal policies and legislation by big pressure groups and special-interest groups who serve not the common good but their own self-interests.

In my view, we already have too much bigness, too much Big Government, Big Business, and Big Labor.

From his stated views, Dr. Marshall would make both Government and the labor unions more powerful.

I shall vote against his confirmation.

HOW CAN IT BE?

Mr. GOLDWATER. Mr. President, in light of President Carter's order pardoning all Vietnam draft evaders it behooves us today to think back at how things were with our fighting men in the late 1960's. If we do, we will find that many of the men who were fighting in the miserable jungles of Southeast Asia have very strong opinions about some of the things that were happening here at home.

To refresh our memories Mr. President, I should like to call attention to an editorial which appeared in the Indianapolis Star of June 10, 1968. It contained a letter written by a Marine sergeant in Vietnam and asks the question, "My God, how can it be?"

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

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

HOW CAN IT BE?

Marine Sgt. James R. Smith is a member of the Third Marine Brigade in Vietnam. He wrote a letter not long ago to his home town newspaper, The San Bernardino (Calif.) Sun. The letter was read into the Congressional Record June 3 by Representative Jerry L. Pettis (R-Calif.). The letter contains a vital and vibrant message for today. We would like to share it with you.

"My God, how can it be:

"That one boy lies rotting from malnutrition and torture in a jungle prison camp in North Vietnam—and another boy spits and tramples on the flag of this country on the steps of a university of learning.

"That one boy lies sightless in a U.S. Naval hospital from Communist-inflicted face wounds and another boy uses a Communist flag to drape himself in defiance of the laws of this country.

"That one man of medicine begins his 13th straight hour standing over an operating table in pursuit of life for men serving this country—and another man of medicine implores crowds of young men to refuse to serve their country.

"That one Negro holds the face of his dead white comrade in arms and cries pitifully in a dirty mudhole in Vietnam—and another Negro screams with hate against his white brother in the streets of countless American cities.

"That one boy lies in a coffin beneath the ground because he believed in duty to country—and another boy lies on a dingy cot giving blood to the enemies of his country.

"That one man of God shields a wounded boy from an enemy bayonet with his body and dies—and another man of God uses his cloth as a shield to preach hate, dissension and lawlessness.

"My God, how can it be?"

WHERE A THREE-DOG NIGHT MEANS IT

Mr. GRAVEL. Mr. President, on the front page of the Washington Post last Saturday there appeared an article titled "Where a Three-Dog Night Means It," by Howard Weaver.

In the article, Mr. Weaver has expanded on this winter's unusual weather—both here and in Anchorage, where the story is datelined—to discuss some weather related problems which are especially severe in Alaska.

Most significantly, Mr. Weaver shows the connection between a harsh environment and problems of alcoholism and mental health in my State.

I was happy to see the article published in Washington, because even though Federal health assistance is particularly important in Alaska, I think some of the unique conditions which make that assistance important are not sufficiently appreciated here.

Mr. Weaver is a well-known journalist in Alaska. He was part of the team of reporters whose investigative work brought the Pulitzer Prize to the Anchorage Daily News last year. He and several colleagues have recently launched a new statewide newspaper called the Alaska Advocate.

I ask unanimous consent that the article from the Post be printed in the RECORD.

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

WHERE A THREE-DOG NIGHT MEANS IT

(By Howard Weaver)

ANCHORAGE, January 21.—Don't tell Alaskans about your frozen water pipes. Our psyches are being destroyed because it's been too warm here to ski.

As Washington shivered through the inaugural chill, Anchorage had to deal with the cancellation of the Palmer Classic sled dog race up in the Matanuska Valley last weekend. Not enough snow.

If you lived in Alaska, you'd know how to handle the cold weather. What you might not know is what to do with your goose-down parkas during this, Alaska's warmest winter in years.

It's easy to live in the cold, you see. Nothing to it.

I won't bother mentioning the electric heaters which we have built into our auto engines. There probably isn't anywhere to plug them at your shopping centers anyhow. You probably can't even buy thaw-line, the special electric cables with which we heat water pipes.

That's not important anyway. What you have to worry about is your mind.

It is not true that cold weather shrinks your brain. None of us here believes that. What it does is shrink your options, move them indoors and focus them on people, not places or machines. A good friend will prove far more reliable than a V-8.

The sociological theory currently in vogue holds that bitter weather "enforces a sense of community." For most of us, that means that it gets too cold to play outdoors and so somebody throws a party. There is a great comfort to be found in friends, fireplaces and hot buttered rum when the weather is as cold as a bill collector's heart. You start by being glad to be indoors anywhere, and then begin to enjoy being indoors where you are.

That leads to another item, and the sad but provable statistic is this: alcoholism rates climb in rough proportion to the parallel of latitude; the farther north, the heavier the drinking. It is true in many Scandinavian countries, and it's true in Alaska. Although this state does not always lead the nation in per capita drinking, it's always close. And it is very consistent.

Bars in Anchorage and most other Alaska cities stay open until 5 a.m. and reopen at 8. The old navy custom of abstaining until the sun is over the yardarm is a poor rule in a town where the sun sets at 3:30 p.m. in December.

But drinking need not be your only winter pursuit. Alaska is the only state to have legalized possession of marijuana in one's own home. The connection between the weed and the weather is conjectural, but it does reflect a northern belief that there is, in the words of a state supreme court justice, "a fundamental right to be left alone."

Another method of whiling away the winter is reflected in the statistics a leading Anchorage hospital compiled. Last September, nine months after the cold month of December, 139 babies were born. Nine months after August, the total was 98.

Even considering those alternatives, it is good to get outdoors as often as possible. Indoor recreation, while interesting, is limited.

Regardless of what your body tells you, you are unlikely to freeze to death walking around at 20 degrees. Learn to develop an "it's cold but I'm tough" attitude. There is a lot of machismo involved in cold weather survival.

There has to be in Fairbanks, where winter weather of 60 degrees below zero shatters car tires. If you start feeling really cold, think about that. Or pretend you're a Mt. McKinley climber, where sudden summer temperatures of 20 below combine with bristling winds to make climbing axes splinter like icicles.

"We see a lot more use of all the antidepressants [drugs] in the middle of the winter," said the manager of the pharmacy of the local Fred Meyer Discount Store, "and a lot more sinus problems, too, of course."

"Our heaviest runaway month is January," said the program director at an Anchorage youth service bureau. "Kids don't run away in the summer. And this is a hell of a place to run away in in January."

When I was a boy here the house I considered running away from—but never did—was constructed more to Washington's standards than those of Anchorage. On the coldest night we turned off the heat in the living and dining rooms, hung blankets across the hallway and called the front bedroom "the parlor." Or we ate in the kitchen. And after all, it "enforces a sense of community."

On nights like that, look in the toy box or up on a shelf in the kid's room. A battered Monopoly set or Risk game can work wonders. Backgammon, of course, is not only entertaining, but chic. At least it's still chic in Anchorage.

You must understand of course, that in Alaska "Three-Dog Night" is not thought of as the name of a band. It refers to the number of huskies you invite up onto the bed to keep you warm. In such circumstances, even Backgammon is uptown.

Cabin fever is what it's called, and it may comfort you to know that even the heartiest homesteader and sturdiest sourdough fall prey to it. My best friend, an Alaska-born fisherman who built his home with a chain saw and an ax, spent last winter in Nicaragua. He is now in Ireland: no place on earth is "off season" to an Alaskan in January.

If nothing else helps, consider the plight of those Alaskans whose long-planned vacations now are taking them south—to colder weather.

A change may be forced in the statistics the Anchorage suicide prevention center reports. Calls are up around Christmas, they say, but they are not generally higher in the winter than the summer.

"The increases come in the spring, when people see things don't get better even though it's warm," said a counselor.

CAREER AMBASSADORS

Mr. MATHIAS. Mr. President, ever since 1973 there has been an effort in the Senate to impose some sort of a percentage limit on the number of noncareer ambassadorial appointments any President could make.

Senator J. William Fulbright, formerly chairman of the Foreign Relations Committee, introduced the idea in 1973 but it died in committee. In 1974, I proposed to the Senate that a 20-percent limit be placed on noncareer appointments. This proposal did not survive conference. In 1975 the idea was revived again both in my bill, S. 202, and by a separate Foreign Relations Committee proposal. These were considered by committee but not adopted.

Last year, I introduced an amendment to the State Department authorization bill proposing a limit of 15 percent which I subsequently raised to 25 percent in the hope of improving its chances for adoption in the Senate. It did make its way to conference and a trace of it—the merest trace—can be found in Public Law 94-350 of July 12, 1976. Section 120 of that law declares:

It is the sense of the Congress that a greater number of positions of ambassador should be occupied by career personnel in the Foreign Service.

I will continue to pursue the idea in this Congress. To lay the groundwork for such an effort, I would like now to call the attention of my colleagues to the proposals for reform of the ambassadorial selection process recently adopted by the American Foreign Service Association.

It seems to me that these proposals provide both a creative and constructive approach to the problem and that they deserve our support. I ask unanimous consent that the following materials bearing on those proposals be printed in the RECORD: Report of the AFSA Committee on Presidential Appointments, and AFSA editorial, "Foreign Service Journal," December 1976; New York Times article of December 19, 1976, "Why Not Send the Best As Ambassador?"

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

[From the Foreign Service Journal, December 1976]

AFSA EDITORIAL

OPEN LETTER TO THE PRESIDENT-ELECT

On behalf of the American Foreign Service Association, and at the direction of its Governing Board, I am writing to congratulate you on your election.

For more than 50 years our Association has been the principal professional representative of Foreign Service people. And under Executive Order 11636 (Employee-Management Relations in the Foreign Service of the United States of America) we are the elected representative of the Foreign Service in the Department of State and the Agency for International Development. In that capacity we participate in consultations with management on personnel policies and working conditions.

Historians tell us that successive Presidents have taken office with a distrust for the career Foreign Service, believing it to be stuffed with holdovers from the previous Administration who want to make him look bad, and mandarins who regard him as an interloper in foreign policy matters. In fact, the Foreign Service which we represent is a nonpartisan professional cadre that works for only one President at a time, fully recognizes his or her primacy in foreign policy, and has served successive Presidents and Secretaries of State as a motivated and disciplined force for implementing national policy.

The Association enthusiastically welcomes your repeated declarations that Presidential diplomatic appointments must be based on merit. While we fully appreciate the contributions of certain distinguished noncareer diplomats, we have long opposed politically-motivated appointments of noncareer incompetents, and we have enough self-confidence to believe that in a competition based on merit, the Foreign Service can produce winners most of the time. We look forward to developing, with your transition team and other interested persons and organizations, criteria for such appointments and procedures for evaluating potential Presidential nominees.

The Association is also impressed with your systematic approach to the organization of the federal government, and we be-

lieve we may be able to make a useful contribution to a review of our foreign policy bureaucratic structures. We have noted your practice of seeking information and advice from all responsible sources before making up your mind, and have for many years strongly supported the maintenance of institutions whereby the President can receive the best possible information and advice from the Foreign Service, including alternative views.

As exclusive employee representative for the State and AID Foreign Service, we have many matters to raise with you. For example, we hope that you will authorize a review of our policy toward terrorists who kidnap American diplomats, and the governments who support or provide sanctuary to these terrorists. We hope that AID Foreign Service will be given a permanent career status commensurate with that of their State and USIA colleagues, and with the long-term nature of the international development challenge facing the United States.

We earnestly hope that we can avoid the traditional phase of suspicion between new Presidents and the career Foreign Service, and make a smooth transition to a productive relationship which serves the national interest. For this purpose, the Association has established a Transition Task Force which will be available to work with your transition officials in any manner you may desire.

ON WITH THE JOB

The AFSA membership, loyal to the Association throughout its long leadership crisis, has expressed itself decisively to resolve that crisis.

The remaining months of the Governing Board's term, until July 1977, are important ones for all of us, and the advent of a new Administration offers us an opportunity to push for Foreign Service pay comparability with the Civil Service and private sector, ambassadorial appointments on the basis of merit and elimination of politically motivated abuses of lateral entry, and full career status for AID Foreign Service personnel. A unified Governing Board and its Committees can press more effectively on such issues as due process in suitability criteria and disciplinary procedures, better promotion and career opportunities for secretaries and communicators, fairer and more rational policies on tours of duty, and a more meaningful life overseas for spouses and dependents.

Nevertheless, our effectiveness depends also on greater support from the Foreign Service. Over the past year, the loss of the USIA representation election, and our highly publicized internal difficulties have led to a steady attrition in our Membership. The decline in our State and AID membership means that each constituency will have one less Representative to elect in next year's Board elections. Today we represent only about one-third of active-duty Foreign Service people, yet we bear the entire burden of representation of Foreign Service professional and employee interests; and while all Foreign Service people have the right not to join AFSA, we know of none who has turned down any of the benefits which we have negotiated for them.

We are entering the most important membership drive in our organization's history. We strongly urge all Members to persuade at least one Foreign Service colleague to join us, to share in the burden of responsibility of collective action for the good of our professions and our careers.

AMBASSADORIAL APPOINTMENTS

"For many years in the State Department we have chosen from among almost 16,000 applicants about 110 of our nation's finest young leaders to represent us in the international world. But we top this off with the disgraceful and counterproductive policy of appointing unqualified persons to major diplomatic posts as political payoffs. This must be stopped immediately."—Jimmy Carter, "Why Not The Best?" page 169.

AFSA warmly seconds the views of the President-elect and proposes the following reforms to effect the needed overhaul of the ambassadorial selection process:

A non-partisan advisory panel, patterned on the American Bar Association's Committee on the Federal Judiciary, should examine the credentials of ambassadorial nominees—career as well as non-career.

The President, as part of the standard nomination process, should inform the Senate Foreign Relations Committee what special foreign affairs qualifications and skills a proposed political appointee would bring to the assignment.

Congress and the Executive Branch should agree on guidelines to limit appointment of non-career ambassadors to ten per cent globally and fifteen per cent in any geographical region.

The report of the AFSA Committee on Presidential Appointments can be found elsewhere in this issue of the Foreign Service Journal.

REPORT OF THE AFSA COMMITTEE ON PRESIDENTIAL APPOINTMENTS

President-elect Jimmy Carter has promised to appoint competent, capable people to senior posts in his administration. One area of major reform, he has said on several occasions, will be in the choice of ambassadors. Reform is badly needed to give our country better representation abroad.

The traditional practice of naming large numbers of political ambassadors—the average since FDR took office has been 37 percent—has been a disservice to the nation as well as to the career foreign service. The competence of an ambassador to handle his responsibilities well has a direct bearing on the success or failure of foreign policy. A qualified professional who has served in various foreign posts and has experience in policy formulation in Washington should be better prepared for these responsibilities than the non-career envoy. It makes little sense to recruit and train a corps of foreign service professionals to give them years of experience at their trade and then to shunt them aside to make room for unqualified political ambassadors.

As Sir Harold Nicolson says in his classic work "Diplomacy":

"It will always be desirable that the foreign policy of any great country should be carried out by professionals trained in their business. Amateur diplomatists (as the United States and USSR are coming to recognize) are prone to prove unreliable. It is not merely that their lack of knowledge and experience may be of disadvantage of their governments, it is that the amateur diplomatist is apt out of vanity and owing to the shortness of his tenure to seek for rapid successes; that he tends, owing to diffidence, to be oversuspicious; that he is inclined to be far too zealous and to have bright ideas; that he has not acquired the humane and tolerant disbelief which is the product of a long diplomatic career and is often assailed by convictions, sympathies, impulses; that he may arrive with a righteous contempt for the formalities of diplomacy and with some impatience of its conventions; that he may cause offence when he wishes only to inspire geniality . . ."

We agree with the soundness of Nicolson's basic point even if he was a product of a different social system than ours. In foreign affairs as elsewhere professionalism results in superior performance. In the American context, however, we believe that diplomatic professionalism gains by the infusion of highly qualified non-career ambassadors. The leavening keeps the Foreign Service current with the mainstream of American thought and prevents the development of mandarin tendencies. Some of our non-career envoys have been among our most distinguished representatives—David Bruce, Ellsworth Bunker, Averell Harriman, Douglas Dillon, John Kenneth Galbraith, and Edwin Reischauer—all come readily to mind. The practice of choosing outstanding men and women from business, politics, and academia should be continued because it enriches the career service with outside expertise. But the notorious "sale" of ambassadorships is an offensive anachronism and should be ended once and for all. We can no longer afford the Maxwell Glucks, whose 1957 confirmation hearings revealed his ignorance of the Ceylonese Prime Minister's name, or the Vincent deRoulets, the Nixon nominee, whose gauche conduct strained relations with Jamaica. We also can no longer afford the Pat Hurleys, whose wartime blunders in China and unfair attacks on his career staff cost our nation dearly.

The American practice of sending such a large proportion of non-career representatives abroad is unique among the major powers. Great Britain has only one non-career envoy at the moment, West Germany two, France has three. As the tables below show, the percentage of non-career ambassadors since 1933 has averaged 37 percent. The statistics show little variation between Democratic and Republican administrations. As the theme from "Casablanca" goes, "It's still the same old story."

We think the time has come to set a limit to the number of non-career appointees as a percentage of the overall total. Ten per cent globally and 15 per cent in any region strikes us as a good mix. The present 33 per cent seems too high (Regional percentage breakdown: ARA 48, EUR 42, EA 27, NEA 23, and AF 12.) In particular, however, we do not believe that the nation has anything to gain from the continuation of political appointments of the more traditional, or "hack" sort. Non-career ambassadors should be chosen only when they can bring special strengths to the conduct of foreign policy.

WHAT THE STATISTICS SHOW

The percentage of career ambassadors increased after World War II, but no President varied more than a few points from the average, even though the number of missions jumped from 50 to over 120 as former colonies became independent states. The global numbers mask substantial regional variation: political appointments have been heaviest in Europe and fewest in Africa and the Near East and South Asia.

CHIEF OF MISSION APPOINTMENTS, 1933-76, BY PRESIDENT

President	Career	Noncareer	Percent noncareer
FDR	117	92	44
Truman	115	63	35
Eisenhower	156	72	32
Kennedy	72	52	42
Johnson	94	56	37
Nixon	157	73	32
Ford	47	29	38
Total	758	437	37

LATIN AMERICA

Over the years, a preponderance of professionals have headed our missions to Latin America. FDR's pattern of roughly two career for each non-career envoy was followed until the Ford administration which reversed field to appoint 62 percent non-career ambassadors.

CHIEF OF MISSION APPOINTMENTS TO LATIN AMERICA, 1933-76

President	Career	Noncareer	Percent noncareer
FDR	54	29	35
Truman	26	19	35
Eisenhower	38	22	37
Kennedy	16	6	27
Johnson	20	12	38
Nixon	35	11	24
Ford	6	8	62
Total	204	107	34

EUROPE

Europe has been the happy hunting ground for the political appointee. Harry Truman was the only President to send less than 40 percent non-career envoys. FDR sent the largest number with 58 percent, but Nixon followed closely with 55 percent. The non-career share of Western European posts is probably greater today than in FDR's day since in the 1930s it was common to send nonprofessionals to Eastern Europe.

CHIEF OF MISSION APPOINTMENTS TO EUROPE, 1933-76

President	Career	Noncareer	Percent noncareer
FDR	39	53	58
Truman	37	24	39
Eisenhower	37	25	40
Kennedy	17	16	48
Johnson	17	20	54
Nixon	24	29	55
Ford	12	11	48
Total	183	178	49

AFRICA

Following the surge of new states in the 1960s, Africa now has a quarter of our embassies. Under Kennedy, a third of ambassadorial appointments were non-career. The figure has dropped sharply since. In FDR's day the percentage of non-career appointees was substantially higher, but we had missions in only three countries—Ethiopia, South Africa, and Liberia.

CHIEF OF MISSION APPOINTMENTS TO AFRICA, 1933-76

President	Career	Noncareer	Percent noncareer
FDR	4	3	43
Truman	5	2	29
Eisenhower	15	4	21
Kennedy	17	9	35
Johnson	31	7	18
Nixon	50	9	15
Ford	16	2	11
Total	138	36	21

NEAR EAST/SOUTH ASIA

Like Africa, NEA has had 79 percent career envoys. The data show little variation between administrations. Today all ambassadors to Middle East countries are career officers with the non-career ambassadors principally in South Asia.

CHIEF OF MISSION APPOINTMENTS TO THE NEAR EAST/SOUTH ASIA, 1933-76

President	Career	Noncareer	Percent noncareer
FDR	13	3	19
Truman	25	6	19
Eisenhower	33	8	20
Kennedy	14	5	26
Johnson	15	3	17
Nixon	23	8	26
Ford	10	2	23
Total	133	36	12

EAST ASIA

East Asia has fewer posts than the other regions and the table indicates the widest fluctuation between administrations. Eisenhower sent only 17 percent non-career envoys, but none in his second term. Kennedy sent 63 per cent. In recent years, Australia and New Zealand have become favorite outposts for political appointees. Canberra was the intended recipient of one of FDR's more exotic political payoffs—Ed Flynn, the Democratic "boss" of the Bronx. This was one of the few times that the Senate refused to go along.

CHIEF OF MISSION APPOINTMENTS TO EAST ASIA, 1933-76

President	Career	Noncareer	Percent noncareer
FDR	7	4	36
Truman	10	8	44
Eisenhower	30	6	17
Kennedy	6	10	63
Johnson	10	7	41
Nixon	20	6	23
Ford	3	1	25
Total	86	42	32

MULTILATERAL ORGANIZATIONS

Few career officers have been assigned to head our missions at multilateral organizations.

CHIEFS OF MULTILATERAL MISSIONS (NATO, OAS, OECD ETC.), 1933-76

President	Career	Noncareer	Percent noncareer
FDR			
Truman	2	4	67
Eisenhower	3	7	70
Kennedy	2	6	75
Johnson	1	7	88
Nixon	5	10	67
Ford	1	4	80
Total	14	38	73

The United States did not always follow the current practice. In the early days of the nation, ambassadors included some of our most distinguished leaders: Benjamin Franklin, Thomas Jefferson, John Adams, James Monroe, Albert Gallatin and John Quincy Adams. But by the 1840s the spoils system enveloped diplomatic assignments along with domestic jobs.

The United States created a career diplomatic service in the 1920s but this has had limited impact on the pattern of ambassadorial appointments. Since World War II, there have been periodic calls for reform. In the 1950s the Gluck affair focused attention on the problem, but resulted in no change. In 1973, Senator Fulbright advocated stricter standards and a ceiling on non-career envoys. The Nixon administration opposed Fulbright. In 1976, the Senate adopted Senator Mathias' proposal to limit non-career ambassadors, but the measure was dropped in conference. Now the President-elect in his book, "Why Not the Best? and during the campaign, most notably in the third debate, has urged an end to the ambassadorial spoils system.

James Reston wrote recently that Jimmy Carter will inherit the finest Foreign Service in the world. It is our hope that the new President will put this statement to the test and give career officers the opportunity to prove their competence.

[From the New York Times, Dec. 18, 1976]

WHY NOT SEND THE BEST AS AMBASSADORS?

(By Olcott Deming)

WASHINGTON.—Publicly lecturing the incoming Carter Administration on what it should do has become a national pastime. With respect to ambassadorial appointments, several commentators have urged the President-elect to confine his nominations to career officers. On the other side, one New York Times columnist has characterized the call by the American Foreign Service Association to stress professionalism in ambassadorial appointments as a "power grab."

I write not only to defend our proposals but to clarify what is at stake. The issue is not who is in charge. There is no doubt who is in charge of America's foreign policy and the Foreign Service: the President is in charge, assisted by his Secretary of State.

The Foreign Service after all is the only group of Government professionals serving always "at the pleasure of the President." Thus, the question is not whether Jimmy Carter will put "his own people" in charge of the foreign affairs shop, because the professionals in the American diplomatic service are, by law and in fact, his "own people."

Mr. Carter has recognized the problem of professional ambassadors versus the spoils system. In his book "Why Not the Best?" he states: "For many years in the State Department we have chosen from among almost 16,000 applicants about 110 of our nation's finest young leaders to represent us in the international world. But we top this off with the disgraceful and counterproductive policy of appointing unqualified persons to major diplomatic posts as political payoffs. This must be stopped immediately."

The American Foreign Service Association, long concerned over the career issue, has now given the President-elect its best judgment on how he can make this pledge a reality.

The Association would:

1. Urge the formation of a nonpartisan, distinguished advisory panel to review the credentials of both career and noncareer ambassadorial nominations.

2. Endorse the appointment of a limited number of qualified noncareer ambassadors, to enrich the career service and broaden the base from which to choose this country's representation abroad.

3. Discourage, on the other hand, ambassadorial appointments as a means of paying off political debts.

4. Work for acceptance of the principle of 10 percent of the total as a reasonable proportion of noncareer ambassadors.

Advancement in the Foreign Service is based on merit measured by achievement. When the Service performs well, it does so in good part because high standards and performance are demanded and met. The shunting aside of experienced professionals in favor of political appointees as chiefs of mission frustrates the competitive career system and damages the quality of our diplomacy. In 1883 the spoils system was ended in the civil service. In 1976 it is high time to end it in the appointment of ambassadors.

All citizens should ponder, as has the President-elect, why we design a system that attracts outstanding young people to the Foreign Service, trains them at great expense, seasons them by experience and then wastes this valuable resource by denying them the top rung of responsibility in our missions around the world.

Americans would be shocked if we were to deny command of our major military units to professional soldiers and give them to political appointees. Yet we have been doing just this in manning ambassadorial posts. In this shortsighted practice, we stand alone among the major powers of the world.

President-elect Carter has done a service to the nation in calling national atention to this "disgraceful and counterproductive policy." We in the Foreign Service Association hope to cooperate with the new Administration in achieving a long-overdue reform.

SOVIET-AMERICAN RELATIONS

Mr. SPARKMAN. Mr. President, I have received a letter from Ambassador Anatoly F. Dobrynin of the Soviet Union with which he sent a copy of a recent speech by General Secretary Leonid Brezhnev on the international situation.

I ask unanimous consent to have printed in the RECORD the letter to me and the Brezhnev speech.

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

EMBASSY OF THE
UNION OF SOVIET SOCIALIST REPUBLICS,
Washington, D.C. January 21, 1977.

Hon. JOHN J. SPARKMAN,
Chairman, Foreign Relations Committee,
U.S. Senate, Washington, D.C.

DEAR SENATOR, I am sending you a copy of a major speech on the prospects of Soviet-American relations made by General Secretary Leonid I. Brezhnev on January 18, 1977.

In this statement of the General Secretary replied to many questions raised in this country during and after the election campaign with regard to the foreign and defense policy of the USSR and the concept of détente in general. He also reaffirmed the desire of the Soviet Government jointly with the new US Administration to move forward in the relations between our countries and proposed a program of concrete steps.

Since the full text of the speech was not published here, it will be appreciated if you, as Chairman of the Senate Foreign Relations Committee, make it known to the members of the Committee as well as to other Senators.

Sincerely yours,

Enclosure.

ANATOLY F. DOBRYNIN,
Ambassador.

LEONID BREZHNEV ON THE INTERNATIONAL SITUATION

(TULA, January 18.—The following is the text of a speech made by Leonid Brezhnev, the General Secretary of the Central Committee of the Communist Party of the Soviet Union, at a celebration meeting, devoted to the presentation of the Gold Star Medal to the Hero City of Tula.)

Everywhere our great people are absorbed in peaceful creative work and are engaged in an undertaking of tremendous scope and historic importance. They do not want the threat of war to weight down on them as a heavy burden. The 25th Congress instructed the Central Committee undeviatingly to build up efforts in the struggle for lasting peace and that is what we are doing, acting persistently and consistently.

Soviet people ardently approve of the party's foreign policy. They know that this policy safeguards their motherland from war, accords with the interests of all nations, opens up the scope of friendship and cooperation among them and serves the cause of social progress throughout the planet. At numerous meetings and rallies, in thousands upon thousands of letters to the CPSU Central Committee, to newspapers and to radio and television stations the people give the credit to the Central Committee, its Political Bureau, and the government for their tireless struggle for peace.

No country has ever offered mankind such a sweeping, concrete and realistic program of lessening and then fully eliminating the danger of a new war, as has the Soviet Union.

This program includes such a global measure as the World Treaty on the Non-Use of Force in International Relations. It assembles all major problems connected with the arms race and outlines effective steps towards curbing it, towards disarmament. It is directed at preventing the appearance of new types and new systems of weapons of mass destruction and at complete prohibition of nuclear tests. The Soviet Union has offered to refrain on a mutual basis with the United States from the development of new types of submarines and strategic bombers.

All our peace initiatives are in accord with the common line of fraternal socialist states in the international arena. We struggle together for their implementation. The proposals by the Soviet Union and its friends are supported by dozens of states in the United Nations organization and by the popular masses of all continents.

The important proposals set forth at the recent meeting of the Political Consultative Committee of the Warsaw Treaty Organization are new convincing proof of the peaceful nature inherent in the defensive organization made up of Bulgaria, Hungary, the German Democratic Republic, Poland, Rumania, the USSR and Czechoslovakia. It was proposed that every participant in the European Conference undertake the obligation not to be the first to use nuclear weapons against each other and not to enlarge the number of members of the Warsaw Treaty Organization or NATO.

We are firmly convinced that, in the long run, the lofty ideas of peace upheld by the Leninist party and the Soviet state will be implemented.

But this can be achieved only through struggle, precisely through struggle, comrades, because our constructive proposals often encounter a mute resistance and even open opposition.

For instance, when the members of the Warsaw Treaty Organization raised the question of not being the first to use nuclear weapons, NATO's reply was more or less as follows: No. This does not suit us. We must retain the ability to threaten the Soviet Union with the use of nuclear weapons. We hope, however, that those who ultimately determine the policy of nations will display a reasonable approach to our proposal.

Here is another example. At the talks on the reduction of armed forces and armaments in Central Europe, we are told, in effect, the following: You reduce more, while we will reduce less. Such a stand, of course, cannot advance the negotiations.

It is felt that behind all this is the pressure of the more aggressive forces of imperialism, of the military and military-industrial circles and politicians bogged down in anti-Sovietism and of the "hawks," as they are usually called in the West. It is precisely on their order that intelligence agencies, headquarters and various institutes compose thick reports and treaties in which they arbitrarily interpret the Soviet Union's policy and the measures taken by it to strengthen its defense capabilities. As though by command, this misinformation is circulated throughout the world by news agencies, the press, radio and television.

Frankly speaking, this noisy and idle talk has become quite tiresome. In the West, too, when serious politicians are asked whether they are alarmed by the prospect of "Soviet aggression," they answer with a confident "No."

Of course, comrades, we are perfecting our defense. It cannot be otherwise. We have never sacrificed and will never sacrifice the security of our country or the security of our allies.

But the allegations that the Soviet Union is going beyond what is suitable for defense, that it is striving for superiority in armaments with the aim of delivering "the first strike" are absurd and totally unfounded. Not so long ago, at a meeting with prominent representatives of the American business community, I said and I want to emphasize it again that the Soviet Union always was and continues to be a convinced opponent of any such concepts.

Our efforts are directed precisely at avoiding either the first or the second strikes and at avoiding nuclear war in general. Our approach to these questions can be formulated as follows: The Soviet Union's defense potential must be sufficient to deter anyone from taking a chance at violating our peaceful life. Not a course towards superiority in armaments, but a course toward reducing them, at lessening military confrontation—such is our policy.

On behalf of the people I declare that our country will never embark on the road of aggression and will never raise the sword against other nations.

It is not we but certain forces in the West that are adding ever newer spirals to the arms race, first of all the nuclear arms race. It is not we but these forces that are the initiators of selling military budgets by throwing hundreds of billions of dollars into the bottomless chasm of military preparations. It is these forces, acting under the false pretext of the "Soviet menace," that represent the aggressive line in the international politics of today.

And if this line is left without a rebuff it deserves, the threat of war will grow again. This line is equally dangerous for the peoples of both the East and the West. The Soviet Union will oppose it in every way and expose its dangerous essence.

From the experience of recent years we know that the policy of capitalist states can also be determined by those who realize the danger of playing with fire and are capable of taking into account the realities of the contemporary world. We hope that, notwithstanding all the vacillations and proneness to "phrasemongering" which is often dictated by domestic considerations, they will keep their good sense and a sober approach to problems of world politics.

For it is precisely due to this that the change in relations between the USSR and France became possible in its time, that the known treaties with the Federal Republic of Germany, the four-sided agreement on West Berlin, important agreements between the Soviet Union and the United States and other capitalist countries were concluded; and the European Conference on Security and Cooperation was held. In other words, detente was set in motion.

What is detente or relaxation of tensions? What meaning do we invest in this term? Detente means, first of all, the overcoming of the cold war and the transition to normal, stable relations among nations. Detente means willingness to resolve differences and disputes not by force, not by threats and "saber-rattling," but by peaceful means at a conference table. Detente means a certain trust and ability to take into consideration each other's legitimate interests.

Life has shown that the atmosphere of international relations can be noticeably changed within a short period of time. Contacts between countries in the political, economic, cultural and in other fields have expanded. And what is most important, comrades, is that the danger of a new big war has been pushed back. People now draw an easier breath and began to look to the future with greater hope.

That is what detente or relaxation of tensions means and these are its inevitable results.

As we all know, the relaxation of international tension was achieved at the price of tremendous effort. And it is not easy to preserve the accumulated political capital of detente. But no difficulties and obstacles will force us to retreat. There is no more pressing and vitally important task than that of making peace lasting and inviolable.

Statesmen who are aware of their responsibility to millions of people and of their responsibility for the destinies of nations must consider the will of the peoples for peace. As for the Soviet Union, we will not be found wanting.

We are prepared, jointly with the new administration in the United States, to accom-

plish a new major advance in relations between our countries.

First of all, as we are convinced, it is necessary to complete in the nearest future the drafting of the agreement on limiting strategic armaments on the basis that we reached in Vladivostok at the close of 1974. Some politicians in Washington now express regret that this agreement has not yet been signed but, whatever the regrets, lost time cannot be regained for and it is important that practical conclusions be drawn from this.

The question is also being asked in the United States about possible developments if such conclusions are not made. An influential American newspaper wrote recently that, in such an event, the Soviet Union and the United States will start creating a new generation of nuclear weapons which, in practical terms, will be impossible to control.

Such a prospect does not suit us. I repeat that time will not wait and the conclusion of the agreement must not be postponed.

The Soviet Union, naturally, is prepared to advance further in questions of limiting strategic armaments. But first it is necessary to consolidate what has already been achieved and to implement the accord reached in Vladivostok, especially since the interim agreement expires this October. Then we could immediately move to talks on more far-reaching measures. Otherwise it may happen that, by adding new questions to those that are being currently discussed, we will only further complicate and procrastinate the solution of the task in general.

The need is ripe to more reliably prevent the proliferation of nuclear weapons and to make more effective the reign of nonproliferation established by the known treaty. We are prepared to conduct businesslike talks on this matter.

We would like to reach an early agreement on the reduction of armed forces and armaments in Central Europe. We have no objections to discussing the related questions at any level and at any venue: in Vienna, in Bonn, in Washington, in Moscow—anywhere.

Standing now in the center of European politics is the task of fully implementing the accords reached by 35 states a year and a half ago in Helsinki. We regard the Final Act of the European Conference as a code of international obligations aimed at ensuring lasting peace. Of course, all its provisions should be fulfilled and that is our daily concern. The Central Committee attaches much political importance to this work, and many of our ministries and agencies are involved in it.

It is quite natural that more has been accomplished by now along this direction, while along other directions the necessary measures are being carried out gradually or are only being drafted. Much depends here on the overall state of political relations between nations or on the level of the relaxation of tension. By poisoning the international atmosphere the opponents of detente only impede this work.

In Western countries individual elements are often taken from the Final Act and a big controversy started over them. The purpose of this is obvious: to impede the positive processes started by the European Conference. Such people, judging by everything, care little about ensuring lasting peace in Europe. Another thing occupies them. They would like to pressure us, to teach us to live according to rules that are incompatible with socialist democracy and with socialist law and order. I would like to say that this is a futile attempt.

In Helsinki, socialist states and countries with differing social systems worked together and achieved big results. This was a serious, business-like cooperation based on a common interest in success. Now this cooperation should be developed further. We are prepared for this, as is known, and have already made a number of concrete proposals, particularly on some economic problems.

We regard as a big and important task the further development of bilateral relations with France, the Federal Republic of Germany, Italy, Britain and other European and non-European nations. We have based and will base our relations with them on the principle of peaceful coexistence. This is a Leninist principle, and we sacredly preserve and augment Lenin's heritage, all of it.

We stand for the most vigorous measures to liquidate the military "hotbed" in the Middle East. The bloodshed in Lebanon, which was stopped with great difficulty, has demonstrated once again the dangers that are fraught in further procrastination on the Middle East conflict.

The Middle East needs a lasting and just settlement that would not impinge on the vital rights of any nation and any people. Israel of course has the right to national independence and a secure existence. But the Arabs have a similar right.

The road to a settlement of the Middle East problem, and we have stated this many times, lies in the Geneva Middle East Peace Conference. It now appears that all the interested sides are inclined to resume their work. And this implies a still further increase in the importance of cooperation between the co-chairmen of the Geneva Conference—the Soviet Union and the United States. Given the mutual desire, they could do much to find acceptable solutions.

Such is our position on a number of major international issues.

Such are the intentions with which our country entered the new year, 1977. The Soviet Union will strive this year to bring better results than the previous one in the cause of strengthening peace and security of the peoples and in the development of peaceful cooperation between states. We will make our constructive contribution and have the right to expect the same from those to whom we address ourselves.

PENSION PROTECTION FOR HOMEMAKERS

Mr. ROTH. Mr. President, since the enactment of the Tax Reform Act of 1976, a considerable amount of interest has been expressed in a provision in the bill which establishes an opportunity to provide retirement security for housewives. This provision, which I drafted as an amendment to the tax bill, expands the coverage of the individual retirement account law to enable millions of nonworking spouses to begin building pension savings.

Under the previous IRA law, workers not covered by a regular pension plan could contribute, tax free, 15 percent of earned income up to $1,500 a year into a retirement account. But housewives, who do household work valued at between $5,000 and $10,000 a year, had no opportunity to set up retirement accounts for their old age.

Under the new provision, however, housewives can now begin to benefit from the IRA law. The new law enables workers who are eligible for an IRA, and who have nonworking spouses, to contribute up to $1,750 a year into a retirement account. These savings plans could either provide separate $875 a year accounts in each spouse's name, or a $1,750 joint account.

Under current estimates, there are more than 9 million families who are eligible to participate in this expanded retirement program, and I believe it is a major breakthrough. For the first time, the Federal Government is giving recognition to the economic contribution the housewife makes to her family and to the fact that she is entitled to more protection as she grows older.

This new pension provision is a modified version of the housewife pension bill which I originally introduced in December 1975. That legislation would have permitted any worker to establish a full $1,500 individual retirement account for his or her spouse. Although the limited version enacted into law is a worthwhile step in the right direction, I intend to continue working to promote and expand individual retirement savings plans.

Mr. President, the New York Times recently had an article describing the impact of the new law. I ask unanimous consent that this article be printed in the RECORD.

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

[From the New York Times, Oct. 22, 1976]

PERSONNEL FINANCE: AND FOR RETIREMENT PLANS

(By Richard Phalon)

Housewifery has never been long on fringe benefits—a potted plant on Mother's Day, maybe, and a couple of weeks off in August if there is some place to park the children.

Beginning Jan. 1, though, millions of housewives who do not hold a paying job will become eligible for a perquisite their husbands have been enjoying for almost three years—the right to build up tax-sheltered individual retirement accounts in their own names.

Congress included in the new tax amendments a provision designed to recognize the value of the services provided in the home by a nonworking spouse of either sex.

The prime beneficiaries will be wives, although homemaker-husbands stand to benefit, too.

"There was a real concern to give a housewife a chance to build up a retirement account in her own name so that if she is divorced or her husband dies, she can have some resources to call her own," said Earl McGuire Jr., a senior vice president of the Bank of Asheville, N.C., and former chairman of the American Bankers Association committee on individual retirement accounts.

The new legislation on I.R.A.'s (pronounced like the man's name) extends to nonworking housewives the benefits of a plan that has gained steadily in popularity since it first went on the books.

The benefits are enjoyed by more than 1.2 million individuals who have socked away a tax-free total of $1.8 billion in a variety of Internal Revenue Service-approved plans, including commercial bank and thrift institution savings accounts, insurance annuities and mutual funds.

All of the participants have in common one qualification: All are employed by organizations that do not offer pension, profit-sharing, thrift or stock bonus plans.

By way of protection against an old age without pension, Congress gave a special break to individuals who do not have other retirement alternatives. It authorized them to take a tax deduction of 15 percent of whatever they earned or $1,500, whichever is less. The only condition is that the money has to be put in a plan approved by the I.R.S.

Before the recent changes in the law, a husband could make his wife the beneficiary of his I.R.A., but it was hers only if he died. Joint accounts were illegal and the account belonged exclusively to the person who opened it.

The new law attempts to cure that defect

by giving husbands a positive incentive to open accounts for their wives. The attraction is a bigger tax deduction.

Anyone who opens a regular I.R.A. is held to the old maximum deduction of $1,500 a year. Anyone opening an account for a nonworking spouse, on the other hand, is entitled to a maximum deduction totaling $1,750.

There is a catch, though. The contribution, whatever its size, has to be split evenly between two separate accounts—one for each spouse.

Each can make the other a beneficiary, but the cash deposited in a nonworking wife's name is, as Mr. McGuire put it, "irrevocably hers."

The new legislation opens up for nonworking housewives the benefits of tax-free compounding. "It's not just the tax deduction every year," said Robert Parks of Mason & Company, a New York City accounting firm. "Whatever interest or dividends the account earns continue to grow tax-free until you're ready to retire."

The same advantage applies, of course, to standard I.R.A. plans, but they do not offer the incentive of the extra $250 exemption. A person who presently maintains an I.R.A. in his own name would have to open a second account to take advantage of the new law.

How many husbands will find in that $250 enough incentive to give away as much as $875 to their wives, no strings attached?

"I think it all depends on the marriage," said Mr. McGuire of the Asheville bank. "If it's a solid marriage and the husband wants his wife to have some protection in her own name, I would think he'd jump at the chance."

There is one potential disadvantage. The money in an I.R.A. is frozen. An account cannot be drawn against before its owner reaches age 59½ without a penalty.

The withdrawal in such a case would be taxed at regular income-tax rates, plus a 10 percent surcharge. Thus, a premature withdrawal would cost a person in the 25 percent tax bracket $35 on every $100 taken out of the account.

There is another advantage, however, under the new law. Until now, I.R.A.'s have been subject to estate taxes. Beginning next Jan. 1, they will be free of these levies, too. The only condition is that payments from the plan be spread over a three-year period.

THE NEW SECRETARY OF THE INTERIOR

Mr. BAYH. Mr. President, last Thursday the Senate unanimously voted to confirm the nomination of Cecil D. Andrus to be Secretary of the Interior in the Carter administration.

As Governor of the State of Idaho, Cecil Andrus became intimately involved in the process of establishing priorities between the often competing interests of environmentalists and developers. His skill in handling these controversial decisions was demonstrated by the lack of opposition to his nomination.

In an increasingly complex world, it is my belief that environmental policy must be viewed as much more than Government action to protect the environment. A true environmental policy includes not only the continuation of efforts to clean the air and water and protect our land and wildlife but also a recognition that related national problems—such as energy development and recreational needs, both urban and rural—are an integral part of our environment.

For too long we have heedlessly pursued a course of using up natural resources while compounding the damage to our environment by dumping waste materials onto the land, into the air and water. We must develop new balance between the need to develop and use our natural resources and the necessity of conserving these resources for future generations of Americans. Solutions to these complex problems must advance simultaneously on many fronts if we are to insure a healthy quality of life for all our citizens.

Cecil Andrus understands the enormity of this task and is committed to protect and wisely use our national resources. As he stated to the Committee on Interior and Insular Affairs, he views the responsibility of the Secretary of the Interior as "a noble challenge to attempt to maintain that delicate balance between progress and preservation."

The new Secretary of the Interior is well prepared to meet this challenge successfully. His excellent background and sensitivity to the major issues confronting the Department of the Interior will serve him and the Nation well in the years to come.

I was pleased to be able to enthusiastically support the nomination of Cecil Andrus and look forward to working with him as we forge national environmental policies.

THE DECLINE OF THE AMERICAN FAMILY

Mr. HEINZ. Mr. President, in recent years the American people have developed a sophisticated understanding of the limits on Government's ability to solve problems. Americans realize it is impossible for Government to become all things to all people, and they increasingly have rejected attempts by some to pretend otherwise. This new sense of realism is a healthy sign for the future, and I hope those of us in public service will be able to follow the lead of the American people in adapting to the realities of our time.

In discovering that Government cannot be all things to all people, we have also begun to learn that Government is incapable of replacing some older and more cherished institutions. In particular, Americans have become more and more aware of the fact that Government cannot take the place of the family in our society or serve the purposes that families traditionally have served.

It is clear, for instance, that family life remains the single most important and positive force for protecting and enhancing the well-being of our children. Families are best equipped to insure that children are provided with basic human needs, such as food and shelter. But more than that, family life is uniquely suited to providing children with love and care, which are both essential to developing healthy and productive individuals. No matter how hard we try, we cannot develop a satisfactory substitute for the devotion that parents feel for their children and we cannot replace the special depth of concern that parents invest in the futures of their sons and daughters.

Since families obviously play a decisive role in promoting the well-being of young Americans, we have a national interest in preserving and strengthening the vitality of family life. Any action of Government that undermines the quality of family life also undermines the quality of life for millions of children and weakens their potential for facing the challenges of the future. Unfortunately, Government has not always seen this connection and by its policies has contributed to what some observers have called "the decline of the American family." In some cases, the absence of policy in areas such as welfare reform, health care, and child care services for working mothers has also detracted from the potential benefits of family life.

Family life, of course, contributes to the quality of American life in many ways that go beyond the immediate question of child rearing. Families are the most effective means by which we transmit the values of our society. From one generation to the next, families have demonstrated and communicated the importance of compassion, personal discipline, and individual responsibility. Just as family life has given direction to the lives of our children, it has given purpose and meaning to the lives of older people. In times of personal need, families have been a source of strength and solace that have allowed individuals to survive the day-to-day struggles of the human condition. In each of these functions, the family has played a vital and irreplaceable role that has helped our society progress as far as it has.

In an era when the limits on Government are becoming increasingly clear, it is more important than ever that Government understand the strength of family life and build upon that strength. Instead of undertaking new efforts to find substitutes for family life, Government must begin to work hand in hand with the family, to support family life, and provide families better opportunities for doing the things they do best. A respect for family life and an appreciation for its worth should underlie the work of Government and be reflected in the policies that the Federal Government adopts.

Mr. President, a recent article by Urie Bronfenbrenner discussing the decline of the American family appeared in the Washington Post. Dr. Bronfenbrenner is a distinguished expert in the field and is currently professor of human development and family studies at the College of Human Ecology at Cornell University. I ask unanimous consent that the text of this article be printed in the RECORD.

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

THE CALAMITOUS DECLINE OF THE AMERICAN FAMILY

(By Urie Bronfenbrenner)

Americans like to talk a lot about "progress," "improving the quality of life" and "meeting the challenges of tomorrow." All these depend on our ability to raise today's children well. The future belongs to those countries that make their primary commitment to the cultivation of the minds, character and creative vigor of the young. Therefore, the United States should take the up-

bringing of its children at least as seriously as it does landing on the moon or Mars.

In the upbringing of today's children numerous factors play a role: their neighborhood or town, schools, friends, religious institutions, games, work, the television and films they watch, the papers, advertising, magazines and books they read, role models and their family. But in the recent years nearly every line of social and psychological research points to the family as the foremost influence in what the Germans call *erziehung*, the Russians *vospitanie*, the French *elevation*, the Greeks *paideia*, and we might call "character formation," "cultural education" or "upbringing."

That the family is the central institution comes as no surprise to most anthropologists, ethnic patriarchs or social historians because the family is the only social institution that is present in every single village, tribe, people or nation-state we know throughout history. But that the family is the core institution in every society may startle and annoy many contemporary Americans. For most of us it is the *individual* that is the chief social unit. We speak of the individual vs. the state, individual achievement, support for disadvantaged individuals, the rights of individuals, finding ourselves as individuals. It's always the individual, with "the government" a weak second. The family is not currently a social unit we value or support.

This fact is reflected in the scholarly research of the United States. Until recently, there has been only sporadic research on the history, significance or changes in the family. And it is reflected in our national, local and business policies, where a father, mother, son and daughter are usually treated as four individuals rather than as a family.

Thus, we have the following situation. At a time when our nation more than ever needs a public-spirited and enlightened young, and when the best new research is pointing to the critical role of the family, our nation pays little attention to the family as a key social unit, and there are mounting indications that the American family as we know it is falling apart.

I realize that at several times in the past century observers have wailed about the decline of the family. Historian Charles Thwing, for example, wrote in his 1913 book on the family: "The individual has come to be regarded as the crown and center of social and legal order. The family, as an institution of prime importance, has passed away." But what has happened in the United States since the 1950s really adds up to a rapid and radical change in American family life. And the consequences for the young, and for society as a whole, are approaching the calamitous. Let me explain what I mean.

There was a kind of family stability in the late 1940s and early 1950s. The extended family still existed in places; one out of 10 families had another adult relative living under its roof. After the shakeout year of 1946, the divorce rate was quite low, especially among families with young children. Only one mother in four was working outside the home. And fewer than 4 per cent of all children born were illegitimate. Parents fought for a better education for their children, kicking off a school and college-building boom. Television, which became commercially available to households in 1948, was almost unknown. Mass magazines wrote of "togetherness" and radio soap operas featured families. Hollywood made films about young Andy Hardy, Shirley Temple and young Dorothy from Kansas, who went to see the Wizard of Oz but longed to return to her family.

In the past 25 years, however, the change has been dramatic. The dimensions of this change can be illustrated by some data that I and others have gathered about two categories; the number of parents and other adult relatives in the home and the amount of attention that parents devote to genuine relationships with their children.

As for adults in the home, there has been a further decline in the number of grandmothers, uncles or unmarried sisters in the home. From roughly 10 per cent of all homes having a third or fourth adult in 1950, the percentage has dropped to half that. Compared to 50 years ago, the change is even more considerable. For example, in the 1920s half the households in Massachusetts included at least one adult besides the parents; today the figure is 4 per cent.

That leaves Mom and Dad. But Mom is increasingly not found at home either because she's out working, as well as attending meetings or shopping several nights a week. In 1975, for the first time in American history, a majority of the nation's mothers with school-age children—ages 6 to 17—held jobs outside the home. In fact, women with school-age children show the highest labor force participation rate, 54 per cent, compared with 28 per cent in 1950.

For preschool children the change is more startling. In 1975, 39 per cent of mothers of children under 6 were working, more than three times as many as in 1948. As for mothers with children under 3, nearly one in three is working—an amazing jump from 1950.

Of course, the increase of women in the work force is one of the most significant social and economic facts of our time. While the number of working husbands has risen from 29.8 million to 37.8 million between 1947 and 1975, or 27 per cent, the number of working wives has shot up frm 6.5 million to 19.8 million, or 205 per cent—nearly 10 times as much. It began before the so-called women's liberation movement, and has unquestionably brought many new opportunities and greater satisfaction to numerous wives and mothers. But it has also had a major impact on American child-rearing.

ONE-PARENT FAMILIES

The parents not only have been leaving the home to work; they have increasingly been disappearing. The number of children under 18 living with only one of their parents—now one out of six—has almost doubled in the past 25 years. And the change has been most rapid for children under 6. In 1974, 13 per cent of all infants under 3—nearly 1 million babies—lived with only one parent.

Three of the main contributors to the rise of one-parent homes have been divorces, illegitimate births and desertions.

The divorce rate has risen appreciably in the past 25 years, but especially since the early 1960s. Last year, for the first time in U.S. history, the number of divorces exceeded 1 million—twice the number of a decade earlier and almost three times that of 1950. Nearly 40 per cent of all marriages now end in divorce; three out of 10 women separate from their husbands before the age of 30. The number of children from divorced families is twice that of a decade ago.

And a growing number of divorces are now accompanied by a new phenomenon: the unwillingness of *either* parent to take custody of the children.

Next to divorce, illegitimate births are the fastest growing contributor to one-parent homes. In the past 25 years the rate of illegitimacy has more than doubled, from 4 per 100 live births to 10 per 100 live births. And in addition to the more than 350,000 babies born out of wedlock last year, another 65,000 pregnancies were halted by abortions to teenagers alone. Thus, a growing number of children are being born to unmarried women, 80 per cent of them under 25 years old.

As for desertions, the male has long been a frequent deserter of his wife and children—male desertion accounted for 49 per cent of divorces in the United States in 1900—and males continue to flee. But wives have begun deserting in far greater numbers, too. Police department reports are suddenly full of notices of missing mothers, and detective bureaus indicate a quantum leap in the number of runaway wives.

Single-parenthood is especially common among the poor, although it is becoming more frequent among the lower and upper middle classes. And it is particularly prevalent among black Americans, many of whom are poor. In 1974 only 56 per cent of all black children under 18 lived with both parents, down from 71 per cent in 1965. (Recent research by Herbert Gutmann and others has found that black families have been more stable until recently than many believed.) Specifically, between 1960 and 1970 the percentage of single-parent families among blacks increased at a rate five times that for whites—a baffling fact since it was a period of considerable economic and education gains for blacks. Today, the proportion of single-parent families among blacks is three times that of whites.

Two things are noteworthy, however. White families are being fragmented progressively as well as black families. And middle-class families are now approaching the social disintegration of lower-class families a decade ago.

TIME WITH CHILDREN

The other broad category of change is the amount of attention that one or both parents give to affectionate child-raising when the children and adults are not separated by school or work. Here too there has been a sharp decline.

With demands of a job that sometimes claim the evening hours and weekends, with increasing time spent commuting and caring for automobiles, with entertaining and social visits as well as meetings and community obligations, parents spend less and less time working, playing, reading and talking with their children. More and more children come home to an empty house or apartment.

In some homes a child spends more evenings with a passive, uninterested babysitter than with a participating parent. One study of middle-class fathers of 1-year-old infants found that they spent an avearge of only 20 minutes a day with their babies. When a recording microphone was attached to each infant's shirt, the data indicated that in terms of true, intimate interaction between father and child the average daily time together was 38 seconds. One survey I did of child rearing practices in the United States over the past 25 years reveals a decrease in all spheres of interaction between parents and their children. (The same trend is appearing in Europe, according to cross-cultural studies.)

An increasing number of parents enroll their children in day-care centers—enrollment doubled between 1965 and 1975 alone—and then preschools. And they sit them in front of television. It is estimated by experts that preschool children—under 6—spend an average 50 hours a week watching TV. By the time the average American youngster graduates from high school he has spent more hours watching the television screen than he has spent in school, or in any other activity except sleeping.

Gone increasingly are family picnics, long Sunday dinners, children and parents working together fixing the house, preparing meals, hiking in the woods, singing and dancing with other families or friends. And we are paying a price for this growing inattention, even hostility, to our children.

Accidents among children appear to be increasing. Accidents are now the chief cause of death for persons under 18, and about 15 million days of school are lost annually because of accidental injuries to youngsters.

Child abuse by parents has become a national problem. A 1970 survey projected that at least 2 million battered-child cases a year may be found annually now, nearly 200,000 infants and children a year are being killed

by their supposed caretakers. A more gruesome trend shows that the killing of infants under 1 year of age has been increasing since 1957. The infanticide rate has risen from 3.1 per 100,000 in 1957 to 4.7 per 100,000 in 1970. Sadly, 90 per cent of these incidents take place right in the home; the most severe injuries occur in single-parent homes, and many brutalities are inflicted by the frazzled mother herself.

SOCIETY'S NEGLECT

It is not only the parents of children who are neglecting them. Society does so, too. As the 1970 White House Conference on Children reported:

"A host of factors conspire to isolate children from the rest of society. The fragmentation of the extended family, the separation of residential and business areas, the disappearance of neighborhoods, zoning ordinances, occupational mobility, child labor laws, the abolishment of the apprentice system, consolidated schools, television, separate patterns of social life for different age groups, the working mother, the delegation of child care to specialists—all these manifestations of progress operate to decrease opportunity and incentive for meaningful contact between children and persons older or younger than themselves."

James Coleman's fine 1974 study, "Youth: Transition to Adulthood," documented the same new conditions.

Nor should all the blame fall on the heads of the parents themselves. In many ways, the crux of the problem is not the battered child but the battered parent. To quote from the same 1970 Report to the President:

"In today's world parents find themselves at the mercy of the society which imposes pressures and priorities that allow neither time nor place for meaningful activities and relations between children and adults, which downgrade the role of parents and the functions of parenthood and which prevent the parent from doing things he wants to do as a guide, friend and companion to his children . . . The frustrations are greatest for the family of poverty where the capacity for human response is crippled by hunger, cold, filth, sickness and despair."

What has replaced the parents, relatives, neighbors and other caring adults? Three things primarily: television, peer groups (same-age cliques or gangs) and loneliness.

A recent study found that at every age level, children today show a greater dependency on their age-mates than they did 10 years ago. And, increasing numbers of lonely "latchkey children" are growing up with almost no care at all, often running away—at the rate of more than 1 million a year now—to join colonies of other solitary juveniles and to experiment with drugs, crime, sex, religious cults and the sheer restless busy-ness of Kerouac-like movement over the American landscape. These "latchkey children" contribute far out of proportion to the ranks of young persons who have reading problems, who are dropouts, drug users and juvenile delinquents.

What is not often recognized is that the social fabric which so many feel is tearing around them is to a large extent a result of the deteriorating family life and the conditions that undermine declining care for our children. Look at what has been happening to America's youth.

The first consequence is that many of them die at birth or soon thereafter. America, the richest, most advanced scientific and medical country in the world, stands 17th among nations in combating infant mortality. The offspring of young, black mothers face an expecially frightful prospect: Babies of black mothers are today still dying at the rate at which white babies died in the 1940s.

Crime in America is increasingly a youth problem. Crimes by children—those under 18—have been growing at a higher rate than the juvenile population. According to FBI data, arrests of children for serious crimes—murder, assault, robbery and rape—have jumped about 200 per cent in the past 15 years, and arrests for lesser crimes—larceny, burglary, auto theft, forgery—have doubled. Arrests for juvenile prostitution have increased 286 per cent, those for trafficking and use of drugs, 4,600 per cent.

This increase of crime by children is three times that of adults over the same period. In 1973, 1.7 million children were arrested for criminal actions—one-fourth of the total arrests in that year. At the present rate, one of every nine teenagers can be expected to appear in court before 18. And since many criminal offenders tend to be repeaters, the depressing prospect is for an expanded adult criminal population in the years ahead. And crime is already costing Americans an estimated $80 billion a year.

School vandalism has become in some areas as American as apple pie, soft drinks and aspirin. A good deal of the blame put on teachers for failing to instruct our youth adequately belongs with parents and their increasingly resentful and violent children, and on the rest of us for failing to give both our teachers and our families adequate support, especially of the non-monetary kind.

The suicide rate for young people 15 to 19 has more than tripled in less than 20 years, leaping from 2.3 per 100,000 in 1956 to 7.1 in 1974; and in recent years there has been an increase in suicides among younger children, some as young as 10. Suicide is now the third leading cause of death among young American whites; the rate for young blacks is lower but increasing faster. For young American black males, homicide is now the leading cause of death. Death from violence in some form—suicide, homicide, auto and other accidents—now accounts for two out of three deaths of those between 5 and 18. The self-destructiveness of our children has become a truly serious problem.

ACADEMIC DECLINE

Well-known by now is the decline in academic capability among the nation's young during the past 15 years or so. According to the College Entrance Examination Board, average scores on the scholastic aptitude tests have dropped in the past 12 years 44 points (from 478 to 434) in the verbal skills and 30 points (from 502 to 472) in math, on a scale of 200 to 800. Teachers and professors have in recent years become alarmed at what they experience as their students' growing inability to write decently, refusal to be rigorous in their work and inability to use common sense reasoning about everyday adult affairs of life.

In a 1976 Gallup Poll conducted for the Phi Delta Kappan, a professional education journal, two-thirds of the Americans sampled blamed parents for these test score declines because they did not provide enough attention, help and supervision for their children. And an impressive series of investigations, most notably by James Coleman and Christopher Jencks, have demonstrated that it is not so much the schools that determine academic achievement or character as a student's family life and the conditions undergirding a strong life within the family: employment, health services, work schedules, child care, neighbors who care and the like.

In addition, the alienation, antisocial behavior and disorientation of the young have made an ever larger minority of them unemployable, without training or self-discipline. Half the unemployment in our country today is among young persons under 25.

What are we as a nation to do?

I conducted a study recently for the National Academy of Sciences that tried to determine how successful all of America's early intervention programs such as Head Start really were. The results, sad to admit, were disappointing—except in places or in programs that involved the *parents* in the effort.

It's transparent now that the family is a critically important institution in shaping our children's minds, values and behavior. But it's equally clear that the American family is distintegrating. That's what I'd call a collision course for our our society. It must be reversed. But how?

There is no space here for concrete suggestions, but I would like to offer a few thoughts. I think the main causes of the change in family life are three in number. So perhaps our remedies need to take three paths.

One cause is our attitudes. America has temporarily lost its balance. Today what matters most for many people is their own growth and happiness, their own self-fulfillment, doing their own thing, finding themselves. We seem to be sunk in individualism. We so much want to "make it" for ourselves that we have almost stopped being a society that cares for others. We seem to be hesitant about making a commitment to anyone or anything, including our own flesh and blood.

To be sure, individualism has helped bring about extraordinary solo efforts by many Americans—in art, science, business and other areas. But we have entered a period of history when we need to put other, neglected values on the scale, too.

We have many other traditions in the American past: our social welfare schemes, our great public education system, our way or helping our neighbors—or foreign peoples—in times of catastrophe, our volunteer organizations that Tocqueville found so outstanding, our scholarships and other help for the poor but able, our quicknesss in extending friendship and care to strangers. Like individualism, they too are American traits, and we should draw upon them also. It's a matter of more balanced attitudes.

The nealthy growth of each child requires a commitment of love, care and attention from someone. Neighbors, day-care leaders and school teachers can help, but most of the enduring, irrational involvement and intimate activities must come from parents. No one else can ever care so much or so continually. We need to get out of ourse'ves and into the lives of our children more than we do.

A second cause is our socio-technical structure—the network of work schemes, social dances, travel patterns, telephones and other social patterns and apparatus that conduce us to separate and fragment rather than come together. We need to reshape parts of this socio-technical structure to meet the new needs of today's parents and children.

MORE PRAGMATISM NEEDED

As a nation we are superb at scientific technology. In this area we are pragmatic. We try new things to see if they work. But when it comes to social technology, we are stuffy, rigid, pessimistic. We often refuse to try little experiments in human affairs to see if our society can be more harmonious and our children happier. Little things, like more part-time work schemes to allow mothers, students and fathers to have more flexible schedules for greater human contact, seem so difficult.

Our welfare system is a disaster, actively abetting the dissolution of our families. It's chaotic and was designed by no one. Do we redesign it? No, we prefer to continue to muddle through, even though the cost in human lives is staggering.

I would suggest that the United States can no longer afford to be so methodical, precise, pragmatic and research-oriented solely in its technological advances, and continue to be so sloppy, neglectful, cautious and fatalistic in its social programs.

Last, our national rules and policy are a cause of family trouble. The United States is now the only industrialized nation that does

not insure health care or a minimum income for every family with young children, and the only one that has not yet established a program of child care services for working mothers.

In the controversial gun control legislation we support the rights of each individual to bear arms but not the rights of our people—or our police—against being shot to death more easily each year.

We care more fervently about keeping our wilderness wild, our favorite fishing holes intact and football than we do about the condition of our families or the gradually spreading cancer among our children.

In our taxes, our plane fares or our government welfare policies we pay close attention to each individual's privileges and pay little attention to family rates or policies that would help build more cohesive families. We are not only "far out" in some of our individual behavior; among the advanced nations of the world the United States is "far out" in its national permissiveness toward individuals and its national neglect of the upbringing of its children.

Obviously, we cannot go back to the family life of an earlier age—nor should we wish to do so, given some of the oldtime family's inequalities and authoritarian practices. But we can design and put into practice new attitudes and structures appropriate for our time.

Among all the talk about returning to decency and fundamental values after Vietnam and Watergate, none ought to be more dear than that of a renewed concentration on the proper care, instruction, guidance and values of America's young people and the families in which they are raised.

The bodies, minds and emotional health of our children demand it. And the ability of our country to cope with its awesome future demands it.

TRIBUTE TO M. W. THATCHER

Mr. HUMPHREY. Mr. President, I wish to share with my colleagues in the Senate an article in the January 3, 1977, Co-Op Country News which noted the outstanding life and career of Mr. M. W. Thatcher.

This capable individual as a dear friend of mine, and a devoted friend of the American family farmer.

At his eulogy on December 28 I stated:

There is no doubt that Bill Thatcher was a businessman. He understood the economics of our time. There is no doubt that he was a gifted organizer. I've often thought what that man would have done in politics if he had ever sought a role in public office.

He was a leader, he cut away the doubts and fears and he opened up new vistas. That's what leadership is all about. A leader is one who asks people to follow him, who dares to try, who is unafraid of the future, who spends very little time wondering about the yesterdays. I think Bill Thatcher was a born natural leader.

I have noticed that he was an advisor, consultant and confidant to so many of us that are here today—to presidents, senators, congressmen, governors and legislators, people in all walks of life. He wasn't always knocking at their door, we came to him.

I know he was a political maverick. I never was able to quite tag him. His only ideology was helping the family farmers. Helping them to organize, to build cooperatives.

Bill Thatcher looked upon the family farmer and the family farm as the under-pinning, stabilizing, the bedrock granite on which we built the great cathedral of American democracy. And Bill Thatcher was not only the farmers' friend, he was a spokesman, an advocate, protagonist. He was a vital orator, he had a brilliant mind and he knew what to do to help those to whom he had dedicated his life.

Now, what I like more than anything else about him was that he was an optimist. Never a quitter. There was always something to do, he was always an optimist about the United States of America at critical times of our inadequacies and injustices. He was as any real patriot ought to be, because patriotism is not a sudden outburst of emotion, but the tranquil and steady dedication of a life. And he represented that in his work.

We will miss this thoughtful and forward-looking American. But we can still remember him and learn from his observations and example.

Mr. President, I ask unanimous consent that an article on M. W. Thatcher's life and contributions be printed in the RECORD.

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

M. W. THATCHER, 1883–1976

M. W. (Bill) Thatcher, first general manager of the Grain Terminal Association, the far-flung regional grain marketing and processing cooperative he helped create in 1938, died in a St. Paul hospital December 25. He was 93.

Mr. Thatcher's colorful career on the agricultural front spanned more than 50 years—during which he championed the cause of the family farm and parity of income for farmers. He influenced farm legislation for 40 years and was involved in farm programs with Presidents Herbert Hoover, Franklin Roosevelt and Harry Truman.

Mr. Thatcher worked mostly with congressmen and had scores of friends in both political parties. One of his long-time friends was Senator Hubert Humphrey of Minnesota who said in his recent book that the veteran cooperative leader would have been "an incredibly charismatic political leader" had he not chosen to go with the cooperative movement.

Throughout his career, Mr. Thatcher had the ability of leading people, talking to people and holding them spellbound. He could make each farmer and his wife in a large audience feel his personal concern for them, or could be thoughtful about small details in the lives of those he met. Associates feel this is why he chose to become a cooperator and could lead thousands of others to do so.

Old-timers in the cooperative movement and long-time GTA employees remember him as one of the last of the old-line stump speakers. He spoke unhurriedly in a deep, resonant voice, building up to shouting climaxes and asking questions of the audience which invariably brought audible responses.

Mr. Thatcher retired as GTA general manager in 1968 after serving in the position for 30 years. It was in 1938, with an handful of co-sponsors, that he organized the Grain Terminal Association to handle the grain produced by cooperative farmers in the Dakotas, Minnesota and Montana. With the widespread support of cooperative producers, GTA grew from an original capital investment of $30,000 (borrowed from the Farmers Union Central Exchange) to a wide-ranging network of elevators and processing plants.

Mr. Thatcher was born in Valparaiso, Indiana, not long after his father, Samuel, had left the farm and moved to town. Although born in town, all his Scotch-English-German relatives were farmers and he grew up in close contact with a rural economy.

He was christened Myron and his twin brother was named Marvin, names which neither fancied. One of his farmer-uncles had a span of horses, Tom and Bill, which the twins loved dearly. They insisted people call them Tom and Bill just like the horses. So Bill it was. Later he incorporated the borrowed Bill into this legal name and made it Myron William Thatcher.

It was also on a visit to a relative's farm that Mr. Thatcher's basic farm philosophy began shaping—although he was only seven and wouldn't recognize it for many years. The youngster asked his father why he'd left farming for the city and got this reply: "I quit because I was tired of raising crops when I had no idea what I'd get for them. Contracting and selling in town offered some security."

That statement, Mr. Thatcher said, became one of the motivating factors in his work. "I'm not mad at anyone," he would tell newsmen. "But I feel farmers have had a lousy deal."

M. W. Thatcher studied accounting in Chicago as a young man, and was employed by a Chicago auditing firm when he had his first contact with the grain industry. It was in 1906 when he was sent to the Upper Midwest to audit books for grain and milling firms in Minneapolis and Duluth.

He returned to the region in 1909 to work for a bank which sent him to Osceola, Wisconsin, to reorganize a failing grain and milling firm. This introduced him to grain management and brought him in contact with Equity Cooperative Exchange of St. Paul, the nation's first cooperative grain commission firm. When Thatcher returned to his auditing job in Minneapolis in 1914, Equity asked him to audit its books.

Equity came under attack by private grain and financial interests in 1915, and there was a lawsuit to dissolve the co-op. Thatcher had to choose between his job as an auditor and appearing as a witness for Equity. He chose the co-op. His testimony helped dismiss the suit.

Equity, however, had other difficulties and entered voluntary receivership in 1923. Thatcher was named to oversee its dissolution. He had worked for North Dakota's Industrial Commission in 1920 and 1921 and then started working with the cooperative movement.

As an outgrowth of Equity, the Farmers Union Terminal Association (not the same as GTA) was formed. The terminal association was eventually absorbed by the Federal Farm Board and later became part of the Farmers National Grain Corporation.

That organization came about with Hebert Hoover's election in 1928. During the campaign Thatcher outlined for Hoover what he thought would win the farm vote Hoover needed for election. Hoover promised to call a special session of Congress to get a farm marketing act. The Agricultural Marketing Act of 1929 was passed and a Federal Farm Board was begun to administer the act. Under the act, Farmers National Grain Corp., made up of regional cooperatives, was organized.

While Equity was folding, Thatcher became an organizer for early grain marketing cooperatives. He helped organize the Farmers Union state organizations in Minnesota, Wisconsin, North Dakota and Montana, worked for continuing aid to co-op livestock marketing and took a leading national role to secure legislation for all farmers.

From 1932 to 1937 he worked as a lobbyist for the Farmers National Grain Corp. in Washington. It was a period he often called his most satisfying. While in Washington, Thatcher helped prepare, testify and lobby for the wheat-processing tax and benefit payment for the first Agricultural Adjustment Act, the wheat loan and parity payments that replaced it in 1938, and various credit acts.

Thatcher is credited with a major role in three farm laws. The first was the 1935 amendments to reduce federal farm mortgage rates to 3.5 percent which saved farmers $334 million and helped lower all in-

terest rates. Second, he worked three years to pass the Commodity Exchange Act of 1936; it guaranteed farmer co-ops entrance to commodity market. Third, he saved what became the Farm Security Administration (now Farmers Home Administration) from oblivion in 1936 so it could continue loans to hundreds of thousands of needy farm families.

Liquidation of Farmers National Grain Corp. was started in 1937 and Thatcher returned to the Twin Cities to help. But it was a time of drought and depression and the grain corporation's regional co-op members were without funds to carry on co-op grain marketing.

Thatcher went to President Roosevelt, who on Dec. 29, 1937, inscribed on Thatcher's short memo "HW: Try to work something out, FDR." HW was Secretary of Agriculture Henry A. Wallace. It was done. The new Banks for Cooperatives helped the regionals start again.

Liquidation of Farmers National was completed May 31, 1938. The next day Thatcher began GTA with the $30,000 borrowed from the Central Exchange; later it got loans from the Farm Credit Administration.

Emil Loriks of Arlington, South Dakota, who served on the GTA board of directors for 27 years, ten as its chairman, recalled the meeting in 1937 when Thatcher presented his plans for organizing GTA to state farm leaders. "I was anxious to see my state get into the organization," Loriks said, "be cause the leadership was there."

GTA was started with 121 local association members. Today, it includes 600 owned or affiliated elevators, operates eight terminals, two oilseed processing plants, three malt plants, 12 feed plants, a durum mill and 119 lumber yards.

In 1941 a dream held by Upper Midwest farmers since 1891 became reality with the building of the 4.5-million-bushel GTA elevator at Superior, Wisconsin. At the time it was the tallest, fastest operating elevator in the world and was not to be matched for many years.

In May, 1942, GTA took over a durum wheat mill at Rush City, Minnesota, to become the first U.S. grain cooperative to go into milling, and foreshadowed later moves in to feeds and oilseed processing.

In May, 1943, GTA bought the St. Anthony and Dakota Elevator Company with its 135 elevators and 38 lumber yards. Foes of co-ops began a long battle through their National Tax Equality Association to oppose the co-op movement. Thatcher played a key role in setting up state cooperative associations and national committees to answer the NTEA.

Earlier, Thatcher sought to give grain marketing co-ops a common voice in Washington with the formation of the National Federation of Grain Cooperatives. This was accomplished in February, 1939, when nine regionals got together and formed the federation. Thatcher was elected NFGC president every year until he retired.

Thatcher continued his farm advocacy during the Truman and Eisenhower administrations. His famous slogan "Farm Prices Are Made in Washington" was born during this time.

Meanwhile GTA continued to grow and became the world's largest grain cooperative, with annual sales of $1 billion.

"I don't think there was a co-op leader that served as Bill Thatcher did," said Jewell Haaland of Clarkfield, Minn., chairman of the GTA board of directors. "He was the proper guy at the proper time to carry the thing out. We're going to continue to develop on the foundation he laid for us and go beyond his dreams."

WE'RE GOING DOWN THE SAME ROAD AS BRITAIN

Mr. GOLDWATER. Mr. President, all Americans today should be paying close attention to the plight of Britain. As we look across the Atlantic, we see this once great empire suffering from a loss of position in world trade, a devalued currency, high inflation and a drastically falling standard of living. And we begin to understand that Britain's experiment with socialism and wealth sharing has been disastrous.

If we look closely at the British experience, we can see many danger signs for the United States, because whether we like it or not we are tending toward the same socialistic direction that Britain followed to its sorrow.

Mr. President, an extremely fine analysis of the British condition and our own dangers appeared recently in the magazine "Industry Week" and I ask unanimous consent that this magazine article be printed in the RECORD.

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

"WE'RE GOING DOWN THE SAME ROAD AS BRITAIN," MANY AMERICANS SAY

Loss of position in world trade, a devalued currency, high inflation, and a falling standard of living are persuasive evidence that Britain's experiment with wealth-sharing is not working.

Its attempt to spread a net of minimum living standards under everyone has darkened the lives of more people than it has helped. What's more, it has nearly destroyed its wealth-producing industry. Britain's blend of public and private enterprise has settled into a mixed economy too weak to match the international competition.

Americans generally blame the lingering crisis on Britain's "Socialism" or on side effects such as the loss of drive and the willingness to work. In turn, they read into the British situation many warnings for the U.S.

There are some similarities in what the U.S. has done or is contemplating doing. And there are some differences. But those differences could disappear, depending on the course of American politics in the next few years.

It takes little imagination to conclude that the U.S. and the U.K. could have similar economic systems "at the end of the day," as the British would say.

That's why the success or failure of the British experiment bears close watching. Can it back away from economic disaster? And if it does, will its Socialistic attributes save it? Or will they be shelved as too idealistic for such critical times?

The British, who don't blame their problems on outside influences and don't look for outside help, will tackle the problem themselves. Despite their economic ailments, which they readily admit exist, Britons remain confident they will work themselves out.

But whether they work things out by staying on their present course or by reversing it is something they haven't agreed on yet. Will they rely more and more on government services, ownership, and control or will they restore more initiative to individuals and private enterprise?

"We still look to you as the bastion of free enterprise, says a construction company owner from the lake country of England. For him, the only way to avoid disaster is through a stronger private enterprise system—a reversal of the 30-year march toward Socialism.

Like many Americans, however, he fears that the U.S. may be abandoning its private enterprise system. Heavily regulated U.S. industries might become nationalized, and the individual may become too dependent on government.

The causes of Britain's economic ills are manifold and they have been emerging for decades. But, just as its troubles are self-inflicted, the U.S. could cripple itself in the same way.

CRIPPLED GIANT

The United Kingdom entered the post World War II period as something far different from the once classic empire. Bombs and rockets had devastated its industrial heart. Making good on promises and plans hammered out during the war, the new government laid out monumental social welfare programs that diverted money and manpower from wealth renewal. And Britain began the process of shedding its world empire, which had furnished a captive source of raw materials and a ready market for its manufactured goods.

Class barriers could no longer contain the pressures for equalization. The tight British system split open. The "have-nots" clamored for social programs while the "haves" clung to memories of empire.

Rather than rebounding like defeated Germany and Japan, Britain shuffled along, half-heartedly expecting to rebuild its economy along old lines. Old equipment and old methods were retained. "After the war, industry was still geared to supplying goods to the Commonwealth," says Joel Barnett, Member of Parliament and Chief Secretary to the Treasury. "It continued buying goods even though it could get better prices, products, and delivery elsewhere."

Meanwhile the U.S. burst from World War II as an industrial giant rich in resources and welcomed by an eager domestic market. The opportunity for individual economic betterment seemed virtually unlimited. A hidden layer of minority deprivation would not express itself for another decade or two.

SOCIAL CONCERN

Many of Britain's social services originated in the 19th century when reforms were made to attack the sorry conditions created by the Industrial Revolution. By the early 20th century, the nation had turned frequently to government for reform and services. World War II pressures brought plans for more comprehensive programs, which were implemented during the late 1940s.

By then, worker-management relations had a long history of confrontation. Labor chose the political route to obtain satisfaction. The Labor Party, founded by trade unions in 1906, came to power in 1945 to deliver "cradle to the grave" services at the expense of individual and corporate gain.

Post-war recovery focused on redistributing rather than generating wealth. There are at least two reasons.

First, even today in Britain, one can sense a strong compassion for one's neighbor. Virtually all segments of society share the belief that the nation should provide a safety net of income and services below which no one need fall. Even a director sitting high in the corporate towers of London can be heard to say, "we must help those who suffer from the free market." When some Britons use the term "Socialistic," one gets the feeling they are referring to this social concern rather than the standard Socialist ideology with its statism and government ownership of production.

Marching some ten or twenty years behind Britain, Americans, too, have begun to hoist

a safety net to protect those who are hurt by—or "left out of"—the system. Less revolutionary and less extensive so far, the direction is the same.

A second reason for the dividing-the-pie approach is less admirable. Although the first reason may have supported change, the second was the driving force: self-interest. For people on the low end of the economic scale, the social programs were a way to equalize things. They had enough votes to demand short-term solutions.

TOO MUCH, TOO FAST

Britain might be considered one of man's finest experiments in conducting himself as a social creature and in an economic democracy. But it has to be regarded as an economic disappointment. Going overboard in sharing the wealth, it has allowed the generation of greater wealth to wither.

Last year, the gross national product (GNP) per capital in the U.S. was nearly $7,900; in Britain it was less than $3,400. On a per-capita basis, Americans have twice as many cars, twice as many telephones, half again as many TV sets, and a fifth again as many doctors as the British.

"The basic problem is that, over the last 20 years, growth has been steady but lower than, for example, in the U.S.," says Mr. Barnett. "Despite that lower level of growth, we have insisted on growth in living standards and services that, to a degree, have not been earned."

Public-sector spending in 1975 ran at nearly eight times the 1955 level in the U.K., although the total economy had grown only a little more than five times.

Public expenditures now equal 60 percent of the gross domestic product, and "this can't go on much longer," one corporate director points out. The private sector has been so weakened and so blocked from restoration that it stumbles under the weight.

Wage earners and industry in the U.S. don't carry that much weight, but they seem to be following in the footsteps of their British counterparts.

And they may not be as far behind as they think.

A few Americans may be aware that purchases by local, state, and federal governments now total nearly $400 billion—between a fourth and a fifth of their GNP. But this does not reflect total expenditures by government, which in 1975 reached $585 billion—equal to 39 percent of the GNP.

The bulk of that differential was consumed by transfer payments for insurance, retirement, unemployment, and other welfare programs which totaled $172 billion in '75.

Transfer payments, for which U.S. governments act as redistribution centers, have soared to that level from $40 billion in 1965. The ratio of these payments to the GNP is now 11 percent—double what it was ten years ago.

If the 60 percent ratio of public expenditures to gross domestic product is too high for Britain, is the U.S. safe with its 39 percent ratio? If its present course takes it to 50 percent by about 1985, will that be safe?

Americans are already being forewarned by internal events that public services do have limits. The future of the Social Security program is in jeopardy. The maximum tax paid by both employee and employer rose from a nominal $30 in 1937–49 to $84 in 1956, $277 in 1966, and $895 in 1976. Yet, revenues fell $5.4 billion short of the benefits paid in '75.

The financial crisis in New York City serves as an even more dramatic warning that there are limits to government services.

Overload of services snuffs out productivity

Increased public spending has drained money from Britain's private industry, potential investors, and skilled working people. And taxes, laments one tool and die maker, are one of the biggest causes of inflation. He earns 67 pounds a week—50 percent more than he did a few years ago, but his take-home pay has increased only 28 percent.

Britain's progressive income tax structure, which ranges up to 83 percent maximum rate, has an immeasurable effect on people's ability to save and invest and on their incentive to advance and take on more responsibility. A person earning the equivalent of $10,000 a year finds himself close to the 50 percent tax bracket.

There's still a strong feeling in Britain that labor must wrest power from the "owners," says an American observer of the U.K. The labor government, from 1964 to 1970, progressed dramatically toward solidifying the welfare state. The prevailing view was: industry is in search of profits with no regard to anything else.

In the U.S., too, both profits and above-average individual earnings are often used as political targets. Zealousness to equalize incomes rips into the investment or seed money of a nation. The U.S., with its fast-growing economy, has not been subjected to these pressures as much as Britain has. But with the prospect of slower growth in the decades ahead, it can expect increased demands for income or wealth redistribution.

When each price and each wage has more and more tax built into it, it tends to rise. And Britain's inflation rate has been cause for concern for years. Consumer prices have quadrupled in the postwar years. (In the U.S., they have doubled.)

The pound sterling—once the benchmark for currencies around the world—has steadily lost value. It slipped from a pre-war $4.80 to about $4 at the end of the war and to $2.80 by late 1949, reflecting the ravages of war, welfare, and loss of empire. It was devalued to $2.40 in 1967, ranged above that during the early seventies, but fell to below $1.60 in 1976. The recent slippages reflect a basic failure of Britain—the failure to create wealth as fast as it was consuming it and to stimulate a demand for products bearing pound sterling pricetags.

Devaluations have served only to cover up problems. As the devaluations lower the relative price of Britain's exports, they also raise the price of its imports. "There is no full pass-through," says Al Dittrick, vice president, manager-Europe, Republic National Bank of New York.

Another American observer notes that in a previous round of devaluation many British manufacturers merely adjusted the price of their exports. Rather than let the effective price fall, they enacted price increases to offset the devaluation. Furthermore, this analyst points out, price was not the chief reason for the insufficiency of British exports. "They are not designed or marketed in a manner that creates a 'pull' for them."

WORKSHOP NATION

Britain regards itself as a "workshop nation." Even life's essentials—food, clothing, and shelter—involve it in international competition. It must import most of its raw materials, and it must pay for them with exports of manufactured goods or international services such as transportation or insurance.

"Britain has to live on what it produces," observes Drago Volowsek, director-axle operations worldwide, Eaton Corp. "The U.K. is in a post colonial state. It used to have the power to dictate world trade. The world still thinks of British products as firstclass, says this manager who has worked in many countries, most recently in the U.K. But the British are slow to market their goods and sometimes they can't supply them once demand has been established, he says.

One raw truth is making itself felt throughout Britain: the nation is not producing efficiently compared with other industrialized nations.

Britain's situation is a "function of productivity," says Lionel "Len" Murray, general secretary, Trades Union Congress. He thinks the productivity problem has many causes:

"Deficient management in industry." And this applies to some trade union leaders, too, he adds.

"Failure on the training side." The educational system is not preparing people for work in industry.

"Class relics in our society." Class distinctions are fading in industry, but some of their effects linger on.

"The serrated curve of stop-and-go economics."

"Unions, or working people, have sometimes resisted change when growth was slow and there were threats to employment.

"Lack of investment in manufacturing" and improperly used investment.

FOR WANT OF INVESTMENT

Talking with workers, managers, or government officials in Britain today, one repeatedly hears expressions of the need for investment.

At Glacier Metals Co. Ltd., J. I. Hampshire, director of industrial relations says, "We're paying now for the lack of investment."

Across the room from him, George Hawkins, chairman of the shop stewards committee and a leftist, considers Britain's relatively low wages and other conditions and concludes: "Our production must be too expensive."

Although people seem to be nearing a consensus that investment is the key to the long-range solution of their economic ills, agreement has yet to be reached on how to stimulate investment and where to apply it.

"Profitability of the industrial sector has been in a long-term decline," says the Div. of the Treasury. Return on capital is less than half what it was a decade ago.

The annual growth rate of fixed investment fell from 5.7 percent in the 1960s to 0.75 percent in the 1970–75 period, notes the Organization for Economic Cooperation & Development. And manufacturing, which accounts for about half of this investment, has been downtrending since 1970.

In the late sixties, the Labor government advanced the welfare state at the expense of industry, says an American observer. Companies had inadequate earnings to plow back into investment. Managers and salesmen were overtaxed and underpaid. "The idea of economic reward for inventiveness and effort had disappeared."

In 1970, when the Conservatives returned to power, Prime Minister Heath tried to create a counter-revolution by tending to the needs of business. By the end of 1973, a boom was in full swing, the inflation rate was held to 7 percent, and an incomes policy was in effect.

But the miners defied the incomes policy and demanded a 35-percent wage increase. Ancient class hatreds received part of the blame, and some observers believe the Communist element in the union egged the miners on, hoping to break the government.

LABOR MANIFESTO

"Who runs the country, government or the unions?" Mr. Heath asked. His answer came in an election which his party lost. A minority Labor government came to power. After seven months, Prime Minister Harold Wilson called for another general election and solidified his power by picking up more popular votes and more seats in Parliament. The labor unions had demonstrated clearly that they were now the key to political power.

While out of power during the early seventies, the Labor Party had adopted a manifesto which was so far to the left that it quite likely did not reflect what the majority of the party members actually wanted. But when the party found itself in power in 1974, the manifesto was its only platform.

Another development in early 1973 that pulled government farther from industry was the groundwork laid by the Trade Unions Council for what was to become a year later

a "Social Contract" with the Labor Party. This offer of cooperation in the attack against inflation committed the government to an additional extension of social services, further nationalization of industry, more equitable sharing of wealth, and maintenance of employment.

To outsiders, the ensuing situation strongly suggested that the British tradition of responsible government was being discarded. The whole tenor of the manifesto was the redistribution of income and the destruction of private wealth.

Unions "went wild" in their wage demands. Other workers fell behind as consumer prices leaped 16 percent in 1974 and were racing at the breathtaking pace of 30 percent as 1975 began. The Social Contract was not working.

Pay for some workers was being permitted to soar with no ties to productivity improvement, observes John Pearson, Management/Union Relations Dept., Industrial Society. The Labor government had been talking about productivity, he says, but rather than cooperation there was conflict.

A welcome breakthrough came in the form of an agreement by the Trade Unions Council to get unions to support a six-pound-a-week limit on pay increases for the year beginning Aug. 1, 1975. The voluntary limit worked. Weekly wage rates, which had advanced nearly 34 percent in the second half of 1974, eased to a little over 30 percent in the first half of 1975 and to 24 percent in the second half.

The limit on wage increases succeeded in reducing the inflation rate to 13 percent in 1976 from 24 percent in 1975. And, beginning in August 1976, a second round of wage limits held pay hikes to 5 percent (about half the increase allowed under the six-pound-a-week limit).

By late 1976, the stout-hearted British people were fed up with the wage limits but bearing up under them. They were falling behind the rate of inflation and making very apparent reductions in their standard of living. Unemployment had jumped to a post-war high.

An American can't help wondering whether his own country would be willing to make similar sacrifices. By comparison, the U.S. experience with inflation has been mild and even with mandatory wage and price controls—rather than voluntary limits—sacrifices were not extreme.

WRONG PRIORITY?

When any nation turns its attention to crushing inflation, one must ask whether symptoms or causes are being treated.

In Britain, wage rates aren't the basic problem. Productivity is. And the flat wage limit aggravates that problem. Earners at the bottom of the scale are pulling closer to those up the line. Together with the progressive income tax, wage limits are compressing the differentials between management and worker and between skilled and unskilled workers.

"The lack of pay differential will destroy British industry," warns Glacier Metals' Mr. Hampshire. It hurts the young developing workers who are locked into lower pay than the less productive people working beside them, he points out.

"Our priorities seem to be wrong," says Industrial Society's Mr. Pearson. "We're working on inflation, but we haven't done anything about productivity."

Mr. Barnett, as a member of the Labor Party which is struggling to maintain union support while facing economic realities, says, "For the short term, inflation fighting had to take priority. We have had the good fortune of a Society Contract with the trade unions," he says, referring to the ability to hold things together despite high unemployment, 13 percent inflation, and cuts in living standards.

The Labor government is further risking the loss of labor support by trimming public spending. The proposed cuts are not as drastic as might be expected and are still largely out into the future. "We could not have a crash program," explains Mr. Barnett. "To attempt massive change would have been an enormous threat to social cohesion. We didn't try big cuts in 1975 because, with the world recession, we would have had a huge hole in the economy, huge unemployment."

When Britain sought approval for a $3.9 billion International Monetary Fund loan in 1976, there was much suspicion that it would be forced to drastically change its economic strategy. But Mr. Barnett believes: "They are not going to insist on our doing something that we would not want to do politically."

Another outside organization, however, has expressed concern about Britain's economic direction. The Organization for Economic Cooperation & Development suggested that Britain study the "desirability of reducing the public sector's share of total resources in the medium term, thus ensuring sufficient room for the growth of productive investment. . . ."

CAN STRATEGY PROVIDE THE SPARK?

Since late 1975, the government has been pursuing a strategy designed to shift resources into productive investment and exports. Even labor, in its own way, wants to assist the process of investment.

At the planning or policy-making level, the government has revived the National Economic Development Council (NEDC)—a body established by the Conservatives in the early 1960s.

NEDC selected 30 industries for study because they are key elements in economic development. Not all of them will necessarily be favored; some may even decline in importance in the long run.

Each of these sectors (the list has grown to 39) has a working group representing labor, management, and government. Hopefully, the industries will benefit from these parties working together and learning to appreciate one another's problems.

"In the first stage, we were looking at the short term; we were looking for possible bottlenecks and how to deal with them," says a Dept. of Industry official. "The market hasn't worked sufficiently well to give us the results we need in terms of a rate of growth. Thereafter, we want to move into a higher gear to get the sector-working parties to see how they may be expected to develop over the next three to five years and what strategy is appropriate for them."

As the working parties study industrial relations, export potential, market share, competitiveness, and so forth, some problems may work themselves out. But primarily, the government intends to aggregate the findings to "get a clearer picture of where our strengths and weaknesses are and where government policies may be best applied."

The Confederation of British Industry, representing private industry, favors this voluntary planning by sectors to improve productivity. And it says it will "take account" of any strategies developed. The question is whether it will support any national plans that could stem from the NEDC findings.

American business managers may one day find themselves in a similar position. Some of them favor such things as a national energy policy or a national materials policy. But, although they would welcome a sense of direction and some guidelines, they fear that government would step into the driver's seat.

Crowded in by environmental considerations and natural resource limitations, the increasingly interdependent sector of American society wonder about the need for national planning. In fact, a national planning bill has been under consideration.

As the U.S. fashions any kind of forum or agency for coordination or planning, it can draw some lessons from the U.K. Bogged down in plans that didn't work and in plans yet to come, British industry has been forced to inch forward in tentative defensive steps. Up and down cycles of business brought on by political changes have discouraged long-range capital investment programs and manpower planning. It has meant a misallocation of investment, resulting in the ability to deliver goods not needed and an inability to meet delivery dates on goods that are in demand.

PUBLIC GOES PRIVATE

The new industrial strategy employs a device that goes beyond studying and planning.

The National Enterprise Board (NEB) was established in 1975 "to assist the economy of the U.K., to promote industrial efficiency and international competitiveness, and to provide productive employment."

NEB is a public company designed to invest in private industry. With a billion pounds in hand, its top officials say they intend to get a "good return" on the taxpayers' money. They make no bones about going after an equity interest in high-potential ventures. Although NEB can afford to take "the longer view" and invest for long-range potential, it will not support lame ducks, its officials say. Its biggest holdings so far, however, were inherited from government—the troubled British Leyland Ltd. and Rolls-Royce (1971) Ltd.

The stated strategy calls for NEB to inject capital into promising industries and provide the expertise to help manage firms in which it takes an equity interest. But the Confederation of British Industry doubts that any independent body can possess sufficient expertise to share in the managing of a large group of companies.

The missions of the NEB could conflict with one another. British labor could push the government into pressuring the NEB to create jobs and forget about promoting efficiency.

In its "Economic Review" last year, the Trades Union Congress pointed out "The Industry Act of 1975 [which created the NEB] is quite specific in putting employment creation on a par with purely financial objectives. The NEB's employment creation role will be particularly important in the coming few years."

The NEB, then, could become a means of propping up unproductive industries in order to preseve payrolls. It could be sidetracked from fostering viable, competitive industries which provide jobs that pay their own way.

"Britain's prosperity and welfare depend on the wealth generated by its industry. . . . We need both efficient publicly owned industries and a vigorous, alert, responsible, and profitable private sector," the current government has said. In a 1974 paper, "The Regeneration of British Industry," it said: "The government's main proposals for extending public ownership were set out in the manifesto on which the Labour Party fought the last general election and are now being presented to Parliament and the public. . . . They include proposals for community ownership of development land, the establishment of the British National Oil Corp., the nationalization of the shipbuilding and aircraft industries, the extension of public ownership in the road haulage and construction industries, and schemes for bringing commercial ports and cargo handling activities under public ownership and control."

In the past, industries which came under public ownership were of a utility nature, heavily regulated, or in economic trouble. In the late 1940s, there was a wave of nationalization in coal, electricity, gas, and trans-

portation. In the late 1960s, the iron and steel industry and freight services saw large segments bought for the public. Greater public control of offshore oil and gas came in 1975. Next in line: the aircraft and shipbuilding industries. And the NEB could lead to public ownership in any industry.

UNACCEPTABLE POWERS

The Confederation of British Industry charges that the NEB holds some unacceptable powers and that its extension of government ownership into profitable industry smacks of political ideology. Although some people view the NEB as a compromise between the ailing private system and nationalization, others see it simply as "backdoor nationalization."

Americans don't like the word "nationalization." It's not politically smart for them to talk about it. But they have moved toward it with the establishment of Conrail and Amtrak. And legislation has been proposed for a government-owned oil company. Increasing regulation in shoving utilities toward government control, if not government ownership. Even the U.S. auto industry finds its product increasingly dictated by government.

When an industry is heavily regulated in product or price, judged irresponsible, or loses its economic viability, it becomes ripe for nationalization in many Western nations.

It can even be argued that nationalization can shore up that industry to preserve the remaining private sector. But change in the form of ownership does not in itself ensure the viability of an industry. In fact, Britain's nationalized industries rank at the bottom of the list in productivity compared with their counterparts on the continent.

A nation cannot hide its inefficiencies. They spread into the fiber of other industries, and eventually the nation faces a test from the outside: the world market.

NORTH SEA OIL

The likelihood of becoming self-sufficient in oil by 1980 will greatly help the U.K.'s world competitiveness—at least insofar as that cost advantage can offset some other inefficiencies. North Sea oil is already lifting Britain's morale. The national pride generated by the impressive engineering feats and skilled management that brought the fields on stream on an accelerated schedule may bring a higher regard for the productive sector.

On the other hand, the development could be detrimental if it serves merely to cover up continuing inefficiencies elsewhere in industry. Nor can North Sea oil offset stagnation in investment and organization.

Britain has reached the chicken-or-the-egg situation as to pinning the blame for inadequate investment. Does public ownership have to be extended because investors don't want to put their money into Britain's industries? Or are investors unwilling to put their money there because of the poor opportunities for good return and the threat of nationalization?

British-based multinational companies are accused of not supporting the home economy. "There's a great suspicion that our multinationals have withheld investment in the U.K. and accelerated it elsewhere as a judgment on the political and economic climate," says Dr. John Stopford, professor of business policy, London Graduate School of Business. "It's fearsd that, because they've got the foreign option, they've been damaging to the prospects of . . . recovery.

Dr. Stopford, who has extensively studied multinational companies, believes that this charge is "without foundation. The rate of investment among the British-based multinationals in the U.K. has been far higher than it would have been had they not been international companies. Most leading companies are more profitable outside the U.K., but still the major share of the investment is in the U.K. despite the profitability gap."

But the strengths that accrue to some industries through international operations are as hard to explain in Britain as they are in the U.S. These companies are often accused of exporting jobs, although their net effect is beneficial to the home economy.

Dr. Stopford cites another important contribution of the multinationals. "Given the fact that we're a fairly low mechanical country—our demand for machines of the newest type is lagging behind—we need to have a manufacturing and design presence abroad to keep up with the latest developments in industry which we can filter back to the U.K. much faster through a multinational system."

Britain is hospitable to multinationals based elsewhere. And foreign-owned operations have helped Britain. A study by J. H. Dunning and R. D. Pearce of the Economist Advisory Group shows, for example, that U.S. affiliates in British manufacturing accounted for 12 percent of all production there in 1973–74. Over the last 24 years, they say, U.S. affiliates have consistently earned higher rates of return on capital than their U.K. counterparts. They also export a higher percentage of their output.

However, a number of the U.S. managers with plants in Britain are unhappy with their operations there. Some say they are considering pulling out; others admit they'd like to. The reasons range from the weakness of the British home economy to a productivity situation that restricts competitiveness in exports to the continent.

AIR NEEDS CLEARING FOR SHOP FLOOR PROGRESS

The productivity problem in Britain is more than a matter of who is investing and how much. Virtually every ingredient for poor productivity is there.

Industrial equipment is largely obsolescent. Plant layout and material handling are relatively inefficient. Many companies lack management depth; their top layers may be competent, but the middle level is short of talent.

Communications between labor and management lags far behind that in the U.S. or Japan. Unions abound, and one plant may have to deal with a host of them. Management rigidity, union work rules, and snarls of union "demarkation" or jurisdiction stand in the way of job redesign. Overtime is widely practiced as a means of earning a passable week's pay.

"Before we go a long way down the road to really productive industry we need a lot more shop floor education," says Dr. Stopford. In Britain, industry's poor image, as well as the poor image of the manager, the engineer, and the skilled craftsman impair efforts to revitalize operations. "As a nation that is trading on its technological skill, it is a curious paradox that we have such low regard for our technologists," he notes.

GRASS-ROOT TROUBLES

Regardless of the form of ownership and the amount of capital investment, British industry will become productive only through the efforts of an enlightened, energetic, and involved workforce. Without changes in job structure, corporate organization, and equipment, no progress can be expected.

Unfortunately, people tend to get "dug in" during a period of rising unemployment. They don't want to change jobs, and they don't want their jobs redesigned.

"So it's very hard to be optimistic about major changes on the shop floor in the short run when you have an economic situation that inhibits that development and a trade union development that has got to work through a little longer before the leaders want to come back down to the grass-roots level," Dr. Stopford says. It's difficult to explain that you don't create jobs by being less productive than other countries, says Mr. Barnett, Chief Secretary to the Treasury.

Despite Britain's economic ills over the years, unemployment has, until recently, remained well below the levels of other industrialized nations.

This year, unemployment could climb well past 2 million. The rate reached about 6 percent of the labor force late in 1976 versus a 4 percent average in 1975 and a 2.6 percent average for the preceding decade.

As in the U.S., unemployment has not put an end to recurring shortages of skilled labor. "A shortage of skilled labor is consistently important factor affecting the level of all industrial output in the U.K., says Gerry Eastwood, general secretary, Assn. of Patternmakers & Allied Craftsmen, in a study done for the British-North American Committee.

"The shortage is caused partly by overmanning, which is as much an indication of weak management as it is of strong unions," he concludes.

If that criticism strikes a familiar chord to Americans, the other causes of the skills shortage will draw even more nods of recognition:

The education system is not preparing people for industry and, in fact, fosters a strong anti-industry bias.

There is only a nominal wage differential between the apprentice skilled tradesman and a manual laborer.

There has been a decline in pay differentials between skilled and unskilled workers.

Workforce immobility must also be added to that list. An inadequate supply of housing—aggravated by rent controls and high interest rates—has shackled workers and managers for years. To meet the problem, which it helped to create, government has been in the housing business for a long time. Nearly a third of the dwellings in the United Kingdom are rented from public housing authorities. A worker often cannot move to a new job location because there is no housing allocation for him. Or a company may lose a good employee if he finds he can get better housing by taking a job in another city. Many people are reluctant to move from a flat where they are protected by rent controls.

INDUSTRIAL DEMOCRACY

The down-to-earth problems of workers in British industry will require more attention if the productivity crisis is to be turned around. The trade unions are out to get that attention with their drive for "industrial democracy." Two prongs of the attack: worker representation at the company board level and disclosure of information to employees for use in contract negotiation.

A high-level committee is conducting a broad study of industrial democracy to determine what legislation should be recommended. There is widespread recognition that industry could benefit from more participation by workers in some decision-making. In comparison with the U.S., workers have little to say in the day-to-day management of their work. Shop floor communications is poor, many managers admit.

Greater work participation may help, but the matter should be approached at the grass-roots level, not rammed down from the top via legislation, most managers and even many labor unionists feel.

"We need experimentation before legislation, not arbitrary imposition of laws based on conditions quite different from ours," Sir Frederick Catherwood, chairman, British Institute of Management, told the inquiry group last summer.

But pressure for and examples of worker participation on company boards are spreading from the continent. The two-tier board used elsewhere in Europe seems to be an unlikely bet for British acceptance. Even a one-board structure with workers serving as directors doesn't seem to have much support. The labor unions themselves are divided over the issue.

Unionist Mr. Hawkins at Glacier Metals,

who regards himself as a leftist, is "utterly opposed" to worker-directors. Like many labor leaders, he favors "strong and fair union control and strong and fair management." They fear that worker representatives on the board would lose their identity as workers and would have to be party to decisions not always favorable to employees.

Headway is being made on the disclosure of information to employees. Some companies are beginning to inform all employees about company performance. By U.S. standards, these employee communications efforts are fairly primitive. But they symbolize good intentions.

At Eaton Ltd., Roy Rushton, director of U.K. personnel, says, "We should educate our people, not because of legislation, but ahead of it." He adds. "We have to separate communications and negotiations."

Many—but not all—American managers recognize that an informed, involved workforce is essential both for productivity improvement and for establishing a climate in which a profitmaking company can survive.

MANAGEMENT WALKS A BED OF COALS

Britain's history of poor communications and confrontation stemmed from management's being drawn largely from the aristocracy. Britons joke about the idiot-son manager. Well-to-do families steered their accomplished sons into government, law, the clergy, medicine, or science; running the plants was left to the "idot sons." No special education, No special education, they thought, was needed for management.

Although trade unionists sometimes resurrect that class relic, the more enlightened of them say this has all but faded out. "There has been a significant improvement in management over the last 20 years," says Mr. Murray of the Trades Union Congress. "Nepotism is not as bad as it was."

"A totally new generation of management is breaking up through to the boardroom," says Allan Gregory, a director of British Petroleum Co. Ltd. "Management is becoming more dynamic, more open-minded," observes Republic National Bank's Mr. Dittrick.

"What we are witnessing today is an important change in the role of the manager. Years ago, he was often something of an autocrat, firing and hiring at the snap of his fingers. Those days are gone and will never return. Today, we no longer live in a hierarchical society. The manager's role is nowadays more complex and difficult. In the modern enterprise the manager must be even more of a leader than before. . . ." The observer: Prime Minister James Callaghan.

"Managers now have to justify things that were formerly taken for granted," comments Mr. Murray.

"I find that when I go to the States their communications within the firms are much better," says an official in the Dept. of Industry. "U.K. managers are rather more shy and reserved than the American. This has resulted in less readiness by managers to go on the shop floor and talk to the chaps and tell them what the firm is doing, why it's doing it, what it means. But that's changing."

WHO WANTS TO MANAGE?

Transfusing new blood into management ranks doesn't promise to get easier. The lack of adequate pay differentials discourages new management candidates and dampens the incentive to advance. Real take-home pay for managers is less than in continental Europe because of taxes, says Mr. Murray. "We've got to do something about tax levels for upper and middle management, but how can we cut workers' income to relieve upper incomes?" puzzles Mr. Barnett. Mr. Murray figures that the best people, the innovative managers, take a promotion because of the challenge; "Salary comes second."

A fairly broad anti-business sentiment has caused too many bright young people to turn from industry to public-sector jobs. Even government and trade union leaders realize this is a situation that needs correcting. "We need to pay more esteem to those in our society, whether in management or on the shop floor, who are responsible for the function of production," says Prime Minister Callaghan.

Until British industry attains a greater depth of management, many of its self-admitted faults will be perpetuated.

"If you're looking at the best of management, you'll find plenty of it here," says Dr. Stopford of the London Graduate School of Business. "But we don't have the depth of skill here. We don't have the same kind of teams as in the U.S. Management structure is more rigid. Functions are specialized, and persons in one function don't know much about the other functions.

"It is often said in this country that we're very good at research, but the transfer of new-product and new-process ideas into hardware is, by and large, badly done when measured against the international competition."

At the British Institute of Management (BIM), director-general Roy Close says it's his impression that "U.K. managers are no less efficient than managers anywhere else. They may be more resourceful. They are not quite so detailed or systematic in their approach.

"It's often said that we're not expert in marketing. I'm not sure this is so. A lot of companies have moved successfully into international marketing. Maybe we don't put as much resource into marketing," he allows.

"We're good engineers, chemists, and accountants, but not managers," argues John Pearson at the Industrial Society. For one thing, "we're ineffective in the way we plan and organize our work."

The British are frequently criticized for poor deliveries, for overselling their capacity, and for failure to adapt products for foreign markets.

ENDLESS PUZZLE

Although management admits to some of these faults even during the best of postwar political conditions, much of the blame for poor management practices has to fall on the twists of the economy.

"Tight exchange controls and the opening and shutting of the door on economic growth have caused business to be continually puzzled on whether to expand or modernize," says Republic National Bank's Mr. Dittrick. "It has been hard to get money out to set up business elsewhere and capitalize on growth in other countries."

In the U.S., too, managers have increasingly looked to Washington for turns in the business picture. In both countries, one can see business increasingly reacting to business conditions rather than shaping them.

The more politics determines the business outlook the less effective business planning becomes. A company following the conventional business signals may find itself investing too much or too little.

Unless Britain includes the business manager in its strategy for industrial regeneration, it will leave a large part of the productivity problem unsolved.

"There is a feeling of frustration—certainly at the middle and junior level of management," says BIM's Mr. Close. To turn frustration into positive action, the institute last fall changed its constitution to permit it to present the views of managers to government and to work for greater recognition of the importance of the manager's role.

Sir Derek Ezra, BIM's chairman, says that because this role is vital to economic recovery, managers "should be among those consulted in the formulation of major policies. In such matters as the strategy for industrial regeneration, the more efficient use of resources in both the public and the private sectors, and the move toward a greater participation of employees in decision-making, success will largely depend on the understanding, commitment, and competence of managers."

Management's views, if sought, certainly will not carry the numerical weight of the trade unions, which represent half of Britain's workers—including many managers. But increased recognition of the contribution that management can make to the very things labor is seeking may change the color of industrial relations.

UNIONS SET WRONG KIND OF FIRE

Industrial relations in Britain is too politicized, says Kim McKinlay, assistant secretary, Union of Post Office Workers. "It's based on confrontation. Management approaches it that way, and the unions like to feel they are banding together." That attitude stands in the way of genuine communications, she believes.

This confrontation has carried the unions into the political arena. On that count, British and American history differ widely. U.S. labor unions have made a "special contribution" to economic and social history, says Sir Reay Geddes, chairman, Dunlop Holdings Ltd. "About 100 years ago, workers combined into labor unions. In Europe, the tensions developed—as in Italy and France—into political parties pledged to replace competitive enterprise or—as in Sweden and Germany—into a tendency toward workers' control. Both affect Britain today, and the latter may prove the more seductive. But, after a rough start, you avoided both, ensuring that your labor unions, like almost all your minority groups, want to be more fully in the system, rather than to pull it down."

The awesome power of British trade union leaders contrasts with the arms-length relationship of U.S. labor leaders to politics. But Americans have no reason to believe that this will always be the case. The '76 elections saw the backing of labor unions go a long way in putting a number of candidates in office. And the AFL–CIO's George Meany soon made it clear that labor has some ideas that it expects to receive attention.

Most union members, in both Britain and the U.S., don't want to run the political system through their unions. They don't share identical political views, for one thing. But they are heavily influenced by what union leadership says. And they tend to follow their leaders' suggestions in voting.

Despite the apparent pipeline to power in Britain, many workers feel they are not represented. They fall both to the left and to the right of the Labor government.

VOCAL MINORITY

"'Apathy' might not be the right word," says a British union official, "but most union members have permitted a vocal minority to spearhead union activity." Another trade unionist says, "The left-wingers are the ones who keep the meeting running so late that the rest of us go home; then they put themselves into power."

For one reason or another, people have let union officials determine how they will vote, says Ms. McKinlay. "But if people voted the way they really felt, things would be different. The rank and file have an awareness of the problems today." If there was a violent change in political-economic direction, "this country would go right, not left," she asserts. "Idealistic luxuries would be forgotten."

Phrases such as "workers owning the means of production" are in essence simplistic, she charges. "Even if everyone does own them through the government, you would still have the 'haves' and the 'have-nots.' Sure, you have to harness things so everyone can have a reasonable life, but you have to

leave room for incentives for individual growth or the whole system breaks down."

Productivity depends heavily on what is worked out at the grass-roots level between labor and management. When industrial relations become politicized by government's stepping into the bargaining or by union control of government, productivity is in danger of becoming a forgotten issue.

LESSONS IN PROGRESS

One can be critical of Britain, because Britons will readily supply the ammunition, pointing out their own faults. Their awareness of the problems and their willingness to swallow unpleasant medicines strongly suggests that "there will always be an England."

Just as Britain led the world in the Industrial Revolution it tried to lead the world to the post-industrial state. It made a bold attempt at massive social welfare programs that overtaxed its industrial sector.

The U.S. should learn from Britain that a powerful industrial machine cannot be neglected or taken for granted. It should learn, too, that no matter what is determined at the national level, productivity depends on the performance of individuals. Britain has demonstrated that if a nation attends only to man's problems it can destroy his opportunities.

Its people are coming to realize that unless a nation becomes more efficient in its production of wealth its standard of living cannot rise.

U.S. concern over Britain's future should not dwell on whether it will avoid economic disaster in the short term. It should stress: what have Britain and the U.S. learned for the long haul?

As the Assn. of Patternmakers' Mr. Eastwood asks in the conclusion of his study of U.K. labor: "Can the country begin to understand that an efficient and profitable ... manufacturing industry is the essential base on which to build a prosperous and compassionate society?"

NATIONALIZATION TIMETABLE

1940—British Overseas Airways Corp. took over operations of two private lines.

1946—British European Airways established. Together with BOAC, became divisions of British Airways in 1971.

1946—Entire stock of the Bank of England was acquired by the government.

1947—Coal mines passed into public ownership under the National Coal Board as a result of the Coal Industry Nationalization Act of 1946.

1947—Transport Act brought the railways under public ownership as a single enterprise—British Railways.

1948—Municipal and private electric utilities were vested in the British Electricity Authority after acquisition under the Electricity Act of 1947.

1949—The gas industry came under public ownership through the Gas Act of 1948.

1966—British Airports Authority was created to own and operate three London airports and one in Scotland.

1967—Iron and Steel Act brought 13 steel companies into public ownership and created British Steel Corp.

1968—National Freight Corp. was established to operate road and intermodal freight services.

1969—Post Office Act transformed a government department into a public authority. (The Post Office also operates the nation's telephones and telegraph systems.)

1971—Most assets of Rolls-Royce Ltd. were transferred to a publicly owned company, Rolls-Royce (1971) Ltd., for the manufacture of aircraft engines.

1975—Aircraft and Shipbuilding Industries Bill proposed to take a large part of those industries into public ownership.

1975—Petroleum and Submarine Pipelines Act provided for greater public control of offshore oil and gas resources.

ENERGY SUBCOMMITTEE HEARINGS—"ENERGY INDEPENDENCE OR INTERDEPENDENCE: U.S. POLICY CHOICES"

Mr. KENNEDY. Mr. President, at hearings on U.S. international energy policy last week, the Subcommittee on Energy of the Joint Economic Committee heard testimony on alternative strategies for this country gaining access to assured supplies of imported oil at reasonable prices. Assuming, as I do, that the United States will be dependent upon imported oil for a significant portion of its petroleum needs, it is essential that we develop a far more coherent and consistent policy toward oil-exporting countries, as well as working more closely with our fellow oil-importing nations and the developing countries.

The witnesses who appeared before the Energy Subcommittee last week set forth a range of policy choices that should be considered in formulating such a policy. These witnesses included:

Howard Kauffmann, president, the Exxon Corp., New York, N.Y.

Anne Carter, Professor, Brandeis University, Waltham, Mass.

John Sawhill, president, New York University; former Administrator of the Federal Energy Administration.

John Sewell, Vice President, Overseas Development Council, Washington, D.C.

Paul Davidson, professor, Rutgers—the State University of New Jersey, New Brunswick, N.J.

I ask unanimous consent that excerpts from the testimony of these witnesses who appeared before the Energy Subcommittee on January 13 be printed in the RECORD.

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

STATEMENT BY JOHN C. SAWHILL

The issue of how best to ensure that the U.S. national interest is protected in commercial transactions with oil-producing countries has never been more important. The domestic economic and foreign policy implications of oil dealings make petroleum far more than simply a commodity. And, they make it far more likely that the public and the private interest will diverge in negotiations for foreign supplies. The U.S. Government's concerns of necessity go beyond such variables as price, sulfur content, and refining characteristics, and encompass a whole range of political, economic, and national security interests as well. These include the damaging impact of higher oil prices on the economies of many of our OECD allies, the potential disruptive effects on international finance and international political stability of the mounting debt burdens being incurred by the non-oil producing LDC's, and the increasing vulnerability of the major oil importers (including the U.S.) to another oil embargo.

It is not difficult to cite cases where public and private interests might diverge. For example, a given oil company or group of companies may prudently seek to assure a stable, long-term source of supply from one country and might make certain concessions in the form of higher prices in the interest of insuring supply continuity. From the company's point of view, the absolute level of prices is less important than that the terms of acquisition be no worse than its competitors. Actually, a sharp reduction in prices could even be detrimental in the short run since it would result in large inventory losses. The interest of the U.S. Government, on the other hand, might be to maintain diverse sources of supply and to do everything possible to reduce prices. The Government and the companies in this case, therefore, would approach the problem from an entirely different perspective and employ quite different negotiating strategies.

Historically, the companies dominated international oil negotiations. Today, however, control of world oil supplies and prices has passed into the hands of the oil-producing countries. As a result of this change in the balance of power, it is probable that noncommercial factors will be increasingly important in determining oil prices and production levels, and for this reason, there are both short-term and long-term reasons why Government must make its presence felt more strongly at the international oil bargaining table than it has in the past. In the short term, our undue reliance on imports from the Arab States makes both our domestic economy and our foreign policy vulnerable to manipulation by these states. For example, it is probable that the price of Saudi Arabian oil next fall will be determined less by market conditions than by the progress in negotiations on a Mid-East settlement. The point is that we are dealing with more than just an economic cartel, and the U.S. Government brings more chips and a different perspective to the bargaining table than the oil companies. Whether these chips represent arms sales, diplomatic initiatives, or agreements affecting international investments and technology transfer, the higher stakes of today's oil game suggest that they be more visible in negotiations than previously.

There is a longer-term problem, too, with which the government must concern itself. We must find alternative sources of energy to sustain the world economy in the next century, when oil and gas supplies are depleted. If we do not, we will have great difficulty in maintaining a rising standard of living, once liquid hydrocarbon reserves are exhausted. It is essential that the government begin now to plan for this transition to a new energy base. Part of this planning will necessarily involve the type of commercial contracts we should establish with the oil-producing countries in the intervening period. In the years ahead, we will run up against natural rather than contrived production limits among oil producers. If we should decide as a matter of national policy to see our domestic petroleum reserves stretched as far as possible for future use in petrochemicals, pharmaceuticals, and other non-energy applications, we will necessarily be asking others to deplete their supplies more rapidly than might otherwise be the case. Such a strategy would require delicate and far-ranging negotiations which would require significant government involvement.

The question before us then is that given the new world energy realities, how best might private industry and government participate, and with what relationship to each

other in dealings with foreign oil suppliers? There is no question that the government-industry relationship which has prevailed for so many years—and on balance served the public interest quite well until the late 1960's—can and must change. The issue before the country is how to preserve the technical and managerial strengths of the companies while giving a greater voice to government.

It may be that we do not know enough today about the consequences of the alternatives which have been proposed to date to specify in detail the best possible working relationship for the years ahead. It should probably fall somewhere between a government-run oil purchase operation at one extreme or, at the other, simply having the private oil companies provide more complete and timely information on their arrangements with foreign suppliers, existing and proposed. But just where on the spectrum we should be is difficult to answer in the short time allotted for this presentation.

It is clear, however, that we cannot afford to delay new initiatives indefinitely. Congress should begin immediately to analyze how a government-run oil company might work, studying the experience of foreign governments such as Canada, Italy, and Great Britain with these arrangements and determining the relevance, if any, of their experiences in the American context. Why did other countries first exercise this option? How have they operated domestically and internationally, and what has been the scope of their activities? How have their operations been monitored or supervised? How have their goals been met and how have these goals evolved over time? How has the national company related to the private sector? What special strengths or vulnerabilities has it had in dealing with foreign producers? Has the experience of other countries with national companies shown that it provides the way to bring the political and economic clout of government effectively to the bargaining table? Would it serve as a useful "yardstick" for the private sector or would it inevitably substitute for private sector initiatives?

One way to reach conclusions on these issues quickly would be to test them on a small scale. We could construct a prototype national oil-purchasing agency for the limited purpose of building all or some portion of our national oil stockpile. This prototype agency might experiment with sealed competitive bidding and test the effectiveness of this approach as a way of holding down oil prices and widening any cracks which might be forming in the OPEC cartel. Alternatively, it might apply, in awarding contracts, other criteria which are definably in our national interest, both domestic and international. Or, it might purchase a portion of the stockpile through the companies rather than directly from the producing governments and compare the results. In either event, we could monitor its operation closely, and hopefully learn from its experience. The risks of failure are almost nonexistent, and the potential gains as we acquire more expertise in dealing with new forms of institutional arrangements are significant. In the worst case, we would end up building our stockpile more slowly than desirable, and we would learn a great deal in the process.

In the meantime, however, I think it is important that the government learn more about oil company arrangements with foreign suppliers than it does now. The proposed FEA reporting requirements for existing arrangements seem to me reasonable provided that careful procedures to maintain confidentiality are devised. As to documentary reporting on ongoing negotiations, I can understand the oil companies' reluctance to go beyond briefings and consultations to the filing of documents as a matter of routine. I am well aware of how publicity, or the expectation of publicity, can disrupt ongoing negotiations. And I understand that public disclosure could harm not just the competitive position of a given company, but might damage the interest of their country or its allies by inducing face-saving rigidity into the position taken by suppliers, or "leapfrogging" of unfavorable terms agreed to by one company. Nevertheless, I believe it inevitable that government will move to protect the public interest by intruding more into private international bargaining over oil. Intrusion in the form of a government oil procurement agency would be far more burdensome to the private sector than detailed data-sharing would be. If detailed government knowledge of current and prospective arrangements now negotiated privately is prerequisite to an informed decision on creating such an agency, then I think we must insist on generating this knowledge. Of course we should take concurrently every practicable measure to assure confidentiality of individual company data.

Before closing, let me say that the more quickly we can define the new way in which government will make itself felt at the oil bargaining table, the better off we will be. In many aspects of our energy dilemma—power plant siting, strip mining of coal, offshore oil and gas exploration, to name a few—uncertainty over government intent, or vacillating government policy, has paralyzed the industries concerned said stifled initiatives. As a result, our energy problem today is more acute than ever before.

We should set a tight timetable on the study of alternatives, proceed immediately to require reasonable reporting of international oil negotiations, and establish a program to test out government purchasing procedures for all (or a portion of) the stockpile requirements. Any enabling legislation which may be required to implement these steps should be passed within the next several months. In matters of energy policy—and surely this must be a vital facet of that policy—we can no longer afford the luxury of indecision.

STATEMENT OF JOHN W. SEWELL

ENERGY INDEPENDENCE OR INTERDEPENDENCE: U.S. POLICY CHOICES

Specifically, I would like to make the following observations which may be useful for your deliberations:

1. The relationship between the decisions of the members of the Organization of Petroleum Exporting Countries on the price of oil and the proposals of the developing countries for a greater voice in the management of the world's political and economic systems, and for a greater share of the resulting material rewards, is complex and difficult to assess. A positive U.S. response to the proposals of the developing countries probably would not be the dominant factor in future decisions by OPEC on oil prices. However, a continued reluctance by the industrialized countries, and particularly the U.S., to negotiate seriously with the developing countries can provide OPEC with greater freedom for larger price increases in the future.

The experience since 1973 indicates that OPEC countries make their pricing decisions based on a variety of factors including global inflation and the state of health of the world's economy. Their identification with the oil-importing developing countries seems to be a part but not a major factor in these decisions. Yet for reasons discussed below, there is a close political, economic, and psychological linkage between the oil-exporting and non-oil-exporting developing countries and both favor using the power of OPEC to pressure the industrialized countries to negotiate seriously on these issues. Sheikh Yamani made it quite clear that Saudi Arabia's current moderation on price increases should result not only in progress in the Arab-Israeli dispute, but also in the North/South Dialogue now going on at the Conference on International Economic Cooperation (CIEC) in Paris. And indeed many other OPEC leaders from countries who chose the higher price increase have expressed dismay at the lack of progress at the Paris talks.

While a positive U.S. approach to the North/South Dialogue may not in and of itself determine price decisions, a continuing reluctance on the part of the U.S. to engage fully in discussions with the developing countries will give OPEC greater freedom to increase prices in the future. The shaping of a new relationship with the developing countries is of intrinsic importance for the United States, as will be discussed later, but it is important to underline that the members of OPEC are willing to use their leverage to enhance the bargaining strength of other developing countries. And I think it is fair to be concerned that we may see much higher price rises in the future if some progress is not made in the negotiations between the developed and the developing countries.

There also may be secondary benefits from a positive U.S. response to the demands of the developing countries. In the event of another oil embargo stemming from renewed conflict in the Middle East, oil supplies from non-Arab OPEC members will again be of crucial importance to the U.S. In 1976 some 40% of U.S. imports of crude oil came from non-Arab OPEC members. Our leading suppliers from this group—Nigeria, Indonesia, and Venezuela—all put a high priority on the issues being discussed in the North/South Dialogue. To the extent that we respond positively in this area, our relations with these countries will be improved. Finally, a forthcoming U.S. response to the needs of the developing countries may lead to some degree of increased pressure from the developing countries for a more positive OPEC response to their needs. This response, however, probably will not be reflected in the price of oil paid by the industrialized countries but rather in aid and other financial measures for the developing countries. Even then, however, I understand the financial capacity of the major oil exporters to exand such programs may diminish greatly in the future.

2. Both OPEC and the oil-importing developing countries see their continuing alliance as a major asset in persuading the industrial countries to negotiate changes in existing international economnic and political arrangements. This political and economic alliance is enhanced by an intangible psychological and emotional identification that will mean attempts to split the two groups through confrontation will be both unwise and unprofitable.

It is worth noting that the complex series of proposals by the developing countries for a "New International Economic Order", which are now under negotiation between the industrial "North" and the developing "South", did not emerge de novo in late 1973. Rather, they result from a long series of deliberations and discussions stemming back to the establishment in the early 1960s of the Group of Non-Aligned Countries and the United Nations Conference on Trade and Development (UNCTAD). These groupings have brought together a group of seemingly disparate states which now have a coherent and well-formulated series of proposals for change. These proposals are the predictable outcome of more than a decade of fruitless efforts to evoke a significant response from the developed world to what they see to be their central problem: the fact that they are being unfairly treated, in a variety of ways, by the industrial world on which they are highly dependent for their economic well-being. They maintain that by and large they are receiving less for their exports, mainly raw materials and commodities, and paying more for the industrial goods they import. In addition, they feel that very little has been done by the developed world to

remove the obstacles to their access to developed country markets for the increasing amounts of manufactured goods they produce.

The strength of this alliance should not be underrated. Indeed, it is important to realize that the OPEC countries see themselves as members of the developing world and have been perfectly willing to use the leverage provided by the dependence of the industrialized world on their petroleum supplies to support the current demands of the developing countries. There have been a number of attempts to split the two groups, and their cohesion has not been substantially affected by the rather severe impact of higher oil prices on the oil-importing developing countries. It is estimated, for instance, that if the current price increase ends up averaging 10 percent, an additional $1 billion will be added to the oil bill of the developing countries which already are in severe financial distress.

The Ford and Nixon Administrations first sought to break OPEC by denying the oil-importing developing countries any relief from the burdens posed by higher prices for both oil and industrial goods in the hopes they would turn against the oil exporters. Since then the policy has been to carefully separate the issue of oil prices and the negotiations with the developing countries. Both policies have failed. Oil prices have not gone down and the problems of the developing countries remain largely unresolved. Indeed, the recent experience with the Council of International Economic Cooperation in Paris indicates that despite a series of stresses and strains within the group of developing countries, the cohesion between the developing countries and OPEC has been maintained.

3. A U.S. policy which sought to deal with OPEC by strengthening bilateral relationships with individual countries may not necessarily have much impact on oil pricing policies in the absence of a serious domestic conservation program and a variety of other measures, will not measurably diminish the cohesion between OPEC and the oil-importing developing countries, and will not address some of the pressing global problems now facing both developed and developing countries of which energy is just one.

As the linkages between OPEC and the oil-importing developing countries are likely to remain intact, strengthened bilateral relationships between the United States and individual OPEC countries are not likely to diminish their collective desire to force changes in the existing international economic and political systems. Some analysts have suggested an alternative which would be to seek active cooperation with OPEC members and with one or two of the major powers within each geographical region of the developing world. The U.S., therefore, might seek to deal with a group which might include Nigeria and Zaire in Sub-Saharan Africa; Egypt in the Middle East (as well as Saudi Arabia and Iran from OPEC); Mexico and Brazil in Latin America; and perhaps India or Indonesia in Asia. These countries would be considered as surrogates for the remaining developing countries, and the rich and more powerful of this group would be given a greater voice in the various international institutions now dominated by the industrialized world.

This policy, however, still would have to involve concessions on a number of issues now in contention between the developed and the developing countries. Trade and commodity issues, for instance, are important to countries like Brazil and India and for this policy to succeed the current U.S. positions on these issues would have to change. Such a policy would, in my judgment, involve all of the costs of responding to the demands of the developing countries without some of the long-term benefits that could be derived from the global approach outlined below.

4. Relations with the developing countries have to be considered in their own right and not either as an adjunct to our relations with OPEC or, as in the Cold War period, as a derivative of American interests in some other part of the world. Rather, relations with the developing countries should become one of the major concerns of American foreign policy in the years ahead.

The world Americans face in 1977 is in a state of rapid change. Global economic growth and expanding population have put severe strains on the multiplicity of economic and political institutions created after World War II which contributed so greatly to growth and progress among the industrialized countries. At the same time the world's political environment has changed drastically and the developing countries are now demanding a greater voice in the management of and benefits from the world's economic and political systems. There also is a growing realization that the situation of the billion people living in the world's poorest countries will worsen unless special measures are taken by both rich and poor countries to enable these countries to meet the most basic minimum needs of the majority of the people within a reasonable period of time. These developments are forcing a major restructuring of the world's political and economic systems, a restructuring in which developing countries are playing a major role. Therefore, relations with the developing countries must become a major concern of American foreign policy, joining relations with our industrial partners and with the Soviet Union and China as one of the central issues for Americans for the next decade and beyond.

The developing countries will be of importance if the global problems now facing both rich and poor countries are to be resolved by all nations working together. We now are in the midst of slowly creating a new monetary system and negotiating a new regime for the oceans. In addition, there is discussion of the need to consider more comprehensively than heretofore the world's food and energy problems. Many Americans also now perceive that the social cost of problems such as terrorism or the narcotics traffic cannot be handled unless there is cooperation between nations, both rich and poor. We also have a growing economic interest in the economic progress of the developing countries. More of our exports now go to the non-oil producing developing countries than to the members of the European community, Eastern Europe, and the Soviet Union combined. Our exports to these developing countries country's export industries and these industries now provide a large number of jobs in this tries should continue to expand in the future. In addition, the developing countries are continuing to grow in importance as sources of raw materials and consumer goods, both of which can affect inflation in the U.S. For all of these reasons we should consider our U.S. relations with the developing countries as of intrinsic importance and not merely as an adjunct to our relations with the OPEC countries.

5. The U.S. and the Carter Administration have a major opportunity to transcend the current strained relationships between the U.S. and the developing countries, and to take the lead in reforming and restructuring many of the world's political and economic systems so that they provide maximum benefits for all countries, whether developed or developing. One element of such a policy could include a global approach to world energy needs which might have the promise in the long-run of helping to meet this country's need for energy (but not just oil) security.

There are a number of tangible and intangible benefits to be derived from a new U.S. foreign policy which has as its goal what the political scientist Stanley Hoffman recently called "world order politics." It would involve in the case of the developing countries creating a new series of cooperative global policies and institutions which are designed for the needs of the next decade and beyond. These policies will be spelled out in detail in the Councils forthcoming Agenda 1977, but in essence they would involve three elements: first, a response to the proposals of the developing countries for changes in the worlds trade, commodities, and monetary systems; second, a global approach to food, oceans, and energy; and third, a concerted address of the problems of the worlds poorest people, who live mainly within the world's 40-odd poorest countries. To do so would involve a number of changes in current U.S. policies on issues of trade, commodities and debt; it would imply full implementation of the recommendations of the Rome World Food Conference; renewed attempts at reaching agreement on an oceans regime; a global attack on energy security; and an increase in U.S. development assistance focussed on the poorest countries.

A global approach to energy patterned after the approach taken in the field of food may be of particular interest. It would recognize that the goal of energy interdependence is impossible to achieve, but that the possibility of achieving energy security through an approach that more clearly recognizes the realities and opportunities of our energy interdependence is a possibility. It would include the following elements which are drawn from the work of my colleagues at the Overseas Development Council and which are spelled out in detail in an attachment to my testimony. It includes initiation of global energy analysis and planning; cooperation in the exploration for additional fossil fuel resources in order to increase the existing supply, not only of oil but also of coal and other fossil fuels; collective reconsideration of the nuclear option which recognizes the dangers inherent in continuing reliance on nuclear energy; redirecting world energy research and development toward a much greater emphasis on renewable sources of energy which would benefit both the U.S. and give the developing countries an alternative to continued reliance on petroleum; and finally, the convening of a world conference on energy alternatives analogous to the recent U.N. conferences on population, food, and housing. An interdependent approach to energy is not a threat to our energy security. Energy independence would be far more costly to the U.S. and could itself lead to deepening global economic confrontation. It is time to recognize the opportunities implied in a global approach emphasizing energy interdependence.

A global approach to restructuring our relations with the developing countries recognizes the changing nature of international politics and sets the pattern for the future rather than the past. It would largely defuse the danger inherent in the growing confrontation between the North and the South with subsequent savings for both sides. It also quite frequently recognizes that developing countries are not monolithic but that the developing countries are maintaining a common front so long as the U.S. and the industrialized countries will not enter into serious negotiations. Finally, it would put the U.S. in a position of leadership that this country has not envisioned since the late 1960s.

Let me say in conclusion that the U.S. will not have the luxury of making decisions on all of these issues in a leisurely fashion. Currently we are committed to participate in at least three major meetings in the early months of 1977 at which both OPEC and the developing countries will be looking for indications of changes in current U.S. policies. These are the postponed ministerial meetings of the CIEC, the opening of the com-

mittee negotiations agreed to at the meeting of UNCTAD last May in Nairobi, and the resumption of the United Nations General Assembly. Therefore, decisions will have to be made early in this Administration about how the U.S. will respond to a drastically changed international environment.

SUBMISSION OF H. C. KAUFFMANN

I welcome the opportunity to be here today and to express my views on how members of the oil industry and the government can best work together in addressing our international energy problems. I particularly welcome the opportunity to lay out systematically important issues which are sometimes lost in the emotion which surrounds them.

Among the many questions about national energy policy which have been posed by the Subcommittee, the most basic is what governmental policies are most likely to assure U.S. consumers adequate supplies of energy at reasonable prices. If we are to agree to an answer to this question, I believe that it must start with a joint realization that what is reasonable in today's world is in many respects far different than it was five to ten years ago. As consumers of energy, few of us may be convinced that it is reasonable that oil which can be produced in some places for twenty cents-per-barrel should be sold into export markets for more than $12 a barrel. The fact is, however, that whether measured by the cost of alternative energy development or by the power of OPEC, oil prices are now calibrated on a new and different scale. Our national energy policy can have an effect on price—at a minimum it can retard price increases—but I believe there is no reasonable prospect for a major decrease in price. To assume otherwise is more likely to frustrate policy deliberations than to produce useful results.

But, being realistic does not mean being passive. Effective national energy policies are urgently needed, and the relationship of the companies and of our government with OPEC is clearly an important aspect of these policies. It is important to other countries as well. Nations everywhere, industrialized and less-developed alike, share concerns about the price and security of oil supplies. In many cases, their problems are greater than our own, for they have fewer domestic alternatives. They are, therefore, keenly aware of the importance to them of actions and decisions taken by this country. As the world's largest consumer of energy and its most powerful economy, the United States bears a special responsibility to see that its policies adequately reflect these shared concerns. I believe that the initiative of this country in establishing the International Energy Agency and its active participation in it since have helped to demonstrate our commitment to our friends abroad. However, the continuing delay in developing a coherent set of domestic energy policies has left a different impression.

The nature of the international energy problem is clear. In your own words, Mr. Chairman, "No economically acceptable combination of policies can eliminate this country's need for imported oil by the mid-1980's." Nor for many years beyond the mid-1980's, in my judgment. Our forecast at Exxon sees U.S. oil consumption over the next fifteen years growing at less than half the historical rate. This change reflects the substantial impact of price increases on demand, amounting by 1990 to a twenty percent reduction in demand from what it would otherwise have been. It also reflects a major increase in reliance on coal and nuclear energy. But even at this low rate of growth in oil consumption, the amount of oil which the U.S. must import is expected to double by the early 1980's, and to hold at this level through the decade. Even more imports will be needed if the many obstacles which stand in the way of coal and nuclear expansion are not overcome or if significant new domestic discoveries of oil and gas are not made.

The story on where these imports must come from is familiar. OPEC nations hold more than 80 percent of proved oil reserves in the non-Communist world and account for almost 70 percent of current production. All major consuming areas in the free world are dependent on oil from these countries. Even with the development of the North Sea, two-thirds of Europe's oil is likely to be coming from OPEC sources by 1985. In Japan, the dependence will be close to 100 percent. But, it is in the United States that the greatest increase in dependence on OPEC takes place. We estimate that OPEC oil will account for more than 50 percent of domestic consumption by 1985, as compared with about 30 percent in 1975. The increase in U.S. imports from OPEC over this period will be almost three times as great as the increase in Europe and Japan combined. Clearly, the United States is the new actor in this drama, and it has a leading role.

Whatever the exact magnitude of these numbers, it is clear that the world will be operating within a framework of OPEC decisions on oil price and on expansion of productive capacity. The question, therefore, is how best to insure that producing-nation decisions reflect the interests not just of themselves but of consumers as well.

Producing nations and consuming nations have some interests in common and some which diverge. Consumers have an interest in supplies growing as they are needed at prices which do not cause economic hardship. Producers want income to support ambitious development plans, and some of them want opportunities to invest in industrialized nations. At the same time, the producers recognize that oil will not last forever, and they see the advantage of stretching out the life of their reserves. The chances of long-term OPEC actions which undermine reserve values are therefore small.

Within this framework, the oil market will be influenced by the various factors which affect energy supply and demand, and particularly by the policies which consuming nations see fit to adopt with regard to energy use and alternative supply. I believe that these policies will be of far greater importance in determining the terms of oil trade than attempts to modify the mechanics of oil trading. However, the oil market will also be influenced in a major way by broad economic and political considerations which go well beyond the oil trade as such, and there is no question of the importance of a government presence in these areas. The issue for our country, and for the world, is where within the spectrum of interests involved can we find a course which minimizes the risks and maximizes the benefits of the interdependence between producing and consuming nations.

In elaboration of these basic issues, Mr. Chairman, you have asked for Exxon's views on various possible actions which our country might take, and I should like now to turn to these. An uncertainty which runs through the proposals is how explicitly, and aggressively, the United States should contrast its interests, as a consumer, against those of the producing nations. It would seem to me that since large imports of oil are vital to us and to all consuming nations, a posture of confrontation should be avoided if at all possible. This is particularly true since some of the major producers on which we rely for oil can afford to cut back on their production, for conservation or other reasons, even if they lose short-run revenues by doing so. America must pursue its legitimate interests, and pursue them vigorously, but my conviction is that this will best be done by an approach which fully recognizes the interdependence between consuming and producing nations.

You asked, first, whether the government should approach the oil problem by seeking a broad economic settlement, perhaps within the framework of the Conference on International Economic Cooperation, which would encompass the interests of the producing, consuming and developing nations. I lay no claim to expertise on broad international agreements, but I'll offer a few observations. It seems to me that the greater the number of issues which are linked in a search for solutions and the greater the specificity with which they are treated, the less the likelihood of success in a broad negotiating forum.

Even if the focus of a CIEC Agreement could be narrowed just to oil, I am not optimistic about what might be accomplished because of the complex issues involved. Nevertheless, CIEC does afford an important meeting ground where the concerns of all parties can be expressed and areas of possible agreement explored. The U.S. role in shaping the positions expressed by the IEA is important to this dialogue. Outside the formal sessions, our government can pursue quiet diplomacy in an effort to achieve a better understanding of the thinking of other nations, and to emphasize to them the potential impact of their decisions.

An obvious alternative, or supplement, to a multinational approach is bilateralism. Hence, your question, "Should the United States move more aggressively in bilateral negotiations with OPEC members, linking our needs for oil with their need for U.S. supplies, capital equipment and technical expertise?" I believe, first, that whatever is done bilaterally should not ignore the obvious interests of other consuming nations. In any case, it's easy to expect too much of bilateral arrangements. By and large, the goods and services which the U.S. has to offer the OPEC countries are less vital than the oil we need from them. They have alternative suppliers. We do not. An attempt by the U.S. to trade too hard on its position as a supplier, therefore, could eventually result in reduced OPEC purchases from the U.S., to the ultimate detriment of our negotiating and trading positions.

I am particularly concerned that an emphasis on bilateral arrangements would signal an every-man-for-himself approach which, if generalized, would be disruptive both to alliances with other nations and to the world economy. For forty years now, since the great depression of the 1930's, the United States has successfully taken a different approach to its international economic problems. What we should rather emphasize to OPEC is the mutual interest of our nation in a prosperous world economy in which the goods and investments of both sides are allowed access to the markets of the other on a nondiscriminatory basis. Given the surplus funds which some OPEC nations are accumulating from oil earnings in excess of their fiscal requirements, and acknowledging that even more oil is required to satisfy the energy needs of the U.S. and other consuming countries, it may be that greater attention needs to be given to providing investment outlets. Bilateral arrangements might well help in this respect. Where I believe bilateralism may have a greater and more useful role to play, however, is in the political and diplomatic arena.

A third question posed by the Subcommittee is whether, in the new circumstances of international energy, the government should become more directly involved in the day-to-day operations of the business itself. Should it, for instance, establish a U.S. National Oil Company to deal directly with the governments of producing countries? My answer is, no. I share the conclusion of Robert Krueger, consultant to the FEA, who advised that whether viewed economically, functionally or from the standpoint of the overall public interest, there appears to be no

convincing basis on which to recommend a U.S. Government oil company to participate in international petroleum transactions.

An argument sometimes given for a U.S. National Oil Company is that by centralizing imports, it could achieve greater leverage in bargaining with OPEC. But in the circumstances which the member countries of OPEC present to us, the difference in the bargaining power of a centralized import agency of political origin and of the commercial companies now making purchases cannot be great. If there is a difference, it may not be positive. It can be argued that setting up a government agency, with the avowed purpose of getting lower prices out of OPEC, would worsen the U.S. bargaining position, since the likely result would be a further drawing together of OPEC nations in the face of an obvious threat. If this happens and the OPEC response takes the form of administering prices selectively to different nations, it is not at all clear that the U.S. will be among the favored. The OPEC countries could decide, for instance, that if the U.S. wishes to be treated differently from other nations, they will accommodate us, perhaps offering oil at a price above the world level in recognition of our allegedly profligate use of energy. What would the U.S. do in these circumstances? Do without? Ration? Take a loss in economic growth?

Beyond these considerations are the almost limitless practical difficulties which a centralized purchasing agency would encounter. The reality of the oil business is that there are many different crude oils, differing widely in quality, and many different refiners with specific crude needs that change as product demand varies. It would be a bureaucratic nightmare, if indeed it could be done at all, for a government agency to attempt to acquire and distribute all the types of crude oil, in the needed volumes, to allow U.S. refiners to respond rapidly and flexibly to changing consumer requirements. It is this variability of company circumstances which has sometimes been used to persuade producing country negotiators to agree to terms more favorable than those initially proposed. Such possibilities would be greatly reduced in the case of a single government purchaser.

A different approach, which recognizes some of these difficulties, calls not for a centralized purchasing agency but for a government role limited to the auctioning of import tickets. Proponents argue that this would provide countries with excess producing capacity an incentive to seek additional outlet. Presumably, they could acquire import tickets secretly and thus escape the wrath of their fellow OPEC nations. I doubt very much that this scheme would work. By examining data on international oil movements observers would be able to detect extraordinary volume changes. Secrecy would therefore be hard to maintain.

For such a scheme to have any chance of working, the necessary condition is widespread desire among producing countries for additional outlet, not the mere existence of spare producing capacity, of which in any case there will be less and less as the world's demand for oil inexorably grows. Because OPEC does not operate with fixed production quotas, any member with idle capacity and a desire for more revenue has already been free to increase production, and the availability of import tickets would create no new incentive. One would have thought that if ever there were an incentive for individual OPEC countries to cut prices to gain business, it would have been a year to eighteen months ago when there was substantial excess capacity. In fact, individual countries did vary the relative prices of their crudes in response to market pressures and there were significant shifts in volumes of production among countries. But the basic price level was unaffected. As long as one country, Saudi Arabia, holds such a dominant position within OPEC, and is producing well above its immediate need for income, it will be difficult to break the organization through bargaining tactics against that nation's will. On the other hand, if that nation becomes convinced, for whatever reason, that price moderation is desirable, it may be able to achieve it, at least in part.

Some have suggested that even though an auction ticket scheme may not work, it should be tried nevertheless because it is a low-cost option. I do not believe this to be the case. The administrative burden could be substantial. Moreover, any scheme which depends upon anonymity for its operation and rationale is potentially open to manipulation. The added costs to U.S. consumers of an apparently simple experiment could therefore be considerable.

Still another form of direct involvement in the operations of the oil industry, which has been suggested from time to time, calls for U.S. Government participation in the negotiations which the companies conduct with foreign producing governments. In an earlier communication to Senator Kennedy, Cliff Garvin, Chairman of our company, explained why we believe this would not be desirable. They bargain within the limits of what it is possible for them to achieve. For some years now, this has not included a say in the basic price of the oil they purchase, although we at Exxon have continuously urged moderation. It is also true that the companies have been able to influence the prices of various grades of crude oil relative to the basic price by adjusting purchases in response to market conditions. The OPEC countries have made it abundantly clear, however, that the basic price level is a matter for their determination alone.

What the companies have bargained about has been the terms under which company assets are being nationalized, the volumes of oil which the companies wish to buy to meet the needs of their customers, the various conditions associated with those purchases and the fees to be received by the companies for management services to the producing governments. For the commercial give and take on the issues where the companies retain a voice, they are well equipped, and it is hard to see how more direct U.S. Government involvement would help. By introducing politics more obviously into the process, the result could instead be both a hardening of positions and the injection of extraneous issues which could prove very troublesome.

If, then, there are good reasons for questioning most forms of direct U.S. Government involvement in international oil operations, as I believe there are, what is left for government to do? I believe that there is a great deal for it to do and that it is enormously important. In the first place, there will be occasions when some variety of direct action is justified. For instance, it makes sense that the government should move directly to acquire oil for strategic storage. And I recognize that if the circumstances are compelling, it will intervene for other purposes. In general, however, it is my view that direct government involvement in the commercial operations of the industry is neither necessary nor desirable.

What is necessary and desirable is, first, that government should establish a realistic and consistent set of energy policies and, second, that it should utilize its resources of diplomacy and international economic policy to influence the broad framework within which transactions with foreign firms and governments are conducted. The importance of energy policy is paramount, both domestically and internationally, and I shall have more to say on this in a moment. But the arts of diplomacy can have an impact as well.

The oil price issue is a case in point. Although the producing governments are unwilling to negotiate the basic price of oil with the companies, they are sensitive in varying degrees to the impact which higher prices might have on the world economy and on particular consuming governments. In forming their judgments, they keep an ear open for views expressed by this government and others. We have seen some evidence in recent weeks of how this process works. OPEC prices went up but not by as much as they might have, with the result that the industry and the world now find themselves in an anomalous two-tiered pricing situation. How this will be resolved remains to be seen, but for our purposes today, it does show that the concerns of the consuming nations are not ignored in OPEC deliberations.

Whatever the companies can do to keep the government informed about international oil developments will enable it to state its concerns and express its views more forcefully. In a recent submission to the FEA, a copy of which is attached, my company offered some thoughts on how the flow of information to the government could be improved. Although in that document we expressed certain concerns about the consequences of confidential information being inadvertently leaked, we strongly endorsed the need of the government for information and the responsibility of the companies to provide it.

In the long run, however, the resolution of U.S. reliance on OPEC oil, and the higher prices which this has brought, must be rooted in the basic decisions of energy policy, and it must begin with the right kind of policy here at home. Without this to signal our nation's intent and seriousness, OPEC will never be much impressed. So, while imports from OPEC are sought on the best terms achievable, steps must be taken at a more fundamental level to reduce our reliance on those imports. This means that, within the limits of acceptable economics and environmental restraints, we must both conserve in the use of energy and develop new sources.

So far, our nation has not faced up to the politically difficult steps needed to accomplish these objectives, and has instead chosen the path of relying on increased imports, while hoping to find ways to break OPEC or to harness new energy sources quickly and cheaply. The sense of urgency and the willingness to accept the painful side effects of a straightforward pursuit of conservation and high-cost supply development have been missing. Hence, price controls on oil and frequent objections to energy development proposals on environmental grounds persist. I do not wish to minimize the concerns which have led to these results. They are real. But they divert us from what must be done if the energy problem is to move toward resolution.

By keeping the price of energy below its replacement cost to the economy, the nation encourages consumption while disccuraging the development of new sources, and needlessly complicates the energy enterprise through layers of regulations which require patch upon patch to keep them from falling apart. If this is being done for fear that the oil companies will reap excessive profits, or because of the possible impact on low-income consumers, surely there are simpler and better ways to handle such matters. The paradox, as Professor Adelman has said, is that the higher the price for oil imposed by OPEC, the greater the need for decontrol in the U.S. and the less the chance of getting it. Similarly, the lack of resolution of the many environmental issues which affect energy development adds uncertainty and delay to decisions which must be taken.

Wise energy policy, then, must sort out what is basic from what is peripheral and find a way of getting us moving. The more I listen to what people in the energy business have to say about energy and to what government representatives and public interest groups have to say, the more I become convinced that what the nation needs is a bipartisan, or multipartisan approach to the problem. We need fewer decibels, less polar-

ization of views, and a lot of hard thinking. Those of us who have extensive experience is energy affairs feel a responsibility to see that this is done. We look forward to working with this Subcommittee and others in Congress who have special knowledge about energy matters.

I thank the Members of the Subcommittee for listening to me, and I shall be happy to answer your questions.

STATEMENT BY ANNE P. CARTER

OIL PRICES, TERMS OF TRADE AND REGIONAL DEVELOPMENT IN THE WORLD ECONOMY

My testimony will be focused not on the United States but on the broader perspective of the world economy. In this context I want to emphasize that the effects of tripling the world price of crude petroleum have been far from trivial and that a further increase of 25 percent would also have major implications for the course of development in the various regions of the world. The general logic is straightforward. Between 1970 and 2000 we can expect the OPEC countries to export something in the neighborhood of 700 billion barrels of petroleum. Let us reckon in terms of 1970 price levels. At $2.64 per barrel this would have yielded almost 2 trillion dollars. At $7.88 per barrel (the "deflated" 1976 OPEC price) it would yield 5.5 trillion dollars. A 25 percent increase over the 1976 price would bring the sum to 6.8 trillion dollars. That is roughly seven times the United States Gross National Product in 1970 and well over 100 times the Gross National Product of all the OPEC countries combined in 1970.

Selling this asset gives OPEC substantial purchasing power. Countries faced with higher oil bills must either export more to cover them, cut back on other imports, or sustain increased balance of payments deficits. OPEC countries are not yet sufficiently developed to absorb enormous volumes of additional imports, especially those from developing countries. Thus the bulk of the reaction will have to take the form of import curtailments, balance of payments difficulties, and reduced growth potential. Developing countries are dependent on imports for equipment and even for food and other essentials. Since their options are the most restricted, these regions are the most vulnerable. Industrial countries can take advantage of OPEC markets for capital goods (and arms) but the former are limited by OPEC's absorptive capacity. OPEC purchasing power can be "recycled" through aid to developing regions and by OPEC investments in developed regions but the stream of capital flows from OPEC to other regions is not running smoothly and steadily as yet.

In today's discussion, I want to sketch out some alternative consequences of increased petroleum prices in rough quantitative terms. The evidence I shall present is based on simulations using a 15 region model of the world economy built at Brandeis University for the United Nations Economic and Social Council.

I have chosen to focus on two sets of questions for today's discussion. The first concerns the effects of increased prices for crude petroleum on the terms of trade, on regional balances of payments, and on growth prospects for developing countries. How do changes in OPEC oil prices affect the prices of other products? How do the changes in relative prices affect the abilities of developed and developing regions to pay for their imports with their exports at a given set of target growth rates? By how much would those target growth rates have to be reduced in order to achieve balance for developing countries in the international payments system? How do trade liberalization policies work with rising petroleum prices? The answers to these questions sketch out the implications of OPEC pricing decisions for the future of the world economy.

The second set of questions concerns the dependence of OPEC on the world economy. However rich, OPEC does not function in isolation from the economies of the rest of the world. By examining the quantitative ties of the Middle East oil exporters to the rest of the world, we can develop a clearer sense of our own options and the context within which we choose our course.

1. The effects of increased petroleum prices on regional balances of payments and growth

A. Changes in Relative Prices of Traded Goods

To analyze the effects of rising petroleum prices on the near term picture, we focus primarily on the 1980 solutions of the world model. As in the three other benchmark years, the outputs, imports, exports and other variables are studied in real terms, i.e. in physical units valued at constant 1970 prices. Estimates of current (1980) relative prices, normalized to eliminate any inflation, enter as coefficients to revalue trade in the balance of payments equation. Thus, while the system does not deal with changes in price levels, it does estimate the effects of changes in the relative prices of traded goods on the balance of payments. Relative prices were estimated in a separate price model based on the projected 1980 input-output system for North America. In the original 1970 world system, 1970 imports and exports of petroleum were valued at observed 1970 prices that differed from region to region. Prices to value the 1980 trade were derived by multiplying the original region-specific prices by a factor of roughly 1.3 to allow for trends of rising extraction cost. Thus the base or "reference" system represents price conditions as they were expected to develop prior to the 1973–74 embargo.

Current petroleum price conditions were simulated in two stages. First, we fixed the price of crude petroleum at 1976 levels ($11.50 per barrel in 1976, or $7.88 at 1970 price level) and solved for a second set of prices. The newly estimated prices were normalized using 1970 consumption weights.[1] . . .

Increasing petroleum prices tends to increase the prices of those other commodities that are petroleum-intensive and, since the prices are normalized to retain a constant average level, to decrease the relative prices of all other goods. Specifically, we find that sizable increases appear in the prices of petroleum refining margins, fertilizer, chemicals and plastics, and transportation as well as crude petroleum. Since higher petroleum prices push up the prices of fertilizers, they also produce increases in the prices of four of the principal agricultural commodities: grains, high protein crops, root crops and other agricultural products.

B. Changes in the Terms of Trade

Changes in prices affect the balances of payments of each region by changing its terms of trade, i.e., the ratio of the prices received for the goods it exports to those paid for the goods it imports. Regions differ widely in the relative importance of individual commodities among their imports and exports. Thus, some import a lot of machinery, others, primarily raw materials. Because the composition of their trade varies, relative price changes shift their terms of trade by different amounts and even in different directions. . . .

As might have been anticipated, a rise in petroleum prices improves the terms of trade for net exporters of petroleum: Middle East and Latin America (low income) and the Soviet Union and deteriorates it for most other regions. Regions that are net exporters of grain and chemicals and fertilizer stand to gain because of the increases in the prices of those products. Japan, which is a net importer of both petroleum and agricultural products, and Latin America (medium) face the sharpest deterioration in their terms of trade.

C. Changes in Regional Balances of Payments With Fixed Growth Targets

In earlier applications of this model for the United Nations we computed the various regional output, trade, investment, employment and resource use levels implied by prespecified regional growth targets. These solutions are labeled "Scenario X". The targets were chosen so as to reduce substantially the gaps between per capita income levels of developed and developing countries by the year 2000. Growth rates in Scenario X for the developing regions are in the neighborhood of the United Nations Development Decade targets and not far out of line with the actual growth rates achieved in the mid and late 1960's. Growth rates for the poorer African regions are assumed to be somewhat lower in view of their histories of slower development. Economic growth in developed regions is assumed to be somewhat below the trends apparent in the 1960's. . . .

Because target growth rates for Latin America (medium income), Asia (low income), and Southern Africa are somewhat above accustomed rates, it is not surprising that these regions show substantial balance of payments deficits in the 1980 Scenario X projections.[2] In the absence of substantial increases in available aid or credit, such deficits could not be sustained. Thus their appearance in the solutions casts doubt on whether the target growth rates are achievable.

A modification of Scenario X, called Scenario M was designed to see how trade policies favoring increased export shares and import substitution for Latin America (medium), Asia (low) and Arid Africa would affect the balances of all regions. The computation showed that increasing export shares of light manufacturers and reducing import dependence in light manufactures, machinery and equipment, and industrial materials at the rate of one percent per year would reduce the payments deficits for these three regions to reasonable levels.[3] Arid Africa, which initially had balanced trade, would achieve a moderate surplus. Since the specified improvements in the trade positions of developing countries would cut into the markets of the developed regions, the trade balances of the latter would deteriorate correspondingly. . . .

If balance of payments deficits made the achievement of rapid economic growth in developing regions difficult under the earlier price conditions, the new set of prices has put these growth targets out of reach and a 25 percent increase over the present petroleum price makes the situation even worse. The more industrialized developing regions, Latin America (medium) and Western Europe (medium) are more sensitive to petroleum prices than the poorer regions because they use more energy. Arid Africa, which uses very little energy, is assumed to be self-sufficient in petroleum. Hence it is not sensitive to rising costs of petroleum imports.

It is, of course, important to remember that businesses and individuals do adjust by reducing their purchases of those items whose relative prices have risen. Thus, we

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[1] To eliminate the influence of inflation, prices were scaled down so that the average estimated price for 1980 equals the average price for 1970.

[2] Centrally Planned Asia shows a large percentage deficit because its trade volume (exports) is very small.

[3] Exports of agricultural products from Latin America (Medium) were also increased at 3 percent per year.

might expect imports of petroleum to decrease as use is curbed with rising prices. Unfortunately, it is difficult to know what is the actual "elasticity of demand" under given conditions. Some economists talk of an elasticity of —.5 for oil in the world as a whole. Presumably there is much more opportunity for discretionary curtailment in North America than in most industrialized regions and more in industrialized regions than in those whose energy consumption is still very low. Even the most optimistic reductions in the physical volume of petroleum purchases by developing regions, in response to increased petroleum prices, would still leave their balance of payments in far worse shape than they were with 1970 relative prices.

D. Changes in Regional Growth Potential

It is difficult for a nation in substantial arrears to obtain additional loans to cover its growing deficits. Second, loans carry sizeable interest charges that further intensify the balance of payments problem.[4] Thus the availability of foreign exchange often becomes a constraint on the growth potential of developing regions. This is particularly true for resource-poor areas. Developing regions with substantial resource or other export potential are less constrained by lack of foreign purchasing power. They are more likely to be limited by the availability of capital for necessary investment or by a network of bottlenecks in skilled labor and management talent and construction lags, called "absorptive capacity".

Thus different economic constraints are likely to bind in different regional economics. These varying regional development conditions are simulated in Scenario A. Under Scenario A income targets are not preassigned. Instead it is assumed that resource-poor developing regions must limit their imports to keep their international payments in balance. In resource-rich developing regions, investment is set equal to available savings coming from abroad and from domestic sources. Developed regions' growth trends are assumed to depend primarily on the productivity of the available labor force. Developed regions can, at least to a limited extent, adapt to adverse balance of payments conditions by devaluation or other measures that promote exports at the expense of consumption. It is very difficult to quantify the absorptive capacity that constrains the development of the Middle East region. For this reason the preassigned growth goals of scenario X are retained for the Middle East in the Scenario A computation.

To the extent that certain developing regions are required to keep their payments in balance, the income levels they can achieve will depend on their terms of trade—on the relative prices of the products they buy and sell. . . .

2. Dependence of OPEC on the world economy

At the new relative prices the growth potentials of many regions of the world are substantialy lower than they were prior to the price increase. At the same time, the transfer of wealth has certainly augmented the OPEC countries' own growth potential.

Development for OPEC countries means that they will become major customers for the exports of the rest of the world. . . . By 2000, the Middle East can be expected to absorb 21 percent of world imports of machinery, 26 percent of world imports of electrical machinery, 7 percent of world imports of textiles and 6 percent of world imports of grain. Since the Middle East will be developing very rapidly, it will be a relatively good customer for capital equipment which is sold primarily by the developed world.

As the Middle East expands economically, the opportunity to increase exports to a wealthy rapidly developing region should ease the balance of payments problems of the developed world. The less developed regions will not have a significant share in these benefits unless policies to increase their exports of manufactures are successful.

On the other hand, experience suggests that the potential growth rate of OPEC countries is limited by their absorptive capacity. Thus it does not seem to be possible for OPEC to make use of all of its newly realized purchasing power in the development of its own economies. It must take its wealth transfers at least partly in the form of assets and equities in other regions of the world.

Rough calculations indicate that OPEC foreign investments will be 1.5 trillion dollars in 1990 and 4 trillion in 2000 (at 1970 price levels). These estimates of OPEC foreign investments are based on the assumption that present OPEC prices were initiated in 1975 and will prevail until the end of the century.

Even under these conservative oil price assumptions, projected OPEC foreign investments are enormous, amounting to 1.5 times the value of their domestic reproducible capital stock in 1990 and 2000. These investments amount to roughly 15 percent of the estimated world stock of reproducible capital installed between 1970 and the year 2000. If this occasions considerable concern for domestic economic autonomy in the developed countries, it may also give some reassurance. Those who own a 15 percent share in the world economy should have a vested interest in its viability.

Conclusions

It is clear that the world economy has suffered from a severe jolt that has altered the course of regional development. It is only natural to wish that we could put it back on the old course. And there are plans under discussion to do so. For example, it has been suggested that the heavy dependence of OPEC on imports of food and machinery makes them vulnerable to retaliatory cartelization. . . . North America does not have the dominance in any of the broad product classes that the Middle East has in oil. There may, of course, be specific products within the broad groups: specific types of machinery or military equipment, where we do have substantial monopoly. But the outstanding exception is food. North America supplies a major proportion of world grain exports and is expected to continue to do so.

Bargaining on the basis of our own market dominance in food or high technology equipment might be helpful in maintaining our political strength but it holds out little hope for lowering the world oil price. To take advantage of our monopoly position in food, we would have to be prepared to maintain monopoly food price levels in world markets and to take responsibility for the impact of a second major jolt to the world economy. The strain on the developing world and on other developed regions would be much greater than that on our wealthy OPEC customers.

In general, I fail to see any policy options that will restore the world economy to its pre OPEC state. OPEC or no, world energy prices had been expected to rise to present levels over the next 20 years as demand rose and the most accessible resources began to run out. A more gradual price increase would have allowed time for smoother transitions to new sources and to new technologies and consumption patterns. With the abrupt OPEC stimulus, the substitutions and adjustments required to restore balance in the world economy seem to be very slow. Substitutes for OPEC oil either in the form of new petroleum discoveries or of "alternative" forms of energy supply will limit the level to which petroleum prices can rise. New sources of petroleum are being developed in Europe, Latin America, China and elsewhere but it takes time for that oil to reach the market. Energy saving technologies and consumer practices would also serve to limit petroleum prices. Their emergence is hindered, in part, by all-too-necessary short run measures to cushion the distributional and social impact of the price rise.

In terms of the world model, adaptive changes to the new world economic situation should be translated into revised input structures, prices and trade coefficients. Right now we have some general impressions about new energy technologies and energy saving measures and have inserted some allowances for them into the world system. But the information on new processes and sources and the timing of their availability is still very sketchy. I look forward to the time when our best guesses give us new solutions with more reasonable balance of payments accounts and more optimistic prospects for developing and developed countries. I see no reason to believe that those solutions will match those of the cheap energy era.

STATEMENT OF DR. PAUL DAVIDSON

. . . Recently I have engaged in two major studies involving (a) price incentives and oil gas supplies and (b) the time allocation of the production of crude oil. The results of these studies led me to conclude:

(1) If monopoly power in energy markets were the same as in the 1960's, domestic petroleum supply would be price elastic, i.e. a one percent increase in price will bring forth more than a one percent increase in oil supply. (An elastic supply was implicit in the Cabinet Task Force projections reported above.) In terms of ultimate supplies of indigenous fossil fuels, there is no danger that the United States will be depleted in the next 100 years even if present demand trends continue. Furthermore, Western Europe is likely to be nearly self-sufficient in fossil fuels in the 1980's. Thus there is no danger that most of the Free World will be running up against a Malthusian Constraint in the foreseeable future.

The energy crisis, whatever else it may mean, does not mean that the age of "cheap" fossil fuels is over—at least, not in terms of cheap economic real costs of finding, producing, or distributing oil. Nor does it mean, on either worldwide or North American basis—at least if history is a basis for judgment—that large increases in market prices are necessary to bring forth additional reserves to meet growing petroleum consumption demands. For example, during the years 1962 through 1972 (where until the very end of the period prices were not rising) world consumption of petroleum increased by 107.4% while crude oil proved reserves increased by 108.5% during the same period. In other words, the world was not facing any greater threat of running out of crude oil in 1972 than it was in 1962.

What had happened was that the worldwide distribution of proved reserves had shifted as North American proved reserves increased by only 18 percent from 40 to 47 billion barrels, while Middle Eastern reserves climbed spectacularly from almost 200 billion to over 350 billion barrels. This modest rise in North American reserves vis-a-vis the Middle East should not be interpreted as meaning that this Continent is "running out" of oil. During this period, all rational producers who could afford it preferred to invest their time and money to find cheap reserves in the Middle East (10 to 20 cent per barrel) rather than more expensive reserves in North American ($2 to $4 a barrel). This shift in reserves, however, did promote the possibility of what in the olden days economists referred to as "cornering the market." It has created what is clearly the most powerful cartel in history—OPEC. But the

[4] In the present model deficits are cumulative from 1970 on and subjected to interest charges of 8 percent.

U.S. because it is such a large producer of fossil fuels as well as consumer could, with a concerted effort and proper government policies, reduce or eliminate the power of the OPEC cartel, whereas the oil producing companies, on their own cannot (or will not).

(2) The energy question, of course, is merely at what price are American consumers going to get all their energy needs filled. Neither the oil industry spokesmen nor academics will deny there is plenty of domestic energy as well as foreign energy sources for decades to come; the only question is the price.

The economic evidence is clear. Current free market prices of energy are primarily a reflection of man-made constraints on supplies and not nature's. Hence a rational energy policy should be developed which reduces sellers powers in energy markets and creates profits opportunities which will be earned by increasing production rather than limiting supplies.

PROPOSAL FOR A NATIONAL ENERGY POLICY (NEP)

The sudden quadrupling of the world crude price during this 1973–74 period is at least partially responsible for the severity of the 1974–75 world-wide recession and the slow recovery which consuming countries have been experiencing. Moreover OPEC's future oil price actions constitute a serious threat to the survival of consuming nations' economies.

In this section I propose to outline a nine point National Energy Policy (NEP) for the United States which will have both short run and longer run implications. In the appendix to this statement I spell out the rationale and provide some supporting data for this NEP package.

In the short run we should not undertake policies which are likely to exacerbate the current problems of unemployment and inflation. In the longer run, our policies should be oriented towards breaking up the OPEC cartel and the growing monopolistic control of domestic energy sources.

A nine-point National Energy Policy (NEP) which could provide U.S. consumers with sufficient energy while allowing producers to earn a competitive return rather than permitting them to share in cartel profits would include: (1) extensive antitrust action to break up conglomerate energy companies and to create competitive alternative sources of energy (competitive to OPEC sources and the major oil and gas producers), (2) governmental coordination and regulation of wellhead prices of oil and natural gas so that any necessary price increases occur at such low annual rates as to make speculative withholding unprofitable (and in no case should wellhead price of oil and gas be suddenly decontrolled), (3) prohibitive capital gains taxes on oil and gas properties to catch any speculative profits which avoid other policy nets, (4) the changing of leasing policies on federal properties in order to reduce the financial constraint of the front-loaded bonuses and permit independents to develop offshore properties, (5) policies which encourage and require accelerated exploitation of old and new properties, even if in certain situations such policies were to encourage flows in excess of MER, (6) policies which prohibit the "shut-ins" and other practices which permit speculative withholding, (7) an announced increasing schedule of import taxes on foreign crude oil and products over the next three or four years. Such an import tax schedule must be phased in with growing U.S. production while U.S. wellhead prices are controlled as suggested in (2) above, (8) a federal sponsored corporation which at a minimum would aid in financing the development of new properties and might even enter into joint ventures with independents; in other words, a Federal Oil and Gas Corporation (FOGCO); (9) the adoption of an import auctioning system with unidentifiable foreign sellers to supply the diminishing share of the U.S. market as we approach self-sufficiency in the next few years is desirable. Such a program will create a positive incentive for members of OPEC to break with the cartel. (This last point could be especially effective now that the OPEC nations have begun to haggle about the magnitude of income and wealth they should extort from consumers.)

If, on the other hand, the government permits an unregulated market price for oil without altering existing market institutions and conditions, then the 1980 domestic wellhead price for crude oil will in essence be set by the Sheiks on the Persian Gulf. I see no economic reason to believe that the OPEC cartel will necessarily unravel of its own accord. The OPEC nations are engaged in an economic war with the major consuming nations over the distribution of the world's wealth. Existing economic and political conditions in consuming nations such as the U.S. have made the OPEC cartel's job of preventing price cutting competition from alternative sources easier. Until the consuming nations recognize that the dispute underlying this economic warfare can only be negotiated from a position of internal strength, the consuming countries will remain at the mercy of the producing nations and domestic conglomerate energy companies and royalty owners who have a vested interest in redistributing future income and wealth from consumers to producers and property owners.

Reliance on higher energy prices (either through a large gasoline tax or unregulated domestic energy price) to encourage "conservation", i.e., to reduce U.S. consumption will not in itself create economic forces which will lead to a break up of the OPEC cartel. Such a conservation policy might make economic sense if there was a Malthusian: shortage of fossil fuels or if you wanted to reduce gasoline fumes pollution (which may explain why many environmental groups find common ground with the major oil companies in urging higher energy prices). But industry proponents of higher (unregulated) prices to "conserve" our energy resources often imply that this will also aid in breaking up the OPEC cartel. From an economic standpoint, this is unlikely since a high-price conservation policy to destroy the cartel assumes that merely by driving up the price to the consumer in order to reduce the quantity demanded of imported oil (but without altering the price inelasticity of demand which is the economic factor creating monopoly), the cartel will break as the result of Arab squabbling over the spoils extorted from the consuming nations. Since such a policy does not directly change the demand curve of OPEC oil (except perhaps in the "long run" when we will all be dead), it merely requires consumers to move along a short run price inelastic demand curve; its potential for success due to economic forces is very low.

From the economists's viewpoint, a more certain way of breaking the cartel is to alter the demand curve for imported oil, that is to create conditions which all recognize cause the demand for OPEC oil to become price elastic in the relevant range in the near future. Such a price elastic demand will occur when there are potentially significant quantities of alternative sources of energy available which are (1) profitable to produce at less than the cartel price and (2) whose production rates are not controlled by managers who have a vested interest—and by their own actions can force the market price to the same level as the cartel price.

OPEC's price can be brought down by government policies which foster increased domestic production of oil and other fossil fuels by producers who have no legal way of providing market support for world oil prices in the U.S. and who operate under laws which make it unprofitable to either speculate or create additional monopoly revenues by withholding energy supplies or slowing development of energy resources. Simultaneously our laws should create incentives for increased domestic production of oil and other fossil fuels at prices which permit fair competitive profits while such prices are significantly below OPEC's prices. This availability of additional domestic production at profitable but controlled prices well below the OPEC cartel level will create an elastic demand for OPEC oil and hence aid in the reduction of world oil prices.

Thus the basic economic condition which is necessary and sufficient to break the OPEC cartel's extortion of the world's energy consumers is to create a price elastic demand for OPEC oil at current market prices. At the same time we wish to minimize the economic costs and dislocations of changing this price elasticity of demand. The NEP policy package suggested in this testimony is designed to accomplish these results. Adoption of this policy will alter the demand for OPEC oil and in so doing will create market forces which will create a market supply price response for energy which more closely reflects nature's stinginess in providing non human energy resources at close to their long run real costs (including a competitive profit) of finding, developing and producing.

I should caution that the entire package of policy actions must be undertaken if success is to be assured within a reasonable period of time. Adopting one or two parts of my suggested NEP may not, by themselves, significantly improve the current situation. For example, one of the 9 points of my NEP proposal involves the divestiture of the major energy companies in order to create competitive markets in energy available to all buyers. Divestiture, however, is only part of an entire policy package; divestiture is a necessary but not a sufficient condition for establishing a market in energy supplies whose price will ultimately more closely reflect long run marginal costs rather than monopoly rents. Solution to the energy crisis requires extensive action on many policy fronts and not just on one. Nevertheless, let me discuss in some more detail the relationship of divestiture to the OPEC cartel.

OPEC AND DIVESTITURE

The economic fulcrum upon which OPEC's cartel power and hence worldwide energy prices are based depends in large measure on the current price facing consumers and ultimately on the supply price at which an alternative source of energy will become a significant substitute for OPEC oil. Many major suppliers of substitutes for OPEC oil, however, have an economic interest in OPEC's petroleum reserves or other large proved oil reserves. These suppliers are typically conglomerate integrated energy companies with significant facilities to produce coal, shale, uranium and even domestic oil as substitutes for OPEC oil. If these suppliers are rational profit maximizers, they will anticipate a positive user cost (in the loss of monopoly rents from future oil production) if large scale production of their substitutes at a price above all production costs but below the OPEC price (on an equivalent basis) will cause the future price of oil to decline relative to costs of finding, developing and producing oil. This expectation of a positive user cost in marketing a substitute at any price which threatens to reduce the future price of the company's existing reserves of oil will force any rational entrepreneur to raise his supply price (above resource costs) of the substitute till the expected profit from marketing the substitute embodies all the expected discounted monopoly rents which can be expected to be earned in oil production over time, if the substitute energy source were not available. In other words, profit maximizing conglomerate energy corporations would not find it profitable to make large quantities of a substitute to the cartel's oil available, if the re-

sult was to inflict a capital loss on the present value of existing underground reserves (which already reflect expected monopoly rents).

In these circumstances this positive user cost of substitutes internalizes a cost that in a competitive economy would be external to an independent producer of a substitute energy source. Independent producers of domestic oil, shale, tarsands, coal, uranium, and so on (provided they were not permitted to share the monopoly returns of the major energy companies), would not care if they inflicted capital losses on the value of foreign underground reserves of petroleum by providing a cheaper energy source. Most reasonable people would argue that society is the beneficiary of a decision to produce a less expensive substitute even though the oil producers and property owners would suffer a capital loss. The existence of rational, multi-source, energy-producing conglomerates, however, constrains production of substitute fuels, makes monopolistic control and exploitability of all markets easier. The ability of conglomerates to maintain high prices for the substitutes tends to reinforce monopoly power in the market for oil.

If at the current price consumer demand for OPEC oil is, therefore, still in the exploitable inelastic range, a strong cartel of oil-producing nations will encourage integrated energy companies to limit current production in order to bring substitute energy prices up to parity with OPEC oil, even if real resource costs of producing the substitute does not increase.

For example, the July 28, 1976 issue of The Wall Street Journal reported "The average price of coal has gone up 145% during the past three years—to an estimated $18.75 per ton—compared with a rise of only 50% in the previous 25 years." At the same time, according to the Journal, U.S. coal production has increased by less than 15%. Thus, either the supply elasticity of coal due to diminishing returns is either very inelastic (in the neighborhood of 0.1) or else the rapid increase in coal prices reflects in large measure the spilling over of monopoly power from the oil market.

Given the high level of technology which already exists in the coal industry and the hundreds of years of known, easily recoverable coal reserves, it is difficult to believe that the elasticity of the supply of coal is anywhere as near the 0.1 range, or even that coal supply is price inelastic. It seems more reasonable to deduce that with the onset of the energy crisis in oil, if the coal market was competitive, then coal production would have expanded sufficiently in the last three years to limit coal price increases to much less than 145%. Even if one were to accept the argument that the 145% price rise was a short run (temporary) inelastic response while the long run response will be elastic, then in a competitive market we should expect coal price to decline substantially in the next few years, while production expands dramatically even if there is no additional technology progress. Since most observers, according to the Journal article, do not expect this latter scenario to occur, the inevitable conclusion for any objective student of the coal industry is that the rapid rise in coal prices over the last three years is due primarily to the user cost of substitutes which entered into the profit calculations of conglomerate energy companies. Hence divestiture and not additional R and D expenditures is more likely to bring about lower coal prices and greater production.

As the consuming nations continue to recover from the current recession we can expect the OPEC nations to continue to probe via higher crude prices as to whether any additional exploitable monopoly power exists or has been created. For any given demand situation with any degree of elasticity, however, higher prices require production restrictions, and hence at least tacit market-sharing arrangements to prevent one member of the cartel from increasing its gains at the expense of others. This requires some institutions to limit producers' access to marketing outlets. The vertically integrated energy companies also have vested interests in maintaining the current present value of their foreign and domestic oil and other energy reserves. As long as the present value of these energy reserves already reflect some monopoly rents based on expectations that the existing monopolistic structure and control of energy supplies will not be dismantled, then the vertically integrated companies who are the major instruments for ultimately marketing the products will be willing instruments in maintaining "orderly" markets in all energy sources so that there will not be any decline in expected oil (and other energy) prices over time.

To permit energy prices to fall from present and expected future levels will involve the production departments of integrated energy companies in large capital losses on the value of their reserves. Thus, in the current situation current monopolistic and cartel control of energy supplies and speculative withholding of energy supplies based on the consensus expectation of future monopoly rents reinforce each other and merge into an almost irresistable force which contributes to the strength of the OPEC cartel. In other words, given the current integrated structure of the energy industry there is disincentives for (i) potential producers of substitutes to compete on a price basis with OPEC, and (ii) for major marketers of the products to search the market for lower price alternatives to OPEC oil.

From the consumers' standpoint, any solution must, therefore, involve altering the structure of the industry so that there are many suppliers of energy who (a) have an incentive to earn a competitive return by underselling OPEC and (b) who believes that it will be impossible to obtain current levels of monopoly rents from consumers of energy since control of supplies will be so widespread that no small group of producers can limit production and proration market demand by controlling marketing and distribution channels. Divestiture of both vertically integrated petroleum producers and conglomerate (horizontally) integrated oil companies is one small step forward in this direction.

THIS WINTER'S LESSON: TIME FOR ACTION ON ENERGY

Mr. HEINZ. Mr. President, I want to bring to my colleagues' attention the severe difficulties the city of Erie—indeed all of western Pennsylvania—is experiencing due to the unusually cold winter.

After several exceptionally warm winters many people have apparently been lulled into a false sense of security regarding natural gas supplies. Warning of shortages for the past two winters had proved inaccurate, and as a result, this winter's ice and cold hit all the harder. The result has been serious natural gas shortages which, as the attached article points out, mean curtailments of industrial production and curtailments of jobs in an area already hard hit economically.

This economic devastation should not have been allowed to occur, and it should not be allowed to continue. It is past time to end the congressional stalemate regarding natural gas and pass legislation that will provide full incentives for new exploration and production while at the same time providing full protection for consumers from company profiteering. I have consistently supported price deregulation of new gas from new fields as the proper incentive to stimulate production.

Simultaneously, of course, we must encourage and even mandate conversion of industries using natural gas as a boiler fuel to other fuels. But if we are to prevent future gas curtailments that could include residential heating, deregulation legislation along the lines I have suggested is clearly in order as an equally high priority.

Mr. President, action is long past due in this area, and I urge the new administration and the Congress, particularly the relevant committees, to begin work on natural gas legislation immediately. Mr. President, I ask unanimous consent to have printed in the RECORD an article from the January 31 issue of Newsweek concerning the plight of Erie.

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

WINTER WASTELAND

(One of the areas hardest hit by the deep freeze was the Great Lakes basin. To see how Americans there were coping with the cold, NEWSWEEK's Tony Fuller visited Erie, Pa., and filed this report:)

Downtown Erie was a snowswept wasteland last week, its streets and sidewalks buried beneath mountainous drifts. Lake Erie itself was frozen from bank to bank, and in the harbor at the foot of Holland Street, the Stewart J. Cort, one of the longest ore boats on the Great Lakes, lay temporarily abandoned, her 1,000-foot hull hopelessly wedged in the ice. "Savage Lust," a triple-X-rated movie, did a brisk business, but most city residents huddled at home, swathed in coats, sweaters and blankets against the cold. Leonard Daley, who had braved the weather for a beer at the drafty Play Pen Lounge, surveyed the city gloomily: "They call it 'dreary Erie, the mistake by the lake.' We always get the worst of everything, including the weather."

Even by Erie's standards, this winter has been the worst ever. November's temperatures were the lowest on record, and were followed by the coldest December since 1958. Already, the city has accumulated 83.9 inches of snow—more than usual for an entire winter. Last week's cold front brought record temperatures of 10 below zero and a windchill factor of minus 52. One woman died of exposure, and at least one house burned to the ground after firemen's hoses froze. For the first time in city history, Erie was declared "dangerously cold" by the National Weather Service.

Almost simultaneously, the National Fuel Gas Distribution Corp., Erie's main supplier of natural gas, announced that it had insufficient fuel to meet the city's needs. National Fuel asked residents to turn their thermostats down to 55 degrees and ordered a shutdown of local industry. As a result, nearly 3,500 were out of work. Schools and municipal buildings had to close. And though the standstill lasted only 24 hours, National Fuel imposed an indefinite 40 per cent reduction on Erie's gas supplies.

Jobs: To a heavily industrial city already beset by economic woes, the long-range impact of a gas shortage looked ominous. "The only way you can have a 40 per cent curtailment is through a curtailment of production," said Ray Weber, the head of Erie's Manufacturers' Association. "That, it seems to me, will mean a curtailment of jobs." The short-term effects were already perfectly clear. Trade at some establishments had been cut in half. "There isn't any business,"

said Mack Schoenberg, a jewelry salesman. "There's just snow and cold."

A few Erie residents accused the gas company of "scare tactics" and refused to cooperate with the emergency conservation measures. But most turned their collars up and the heat down and prepared to wait out the gas shortage—and the weather. Rose Irving, 85, who has lived in Erie all her life, declared that it was just plain inconvenient. Wise to the ways of Erie's winters, Mrs. Irving owns special shoes, complete with cleats, that help her negotiate the treacherous trip between her apartment building "for widow ladies" and her senior citizens' center. Last week, even Mrs. Irving had to stay at home and watch television. "What a bore," she sighed.

A BRITISH VIEW OF RELATIONS WITH THE DEVELOPING COUNTRIES

Mr. HUMPHREY. Mr. President, on January 5, the Honorable Frank Judd, newly appointed British Cabinet Minister for Overseas Development, addressed a meeting of the Developing Nations Committee of Members of Congress for Peace Through Law. The Minister's remarks dealt with the British Government's policies toward developing nations in Asia, Africa, and Latin America and his Government's views toward what has come to be known as the North-South relationship—the relationship between the rich and the poor nations. Mr. Judd provided those in attendance at the meeting with a very thoughtful insight into his own thinking and that of many of his countrymen who deal with international development issues.

He spoke of "* * * new dimensions, new imperatives, and new perspectives on the international scene." He stressed the new elements in the North-South dialog: The "New International Economic Order" concept and its accompanying demands for a fairer share of the world's wealth. He suggested that debt service relief, increased local processing of primary products in the developing nations, and better access to developed country markets for their products will go a long way toward helping to resolve the current confrontation between rich and poor nations.

The world economy, he suggests, cannot be healthy and expanding—to the benefit of all nations—unless the Third World's economies receive the resources and capital necessary to maintain a reasonable rate of growth and reasonable rates of improvement in their citizens' living standards.

Mr. Judd said much more that I commend to the attention of my colleagues who share my own concern for a peaceful and productive global economy. I am happy to provide the text of the Minister's remarks, and I hope we will keep the points he makes in mind when we deal with legislation in the coming months which will have a profound effect on our relations with the developing countries.

Mr. President, I ask unanimous consent that Minister Judd's speech be printed in the RECORD.

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

MR. FRANK JUDD, M.P., MINISTER FOR OVERSEAS DEVELOPMENT, ADDRESS TO CONGRESSIONAL GROUP FOR PEACE THROUGH LAW

I don't want you to get the impression that this address to you today is in the nature of a self-righteous exercise when I tell you, at a time that Britain is coping with financial and economic problems on the domestic front, how marvellous we are at appreciating the needs of developing countries, and how assiduous we are in helping the poorer nations to overcome them. What I really want to do today is to give you a kind of package tour around my thinking, and indeed that of many of us in Britain who are engaged in overseas development, on the challenges of the rich/poor, or North/South, relationship. You see, I am one of those who cannot escape the view that we are witnessing new dimensions, new imperatives and new perspectives on the international scene. International affairs in the post-Second World War period have been characterised, indeed largely dominated, by the question of coexistence between the communist nations and those of the western world—E–W relations. But international activities over the last five years or so also have become increasingly concerned with relations between the richer nations and the poorer, that is, the industrialised and the developing. These have covered a wide range of vital questions encompassed in the phrase "world development", which are leading towards the questioning of established patterns of international relations.

The decision by the oil producers in the developing world enormously to increase the price of oil in 1974 not only had the effect of forcing industrialised countries to examine more carefully their energy policies, it also created a new ethos in the relationship between the richer and poorer nations. The Sixth and Seventh Special Sessions of the United Nations General Assembly, followed by UNCTAD IV in Nairobi, it seems to me left no room for doubt that a new impetus was characterising third world actions and reactions. We have had to recognise that the world's less developed nations are no longer satisfied that financial and technical assistance from the developed nations, however, generous in volume and terms it may seem to the public in our counrties, will improve their situation at a fast enough rate. They have come around to demanding what all poorer people eventually demand; a bigger share of the cake: a fairer deal. This is the real meaning of the New International Economic Order about which we are hearing so much these days. And, as UNCTAD IV has shown, the developing nations are putting their demands with more cohesion and political muscle than has ever been the case before. In this context I submit that it is somewhat naive for those engaged in world affairs to complain—as they often do with some indignation—about how the representatives of the third world have introduced "politics" into the meetings of UN specialised agencies and other international fora. All such bodies are concerned with economic and social affairs. What is politics basically about but economic and social affairs. We will condemn negotiation to immobility if we go on expecting discussion to centre only on technicalities.

In international relations all these discussions and demands are now called the North/South Dialogue. And this in turn was given formal recognition at the Conference on International Economic Co-operation (CIEC) which met for most of last year in Paris.

The CIEC was originally intended to be a consumer/producer dialogue on energy—but, at the insistence of the oil producers, was broadened to cover the whole range of North/South issues. The points which have emerged as those to which the developing countries attach the greatest importance are indebtedness and protection of developing countries' purchasing power. The developing countries have asked creditor countries to agree to across the board measures of relief from debt service obligations for whole groups of countries. Most industrialized countries regard these proposals as misconceived, not least because they would seriously risk undermining the confidence on which international credit—and indeed the whole system of international trade and payments—rests. Nevertheless, we recognize that individual cases have arisen, and will arise, of acute or structural balance of payments difficulties, of which debt service problems represent one element which will call for exceptional remedial measures. The solution to the question of purchasing power in our view lies in completion of recovery in the world economy and the continuance of its growth. In this framework there should be increased local processing of primary products in the LDCs and better access to markets for their manufactures. The improvements in the IMF's compensatory financing facility, effected last March, have already been of considerable help.

Given an accommodation on these two points, we believe the remaining issues at the CIEC will fall into place without too much difficulty.

Against this background of complex subjects which comprise the North/South dialogue, it is an over-simplification to characterize it as a confrontation between two world blocs—the developed and the developing countries—in the political sense; at the extremes it is not difficult to define a very rich country and a very poor one, but the different interests of certain countries are not so clearly defined between the more better off and the less better off. And in terms of economic arrangements there are at least three world groups: the developed market economies (Western powers), the centrally planned economies (the Communist bloc) and the developing countries (the Third World). There are, moreover, obvious divergencies within each group in terms of political and economic structures, income, religious affiliations, producer/consumer status and so on. As an example, it is still accepted that the majority of the oil producing countries come into the category of developing countries although some of their incomes per head of population are the highest in the world. The majority of the developing countries, however, range from being poor to extremely poor, with those in the latter category having an average income of under $200 per head a year. This poorest group comprises one-third of the world's population: 1,200 million people.

It is therefore incorrect to see the Third World as a block of nations with a totally common interest. But from their point of view they think of the world today as being one where all the machinery of relationships, of economic and monetary exchange, of the terms of trade, is weighed towards the one-third of the world which comprises the industrial nations. The developing countries as a group are convinced that international relations today, in the last quarter of the 20th century, are geared to exploit them and their societies, and they consider themselves as the under-privileged of the world: they do not identify very many changes from the days of colonialism and empire to the days of emergence and independence. They see international organizations like the IMF and the World Bank, GATT, and private bodies like the great Trans-National Corporations, as instruments for exploiting their already under-privileged position. They are also of the view that what the Western democracies call "the free flow of information" is a device for publicizing western values. And they believe that as a consequence of all these mechanisms and attitudes, the gap in living

standards between the rich and poor has inevitably become wider.

It would of course be foolishly short-sighted for us in richer countries to discount the significance for our societies of the stark differences between the way we live and the way those in developing countries little more than exist. We in the developed countries comprise about 32 percent of the world's population, but we consume over 75 percent of the world's total resources. There are experts who argue that the developed nations are approaching the outer limits of resource and environmental boundaries, so that it is simply not possible for the total population of the world to live at the standards enjoyed at present by those in the better off societies. Water and mineral scarcities, pollution, inadequate amounts of food—all pose limits to world growth. This thesis inevitably leads to the view that further development in our western societies will be at the expense of the poorer countries.

In challenging the existing international order the Third World has examined, and even proposed, various alternatives. All the developing countries are not, however, totally unanimous on the preferred solution. One model is "collective self-reliance" on a kind of Chinese model through which the Third World would establish its own values independent of the consumer societies of the West. An alternative general strategy, pioneered by the oil producing countries of the Third World, is to seek to take over some of the levers of power from the industrialised countries, and redistribute world income in favour of the poorer, producer nations by means of a much more managed approach leaving less scope for the free play of economic forces. This approach shows itself in the call for the proportion of world industrial production in Third World hands to increase from 7 percent in 1974 to 25 percent in the year 2000; more free access for the primary products of developing countries to the markets of the industrialised world; preferential access for Third World manufactured goods to those markets; a moratorium on their debt; increased and more automatic transfers of financial aid from the rich to the poor countries.

Frankly, I cannot escape the conclusion that is is going to become increasingly necessary in the self-interest of the industrialised world, and in securing for ourselves a stable future, that we in the richer societies come to terms with a number of the Third World's objectives even though we may often have doubts whether the specific mechanisms they have proposed for change will actually work, and work to benefit the poor in those countries and not just those that hold the economic power. If we can be seen genuinely to have come to terms with at least some of their principal objectives we are more likely to be listened to in any honest criticism we may offer of particular techniques. Without a change of heart our criticisms will never be treated at face value, earning us the contempt of those who inevitably interpret them as delaying tactics. Interdependence in the world economy is now so strong that no country can isolate itself from developments elsewhere. Grinding poverty in a third of the world, which is associated with high birth rates and further pressure on world resources, threatens the entire world population.

Phrases like "the world's poor" tend to run off our tongues too easily. We increasingly look at statistics of Third World poverty with little more than academic interest. But I think we should all keep repeating to ourselves the words of Robert McNamara at the World Bank meeting in Manila: "We must try to comprehend what in fact we mean when we speak of poverty. . . . The word itself has become almost incapable of communicating the harshness of the reality. Poverty at the absolute level—which is literally what hundreds of millions of men, women, and most particularly children are suffering in these countries—is life at the very margin of physical existence."

If the lot of the world's poor is to be alleviated there will need to be a redeployment of economic activities across national boundaries. Countries like Britain for example will need to concentrate on industries which have a high input of skill leaving many of our traditional industries to the Third World. We may have to accept that a change in roles, a blurring of the traditional concept of nations divided into primary producers and industrialised countries, will call for changes in international institutions. The challenge to the dominance of the developed countries in these institutions cannot be shrugged aside—if they cannot be adapted they will lose relevance to the ordering of international relations.

For the people of Britain, once the centre of a great Empire, it is no simple matter to come to terms with a new role in the economic and political structures of this small planet. No longer the colonial master, a small island with few untapped natural resources, depending for its existence and prosperity on the ability to trade overseas. During our present economic problems, the calls are there to put up the shutters, to bring in heavy import controls, to still drastically further curtail overseas aid, to try to be self-sufficient. Most of these are very short-term answers—if answers they are at all. My conviction is that some of them would tend to lead us into still greater problems in the longer term. We will be deceiving ourselves if we think them to be the real answer. Indeed, our failure in the past to look far enough into the future has been a major cause of our present economic difficulties.

No. I believe the developing countries are central to our future. We must look forward much more to the longer term, adopt a new realism in our view of the world and our place in it. I remember some years ago meeting the then administrator of UNDP, that distinguished American, Paul Hoffman, to whom we Europeans have grateful memories when the managed Marshall Aid. He was in hospital at the time with a broken leg hoist up on a pulley, and we were exchanging views about attitudes to aid. He almost shook his leg free with forthrightness and enthusiasm as he declaimed that it was wrong for anyone to believe that aid was charity. When he was in the automobile industry, he said, he considered it right to set aside a reasonable part of his budget for market development. And that, he announced, "is all I'm asking the industrialised nations to do now in providing assistance to developing countries."

And I also believe it makes sense in terms of security. I respect the position of those who are persuaded to pacificism, but I'm not one of them. I see defence as necessary. But I see economic aid to developing countries as the same kind of insurance policy as our defense commitment. In one sense, my move from being a junior minister in the Department of Defense to my present Ministry was a logical translation from dealing with a possible threat to our security to coping with a situation that, if allowed to continue and fester, will create the kind of tensions that enhance the threat, and could make traditional tensions seem like child's play by comparison.

In all this, the role of aid is scarcely likely to diminish. But it is surely right for President Nyerere, Mrs. Gandhi and other leaders in the developing world, to constantly remind their people that self-respect, and the reality of their independence, demand that they never lose sight of their aim of self-reliance. And I think we must not be too anxious to interpret this attitude as ingratitude. We must not let it influence our expectations that the transfer of financial resources and of know-how must continue to be major elements in world development in the last quarter of the 20th century. Certainly we in Britain do not envisage the need for less aid in the foreseeable future—though we expect to continue seeking the most effective and realistic ways of using it.

The improvement in the living standards of the world's poor is one of the major challenges of our time. Looking back over the last 25 years of development efforts, both national and international, we can see that much has been achieved. Developing countries have improved their basic infrastructure, railways, roads, and the rest, and they have developed the skills of many of their people to provide the basis of higher levels of economic activity. This has, of course, been assisted by technical co-operation and financial aid programmes. Few developing countries had, in the past, a faster growth of their national output than they recorded in these years. Major progress has been made so that, for example, over the last 16 years the aggregate GNP of developing countries, taken as a whole, more than doubled in real terms.

These figures are open to revision, and I note that recently the World Bank stated that there had been virtually no growth in per capita income in the poorest developing countries over the past 5 years. As part of the positive attitude towards development that needs encouraging, it is necessary to point out that all the assistance from the richer world has only been responsible for about 20 percent of the poor world's growth over the past couple of decades. We know our help is vital, but it is no more than marginal. Eighty per cent of the growth has been generated by the developing countries' own energy and efforts.

In Britain we have over the past few years become increasingly concerned at the development prospects of the poorest countries, and we gave expression to this concern 16 months ago in the publication of an official document showing that as a matter of policy we would be putting a new emphasis in our aid programme on helping the poorest countries and the poorest people in those countries. And we defined the poorest countries as those whose GNP per capita was $200 a year, or less. A few months before our announced change of emphasis we decided to provide almost all new aid commitments to the under $200 countries in the form of grants and not loans. Since most of the poorest live in the rural areas greater emphasis is now being placed in our disbursements and commitments upon channelling aid into rural development.

We must never lose sight of the fact that aid and development policy is about people, about human beings. It must inevitably therefore be concerned with the rights to which they are entitled as human beings. In Britain the extension of proper health service facilities, better housing and more educational opportunities to the widest possible cross-section of the British population has been a practical manifestation of commitment to freedom and human rights in our own society. We believe, therefore, the same opportunities must apply in our development policy and perhaps the first priority of all is the right to be adequately fed. The key objective must be an extension of the right to live creatively and with dignity as distinct from the de-humanising struggle to survive.

Our new aid and development strategy is specifically designed to break free of any self-deceptive preoccupation with abstract statistics. We believe that the way in which to measure the effectiveness of aid programmes is the degree to which the poorest countries and the poorest people within those countries are becoming less poor and enabled to live in dignity rather than to exist in squalor. Because development is a fight for human emancipation in its fullest sense we

must not turn aside from potential contradictions. I am unequivocal in the belief that it would be as wrong to allow our co-operation in development policies overseas cynically to be used by ruthlessly repressive regimes as a means of bolstering their authority, as it would be to use the most disadvantaged and poor sections of the community in such countries as a means of putting pressure on political tyrants. However tempting the argument may sometimes be to cut off aid to this country or to that, as a means of expressing moral disapproval and hopefully provoking change, we must not lose sight of whom it is we may be asking to pay the price. We could too easily be accused of heaping still greater hardship on already oppressed peoples.

The more successful we become in the implementation of the new aid strategy, the more effective we become in ensuring that it really gets through to where it is most needed, the more acute this moral dilemma will become in certain circumstances. This whole question of whether aid for the poorest should be used as a political weapon is, in my view, a completely different issue from the question of general economic—let alone military or for that matter sporting and cultural—relationships with repressive regimes. The crucial point about our aid policy is that its objective is now to be deliberately discriminating in favour of the areas of greatest economic and social justice.

In the context of current concern about the abuse of human rights in parts of Latin America, Asia and Africa it has been represented to me that this kind of argument is all very well but that it can become an excuse for not putting pressure on reactionary governments. If we in fact *made* it an excuse for such passivity this would of course be indefensible. Naturally, as a democratic socialist administration the British Government believes that the principles of human dignity and human rights have no convenient geographical frontiers and are by definition universal in their application. We are therefore always looking for meaningful opportunities to speak out against tyranny and repression wherever it exists and where necessary to examine appropriate methods—but I underline appropriate—of backing our words with action. What matters is that we must look at every case on its merits, taking all the considerations to which I have just referred, and more, into account, and we should be certain that whatever we are doing is on balance justifiable in terms of human emancipation and agreed social progress; that it is not by contrast counter-productive in the achievement of these objectives.

As one of the younger (or perhaps I should say less old) British Labour politicians, nurtured in the post-colonial era, against the background of East/West tensions, I am deeply concerned at the condition of this small planet in the last quarter of this century. One of your great statesmen, Adlai Stevenson, likened the present-day world to a spaceship hurtling on its journey with one-third of its crew enjoying resources more vast and prolific than mankind had ever known, while the other two-thirds barely subsisted. No spaceship, he said, could be expected to survive such contradictions.

Candidly, in subjective terms, I am morally and politically affronted by that situation, and consequently we cannot turn a deaf ear to the call by the third world nations for a greater share of the world's resources. I believe in co-operation and co-ordination; not in confrontation. My conviction is that all of us who try to cope with world development are not in the charity business. We are in the world survival business. Clearly, people in our societies have not yet sufficiently grasped the dramatic challenge presented by the inescapability of international interdependence. No one should expect that coping with such a challenge will be easy. And all of us in the richer societies—politicians as well as other people—must resist the sometimes overwhelming urge to bury our heads in the sand and wave our flag-bedecked backsides in the air. Frankly, if we do, they are more likely to be kicked than to be saluted.

We cannot have it both ways. If we wish to lay claim to the designation "civilised" we have relentlessly to ask ourselves what civilised values demand of us in terms of shouldering our international responsibilities.

ALEX ROSE—LIBERAL—A POWER IN POLITICS

Mr. JAVITS. Mr. President, the recent death of Alex Rose, founder of the Liberal Party in New York, left the political world in my State bereft of one of its most colorful and important figures. And, liberal and independent thinkers in my State have lost also a most intelligent and articulate spokesman.

Alex Rose's guiding light was an unusual blend of pragmatism and idealism, but he never allowed expediency to interfere with his vision of justice. He will be deeply missed by his devoted family, by those of us fortunate enough to have worked with him and to have been his friends, and by all who have followed his remarkable career.

If I may quote his beloved son Herbert, who was with Alex Rose when he died:

It's not what he died of that matters, the man's life is really the story.

I ask unanimous consent that obituaries from the New York Times, the Daily News, and the New York Post, which chronicle Alex Rose's unique life be printed in the RECORD.

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

[From the New York Times, Dec. 29, 1976]

ALEX ROSE OF LIBERAL PARTY, A POWER IN POLITICS, IS DEAD

(By A. H. Raskin)

Alex Rose, leader of a tiny millinery union, who built the Liberal Party into a significant and often-decisive force in New York City, State and national politics, died yesterday at his home in Washington Heights. The 78-year-old confidant of Presidents, governors and mayors had been ill for nearly a year, first with septicemia, a blood infection, and in recent weeks with viral bronchitis, but cancer was the cause of death.

His last public appearance was at the Liberal Party's $125-a-plate campaign dinner, with Jimmy Carter, the party's nominee for the Presidency, seated at his side. For Mr. Rose the dinner, three weeks before Election Day, was a characteristic personal triumph, with notables of both the Democratic and Republican Parties crowding the grand ballroom of the Americana in tribute to the clout of a man who performed major and minor political miracles as vice chairman of a party with only 108,000 enrolled members.

On Election Day, Mr. Rose awoke too ill to go to the polls, the first time he had failed to cast his vote in a half century. He was scheduled to go to Albany Dec. 13 to cast an Electoral College vote for Mr. Carter. It would have been his fifth experience as a Presidential elector, but illness obliged him to designate a substitute.

His choice was another reflection of his power—Raymond B. Harding, former Bronx Liberal leader, who now serves as special assistant to Governor Carey, a Rose intimate.

Mr. Rose's death leaves cloudy the future of a party that increasingly has been shaped in his image. Whom the Liberal Party will back in next year's election for Mayor may become a pivotal element in its development. An even bigger question is whether the Liberal nomination will mean as much as it once did without Mr. Rose's political skills to reinforce it.

Through all his months on the sick list, Mr. Rose kept in touch with the Governor and other close political associates, notably former Mayor Robert F. Wagner, whom he rescued from political annihilation in 1961 by masterminding a successful beat-the-bosses campaign after Tammany Hall decided to deny Mr. Wagner a third term at City Hall.

Mr. Rose also maintained daily phone communication with his offices as president of the United Hatters, Cap and Millinery Workers International Union. Hatlessness and intensified import competition have shrunk that union, which once had a membership of close to 100,000 to a present level of only 16,000.

In recognition of that precipitous cut in union size, Mr. Rose in the mid-1960's rejected a convention proposal that his own salary be increased by $10,000 a year. Instead, he cut his $20,000 pay to $17,500, the lowest salary for any international union president in the country.

He continued to draw that amount through all the inflationary years until his death. Since he passed his 72d birthday, the financial strain was eased by his ability to receive his full Social Security entitlement of roughly $7,000 a year for himself and his wife. He received no salary from the Liberal Party.

HIS LAST PROJECT, A BOOK

For 35 years, the Polish-born unionist and political strategist lived with his wife, the former Elsie Shapiro, in the apartment where he died at 200 Cabrini Boulevard, overlooking the Hudson River, north of the George Washington Bridge. He had hoped to write a book recounting his political experiences, but had dictated only a few pages before he was hospitalized in Florida last January. He could never get back to the project on a sustained basis.

The funeral will be at 11 a.m. Thursday at the Metropolitan Synagogue, 40 East 35th Street. Former Mayor Wagner will deliver the eulogy.

Mr. Rose is survived by his wife of 56 years; a son, Herbert, a New York lawyer; a daughter, Mrs. Carmi Schwartz, whose family moved last year from Scarsdale, N.Y., to Israel, and four grandchildren.

A shrewd blend of idealism, intelligence and political cunning enabled Alex Rose to make much out of little in both politics and labor. He was never able to command the entrenched loyalties of mass movements such as the major parties founded on ingrained party ties. He had no vast financial resources or wealthy backers to call on in bucking the dominant Democrats in New York City or the dominant Republicans upstate.

Yet, even when the Liberal Party's sturdiest supporter, the International Garment Workers Union, broke away from the party after the retirement of David Dubinsky 10 years ago, Mr. Rose remained skillful enough at political manipulation to elect John V. Lindsay to a second mayoral term in 1969 on the Liberal line alone. He played a vanguard role in winning national labor support for the Democratic Presidential candidacy of John F. Kennedy long before the 1960 nominating convention in Los Angeles. And at his death he was deeply involved in complex maneuvers affecting the 1977 New York City mayoral designation.

The organization Democrats in city and state always hated him because they felt his party was "stealing" their votes. They called him the last of "the big-city political bosses" and ridiculed his contention that the Liberal Party existed only to advance

good government—in Mr. Rose's words, "the watchdog and the conscience" of the political process.

Even within his own party Mr Rose was often regarded as autocratic and, increasingly in recent years, as old-hat, out of touch with such new waves in politics as the youth and women's movements. Eldon R. Clingan, who had been elected minority leader of the City Council as a Liberal, led a revolt within the party six years ago in protest against the Rose policies. In the last campaign, many progressives in the party grumbled at Mr. Rose's decision to deliver its Senatorial nomination to Daniel Patrick Moynihan after the former United Nations Ambassador defeated Representative Bella S. Abzug for the Democratic designation.

Mr. Rose's influence was almost as consequential within the general labor movement, even though his international union was smaller than most local unions in the mass-production and civil-service fields.

He was a pattern-setter in labor-management cooperation, a reflection of his belief that job security of union members depended on the economic health of their industries.

To combat the adverse trade conditions that were killing the hat industry, Mr. Rose in 1960 sponsored a promotion fund aimed at fostering fashion shows and other spurs to increase hat sales for both men and women. The union's members are still contributing 2 percent of their wages to that fund.

When the Merrimac Hat Company in Amesbury, Mass., an important maker of felt hat bodies, was threatened with liquidation, he saved the jobs of its workers by arranging for the company's purchase by the millinery union. For a decade, the company was kept alive, with Mr. Rose serving as chairman of the board and negotiating contracts that gave regular wage increases to the Merrimac employees.

However, a flood of Czech imports finally forced it to close. "It was the one victory the Commies ever had in our union," Mr. Rose used to tell his associates, many of whom had worked alongside him in routing Communist elements from the union in the 1930's

OUSTER OF THE TEAMSTERS

His strong stance against racketeering in organized labor led George Meany, president of the American Federation of Labor and Congress of Industrial Organizations, to designate Mr. Rose as chairman of a special committee in 1957 to consider whether the scandal-scarred International Brotherhood of Teamsters should be expelled for gangster domination.

Jimmy Hoffa had just been elected president of the truck union, the federation's biggest and strongest affiliate. The five-member Ethical Practices Committee of the A.F.L.-C.I.O., on the basis of its own inquiry into corruption and disclosures by a Senate antiracket committee, had called on the teamsters to clean up or get out.

The function of the Rose group was to review the ouster recommendation. Mr. Rose joked about his role as "Lord High Executioner," but behind the scenes of the A.F.L.-C.I.O. convention in Atlantic City he sought to negotiate an accommodation that would have made it possible for the teamsters to stay in the federation.

That accommodation would have involved Mr. Hoffa's stepping down as president, and other reforms. The teamster chief was on trial for wiretapping in New York at that time, but arrangements were made for him to drive to the convention one night to confer with Mr. Meany. Snow kept his car from getting through, and the next day the convention endorsed a Rose call for expulsion.

"If Hoffa had done what we told him to the teamsters would still be in the federation and he would still be alive," said Mr. Rose shortly after the Detroit unionist disappeared last year under circumstances indicating gangland murder.

Mr. Rose was born Olesh Royz on Oct. 15, 1898, in Warsaw, the son of a well-to-do Polish tanner and dealer in raw hides. One advantage his father could not give him was a college education, since Jews in Poland in that Czarist period were not often admitted to the universities. At the age of 15, Alex was sent to New York, with the thought that he would prepare for a career in medicine.

The outbreak of World War I forced his father to stop sending funds for his support. The youth, now using an English transliteration of his Polish name, took a job as sewing-machine operator in a millinery shop at $6 a week and also became active in the Labor Zionist movement. In 1918 he enlisted in the Jewish Legion of the British Expeditionary Forces for duty under Viscount Allenby fighting to free Palestine from Turkey.

RESPONSIBILITY DELEGATED

On his return to New York two years later, he married Elsie Shapiro, a Russian-born colleague in the Zionist movement. She was short and retiring; he was tall and assertive. It made for a durable marriage.

In 1927, he became vice president of the hat union, and assisted its president, Max Zaritsky, in repelling incursions by Communists and racketeers. In 1950, Mr. Rose moved up to the presidency in his own right.

Mr. Rose took his first important plunge into the political mainstream in 1936, when he joined in the formation of the American Labor Party in this state. The American Federation of Labor and the Committee for Industrial Organizations had split a year earlier on the issue of craft versus industrial unionism, and fear was felt that their civil war would interfere with the mobilization of labor votes in support of a second term for President Franklin D. Roosevelt.

The American Labor Party also provided a vehicle for enabling old-line Socialists, strongly represented in the leadership and rank and file of New York City's powerful needle-trade unions, to register their enthusiasm for the Roosevelt New Deal without violating their life long aversion to voting on the "capitalist" line of either the Democrats or Republicans.

The success of the American Labor Party in both respects caused its sponsors to decide to make the party a permanent "balance-wheel" in metropolitan politics, but internal politics quickly intervened.

Mr. Rose and his principal ally in the party, David Dubinsky, whose garment union was the largest of New York labor organizations, became increasingly distressed at the influence within the party of left-wing elements. The Transport Workers Union and National Maritime Union, both products of what became the Congress of Industrial Organizations were viewed by the Rose faction as leaders in Communist infiltration of the American Labor Party.

Sidney Hillman, president of the Amalgamated Clothing Workers of America, who was devoting most of his energies to wartime duty with the Roosevelt Administration, opposed any showdown with the leftists as an impediment to national unity at a time when the United States and the Soviet Union were allies.

The upshot was a test in the American Labor Party's 1944 primary. When the Hillman-leftist coalition won, Mr. Rose and Mr. Dubinsky led a walkout and founded the Liberal Party. Both parties designated Mr. Roosevelt as their Presidential candidate for a fourth term, and he accepted both designations.

In that first toe-to-toe contest, a half-million New Yorkers voted on the American Labor Party line as against slightly over 300,000 for the infant Liberal Party. But with the coming of the cold war after V-J Day, the tide swiftly shifted in favor of the Rose faction.

The coup de grace of the American Labor Party came in 1948, when it became the New York affiliate of the Progressive Party, formed to back the Presidential candidacy of former Vice President Henry A. Wallace against President Harry S. Truman. The Democrat Party in New York State, convinced that Truman could not win, did little in his behalf. That thrust the Liberal Party into the role of mainstay of the successful Truman campaign in the State.

Mr. Rose kept playing his political cards with astuteness in the years that followed, using the club of Liberal endorsement of an independent or a Republican as a threat to hold over his party's normal teammates, the Democrats. That lever proved a potent force in winning the Democratic gubernatorial nomination for W. Averell Harriman in 1954. Franklin D. Roosevelt Jr. had the inside track for the designation, but Mr. Rose's view that he was too much of a dilletant finally prevailed, and the nomination went to Mr. Harriman. He won in November while Mr. Roosevelt, given the Attorney General nomination as a consolation prize, lost.

REASON FOR ROOSEVELT

However, 12 years later, Mr. Rose decided to make Mr. Roosevelt the Liberal Party's nominee for Governor as an independent candidate. Two factors when into that choice. One was a belief that Mr. Roosevelt had become a serious politician interested in public service. The other was annoyance with the Democratic leaders who had put Frank O'Connor up as their candidate in pursuance of what Mr. Rose considered a cynical political deal.

President Lyndon B. Johnson called Mr. Rose personally to urge that the Liberals support the O'Connor designation. But even though Mr. Rose placed great store by his friendship with the President, he rejected the suggestion. He sought the help of Senator Robert F. Kennedy in persuading the Democrats to switch to Mr. Wagner or State Comptroller Arthur Levitt.

When Mr. Kennedy declined to intervene, the Liberals mounted their third-party campaign. More than 500,000 votes were cast on their line. The result was a victory for Gov. Nelson A. Rockefeller, which many observers suspected had always been the Rose-Dubinsky design.

Mr. Rose's proudest achievement was his defeat of all five county leaders of the New York City Democratic Party when they sought to get rid of Mr. Wagner as Mayor in 1961. Carmine G. DeSapio was then at the height of his power in the Manhattan organization, and the Mayor was prepared to toss in the towel until Mr. Rose persuaded him to fight against "bossism."

The result was re-election for Mr. Wagner and a defeat for the organization. However Mr. Rose emerged with one lasting regret.

"I am responsible for Abe Beame's mayoralty," he used to confide to friends after Mr. Beame moved into City Hall in 1973. "When Bob Wagner decided to stand up against the bosses, I urged him to identify with career technicians.

"Beame, who had developed a considerable reputation as an expert in municipal finances during his service with Wagner as Budget Director, was drafted to run for Comptroller on the 'beat-the-bosses' ticket. He won. That was one of my good ideas that didn't work."

The hostility between the two men, sharpened by the endorsements the Liberals gave Mr. Lindsay for Mayor in 1965 and 1969, carried up to Mr. Rose's death. He excluded Mr Beame from the invitation list for the Amer-

icana dinner, even though Mr. Beame had been among the first mayors in the country to endorse Mr. Carter. Governor Carey and Mr. Moynihan, as well as Mr. Carter, were speakers.

[From the New York Times, Dec. 29, 1976]

NEW YORK'S POLITICAL LEADERS LAUD ROSE IN TRIBUTES

Following are tributes made to Alex Rose, the key architect of the Liberal Party, who died yesterday:

Governor Carey: He has achieved good beyond measure for the people of New York, both city and state, as a trade union leader and as the conscience and strategist of the Liberal Party, which he helped found in the mid-1940's and which has exerted an affirmative impact on our political processes.

Mayor Beame: A tireless leader and dedicated trade unionist, he was a potent force for the furtherance of liberal ideals and humane government.

Former Mayor John V. Lindsay: Our community will forever miss his special touch upon the life of the city, the state and the country.

George Meany and Lane Kirkland, AFL-CIO secretary treasurer: Alex Rose was a great patriot, a fine trade unionist and an unusual political leader. His service was not only to his own members but to the entire trade union movement. We have lost not only a colleague but a close friend.

Attorney General Louis J. Lefkowitz: His deep concern for his fellow man and for justice in every part of our society marked him as an individual of great dignity and one who was esteemed and loved by all who were privileged to know him.

Senator Jacob K. Javits: He was the consummate liberal and a born politician. His contribution to ridding the United States trade union movement of the danger of Communist control assures him of a place in the labor history of the United States.

Amalgamated Clothing and Textile Workers Union: Alex Rose will long be remembered for his selfless devotion to the cause of labor. He was a skilled political leader and was the architect of the Liberal Party, which has made an outstanding contribution to political action in this state.

Vice President Rockefeller: Alex Rose combined independence of character, poltical sagacity and complete devotion to New York to become one of the most influential and imaginative leaders in the city's history. He was both a champion of working men and women and a master of the politics of a free society.

Former Mayor Robert F. Wagner: Our friendship goes back many, many years and through many political storms for what we believed were the right ideals for our city, state and country. To say that he will be missed hardly could fit the picture.

City Council President Paul O'Dwyer: Aside from being a master politician he was a force for good and he loved the battle. He typified the New York he loved.

Vincent F. Albano, Jr., chairman of the New York County Republican Committee: His word was his bond, all too often a rarity in government. To me, he was an elder statesman in this business of politics.

J. Daniel Mahoney, chairman, New York State Conservative Party: Alex Rose was a dynamic force in New York politics for many years. He leaves a legacy of distinction and accomplishment to the Liberal Party which he guided so surely.

Mario M. Cuomo, New York State Secretary of State: Alex Rose was living proof that integrity and dedication can be as important as numbers in politics.

[From Daily News, Dec. 29, 1976]

LIBERAL PARTY FOUNDER, CHIEF ALEX ROSE IS DEAD AT 78

(By Owen Fitzgerald and Donald Flynn)

Liberal Party leader Alex Rose, a political David who wielded enormous power by playing off the Democratic and Republican Goliaths against each other, died yesterday at 78.

Rose died at his home at 200 Cabrini Blvd. in Washington Heights at 9:15 a.m. With him were his wife of 56 years, Elsie; his daughter, Carmy Schwartz; his son, Herbert, an attorney, and several of his grandchildren.

Rose, vice president of the Liberal Party for more than 30 years, died "very quietly and peacefully," his son said. He had been ill for nearly six months and developed an undisclosed infection on Monday. The veteran politician underwent surgery for cancer of the colon last spring.

Word of Rose's death quickly reached Gov. Carey and Mayor Beame at St. Simon's Island, Ga., where they are meeting with President-elect Carter.

HE HELPED CAREY

"I feel a great sense of personal loss," said Carey. The Liberal Party leader played a key role in Carey's 1974 election.

Mayor Beame said: "Alex Rose was a man who left his mark on the political life of this city. A tireless leader and dedicated trade unionist, he was a potent force for the furtherance of liberal ideals and good government. His impact on the political and government life of this city and this state will be missed."

Rose's position as president of the 32,000-member United Hatters, Cap & Millinery Workers and as only one of 13 vice chairmen of the 100,000-strong Liberal Party provided barely a hint of his true power as a political kingmaker.

He began by managing a maverick named Fiorello LaGuardia into City Hall in 1937, and at the end he was powerfully entrenched in the camp of Jimmy Carter.

"We're a small party," he once said, "but we enjoy the confidence of a great many people, based of course on the record. As I once said, we're really like a Better Business Bureau. Only we're the Better Political Bureau."

Rose was born Olesh Royz Oct. 15, 1898, in Warsaw, Poland, the son of a well-to-do tanner and hide-dealer. He came to New York as a youth of 15, intent upon studying medicine, but became a $6-a-week sewing machine operator instead.

$18,000 A YEAR

By 1927 he had organized the United Hatters, and he headed it the rest of his life. His current salary was $18,000 a year.

Rose founded the Liberal Party in 1944 after Communists had gained control of the predecessor American Labor Party. He never took any title except vice chairman, but there was never any doubt who ran the Liberal Party.

After the LaGuardia campaign, Rose became involved with Presidents Franklin D. Roosevelt, Truman, Kennedy and Johnson. When Mayor John V. Lindsay lost the GOP mayoral primary in 1969, Rose masterminded Lindsay's reelection on the Liberal and independent lines.

This year's general election was the stage for Rose's latest coup—the engineering of the Liberal nomination for U.S. Sen.-elect Daniel P. Moynihan.

Rose's Liberal line pulled in 184,000 votes for Moynihan, better than the 143,000 votes won by Carter on his Liberal line.

Services will be held at 11 a.m. tomorrow at Metropolitan Synagogue, 40 E. 35th St.

[From the New York Post, Dec. 28, 1976]

ALEX ROSE IS DEAD

(By Judith Michaelson)

Alex Rose, founder of the Liberal Party and a powerhouse in New York politics for more than four decades, died today in his home in Washington Heights. He was 78.

Rose died at 9:15 a.m. surrounded by his family—his wife of 56 years, the former Elsie Shapiro, his daughter Carmy Schwartz, who had flown in from her home in Israel; his son Herbert, who is a lawyer here, and several grandchildren. He is also survived by a great-granddaughter.

For months Rose had been ailing with septicemia, a form of blood poisoning. He also suffered from cancer, and had two operations on his colon, the second in May.

Over the last several months he had grown noticeably thinner and paler, but at one of his last political dinners—the Liberal Party's fete for candidate Jimmy Carter—he made the rounds of friends and supporters as if nothing were wrong.

"It's not what he died of that matters," said his son Herbert. "The man's life is really the story."

Services will be held at 11 a.m. Thursday at Metropolitan Synagogue, 40 E. 35th St.

Rose's support helped put his friend Hugh Carey in the Governor's office, and Rose became a major power in the Carey Administration.

In 1961 he helped Robert F. Wagner win his third term as Mayor in his fight against the city "bosses." In 1965 he joined the Republicans to help elect John Lindsay to his first term, and in 1969 when the Republicans deserted Lindsay, Rose was the major force in helping him win as a Liberal and Independent.

He also had close ties to former Gov. Nelson Rockefeller. In 1966, his party nominated Franklin Delano Roosevelt Jr., a move many political observers believe kept Democratic nominee Frank O'Connor from winning. That gave Rockefeller his third term.

Although he ran a minor party in one state as its vice chairman, and although he headed a small union—the United Hatters, Cap and Millinery Workers—Rose's political power far exceeded his titles.

He made—and advised—mayors, governors, and at times Presidents, dating back to 1937 when he managed Fiorello LaGuardia's winning Fusion campaign for mayor.

His support helped John F. Kennedy carry New York, and he had close links with Lyndon Johnson.

"We're a small party," he said in a 1973 interview, "but we enjoy the confidence of a great many people, based of course on the record."

Tributes to Rose poured in from city and state politicians, several of whom were in St. Simons Island, Ga., for talks with President-elect Carter.

Carey, who along with Mayor Beame, had spoken with Carter on the city's fiscal crisis, said he was "stunned and saddened" by the news of Rose's death.

"He was a dear friend and counselor for whom I had the highest professional admiration and deepest personal affection . . . He stood tall among political leaders, and his integrity towered equally as high. We shall not see his like again in our time."

Beame said in a statement released by his office: "Alex Rose was a man who left his mark on the political life of this city. A tireless leader and dedicated trade unionist, he was a potent force in the furtherance of liberal ideals and humane government."

Lindsay, who is vacationing on St. Simons, said: "I have lost a dear and valued friend. More importantly, our community will for-

ever miss his special touch upon the life of the city, the state and the country."

Sen. Javits, who received Liberal endorsement in his own election battles, said:

"He was the consummate liberal and a born politician. His contribution to ridding the U.S. trade union movement of this danger of Communist control assures him of a place in the labor history of the U.S. He was also a wise and compassionate friend to me and many others, and he had a keen eye for political talent."

City Council President Paul O'Dwyer called Rose's role in city affairs "unequalled in the political history of this nation. His endorsement carried with it a recommendation to be an independent voter. Aside from being a master politician, he was a force for good and loved the battle. He typified the New York he loved."

Manhattan GOP leader Vincent Albano said: "Although I sometimes disagreed with him, I had a great deal of respect for Alex Rose. His word was his bond, all too often a rarity in government."

Wagner said he was "deeply grieved to learn of the death of my old friend and colleague, Alex . . . To say that he will be missed hardly could fit the picture. A great man has left us but we are better for having known him." Wagner will deliver the eulogy at Rose's funeral Thursday.

Almost routinely—consulted in election years, his analytical ability and his party's endorsement could—and often did—snatch victory out of defeat. His admirers saw him as an idealist and a reformer. His critics charged he was a political boss.

"A political boss is a man who acquires both privileges for himself and power for himself that he uses selfishly," Rose said. "A political boss is a man who worships the machine and not principles. A man who promotes power and not public good. And no such thing exists in our party.

"To me, a political boss is a man—number one—who's a professional in politics. Who doesn't have to sit, like I do in the union, and worry about my industry and my problems. A political boss is a man who's in politics from morning to night, not a man to whom politics is extracurricular. Number two, who is there to gain out of it. No one can point out I benefitted personally from anything."

Tall, gaunt, with a rumpled owlish expression, a bulldog mouth and a mild manner, Alex Rose, the son of a tanner, was born Olesh Royz in Warsaw Oct. 15, 1898. He retained to the end the Polish-Jewish rhythms and accent of his childhood.

Lavish with words, he used them to build effects, piling sentence on sentence with more vigor than precision. With his complex mind and benign manner, he infused vitality and color into the abstractions of the political game.

An indifferent pinochle player, he excelled at chess. "That's probably where I acquired some of the ability to think through problems," he said. "In a chess game you've got to figure out five, six moves in advance."

In a sense, Rose was the prototypical American of the early 20th century. He arrived in the U.S. at 15 to earn $6-a-week at his first millinery job. Within a couple of years, he had plunged wholeheartedly into the trade-union movement.

"I came over with an uncle," Rose told The Post's Jerry Tallmer in 1966. "My father was not only a tanner but a dealer in rawhides. We lived in comfort, but in Poland they would not allow Jews to go to college. As soon as I got here, I went to night school on Houston Street. My immediate objective was medicine." Small smile. "The medical world lost a doctor."

Caught up in labor Zionism, Rose never did manage to enter college. At the outbreak of World War I, devoted to the concept of a Jewish homeland, he joined the Jewish Legion of the British Army and fought two years in Palestine. "It was called the Jewish Legion but it was really the Royal Fusiliers of the British Expeditionary Forces," Rose told this reporter in 1970.

"I was 18, 19. A private, but a very conscientious soldier. Most of our privates, they didn't like the kipper herring, they used to make a strike. I used to preach to them that this is not what we're here for." The Royal Fusiliers left their imprint on Rose; 50 years later, he was still having tea every afternoon at four.

Back in New York after his military stint, Rose was elected secretary of the city's largest Milliners local. After work came night school. After night school came union meetings. He rationed his time, allowing himself 15 minutes for dinner.

Somewhere around 1925, Rose encountered another young Jewish immigrant with strong convictions and an agile brain—David Dubinsky, who was to mastermind the ILGWU. Later on, the two activists mapped out a two-front war against "the common enemy," the Communists and the racketeers infiltrating labor.

Dating back to that period is the story (dear to several generations of reporters) of Rose the unionist who packed a gun and moved from hotel to hotel to throw gangsters off his trail. He coped with big-fry types like Louis (Lepke) Buchalter of Murder, Inc., Little Augie Orgen and Jack (Legs) Diamond. How did he handle them? Said Rose, who could on occasion rise to the laconic, "I argued on the issues."

Rose and Dubinsky participated in the formation of the American Labor Party, pulled out when it became a battleground for Communists and anti-Communists, then served as a pair of founding fathers to the Liberal Party in 1944.

"I always said to people that society consists of two forces fighting one another, good and evil," Rose liked to explain. "There's talent on both sides but there's more talent on the side of evil.

"Make no mistake. They hire the best brains, the best people. Now the good people in society have to organize themselves to create a balance. And I consider myself as one of those men who will, all his life, try to unite as many people of good will to fight evil as is possible."

Not everyone agreed with his methods of combatting evil. But almost no one denied that the candidate who could claim Rose as an ally acquired an invaluable weapon.

It was Alex Rose who conceived the historic beat-the-bosses crusade that enabled Robert F. Wagner to return from the land of the political dead in 1961. It was Rose who drummed up enough Liberal ballots to shoehorn John V. Lindsay into City Hall in 1965. It was Rose who kept him there in 1969 by furnishing Lindsay with his big line on the voting machine after the GOP had brushed him off.

"A legend developed that I support somebody, he's going to win," Rose once said. "But it's purely coincidental. In our party, we are all in politics not to be clever but to be right. You know? Frequently, when you do what is right, it turns out to be also clever. So my name became a little involved with mircales."

His record was so dazzling that even his defeats were widely interpreted as calculated maneuvers. And, of course, some of them were.

In 1968, when the Democrats defied the Liberals and nominated Frank O'Connor for Governor, Rose retaliated by engineering the candidacy of Franklin Delano Roosevelt Jr. Roosevelt lost, but so did O'Connor; and Nelson Rockefeller swept on to his third term in Albany. The Democrats learned in blood that lesson that underestimating Alex Rose was like stabbing themselves in the back.

Rose didn't pretend he was infallible. In a retrospective mood, he cited "our terrible blunder" in supporting James B. Donovan for Senator against Jacob Javits in 1962. "To be honest with you," Rose confided, "we made that decision with eyes closed, not eyes open, though ignorance is no excuse.

"And I must tell you that after I heard his first speech on TV, appealing to the Conservative vote, I never went near him again. Donovan is the only candidate of our party that I never even met."

The election of Mayor Beame without Liberal sanction might have pushed the Liberals' vice-president into political obscurity but it didn't work out that way. True, he was banished from City Hall. But Hugh Carey moved into Albany and Rose emerged triumphantly as one of the Governor's two closest advisers. With Carey reportedly conferring with Rose and Bob Wagner before making any major decision, the Liberal patriarch basked in his favorite role of behind-the-throne guru.

Even his detractors never accused Rose of angling for a buck. Monetary gain had little allure for him. For close to 40 years, he lived in a Castle Village apartment in Washington Heights with his wife, the former Elsie Shapiro. He was unsalaried in his Liberal Party capacity, although his name was virtually a synonym for that organization.

In his union post, he earned $20,000 a year until he ordered a $2500 cut for himself in 1964 to cover his share of the office car and chauffeur. A year later, he vetoed a unanimously-approved $10,000-a-year increase for himself "because our industry is suffering."

Elder Statesman Rose reveled in reminiscences about FDR, Harry Truman, John F. Kennedy and Lyndon Johnson, all of them friends and cohorts. "I remember when once I had a visit with Roosevelt," Rose said. "And he was boasting to me that he never votes regular, he votes for the candidate. I said to him, 'You know, Mr. President, we made a regular party out of irregularities in New York.'"

In his final years, Rose was a grandfatherly figure, mellow, philosophical, very sure his Liberal Party could and would prosper after he was gone. He was proud of his son, Herbert, a lawyer; of his daughter, Carmy (Mrs. Joshua Schwartz); of their spouses and his flock of grandchildren.

He loved music and reading. His deafness deprived him of pleasure in theater. But his sense of humor popped like the cork of a champagne bottle. Once he was discussing the diminishing size of his union. "Don't judge us by our membership," Alex Rose urged, "but by our deficit."

[From the Daily News, Dec. 29, 1976]

CITY HALL COULD RIDE ON ROSE HEIR

(By Sam Roberts)

Alex Rose, who became a kingmaker with mirrors, planned methodically even at the very end. Just before the Liberal Party leader died early yesterday, he informed his son that he wanted former Mayor Robert F. Wagner to deliver the eulogy at his funeral.

And without Alex Rose, the splinter party that played a pivotal role in New York State politics since Rose helped found it in 1944 faces a critical power struggle that could also decide the outcome of next year's mayoral campaign.

"He was certainly against Beame, but he thought that the next mayoral election had to be won in the Democratic primary," a confidant recalled yesterday. And Manhattan

District Attorney Robert Morgenthau was the man who Rose believed stood the best chance of beating Beame.

It was because of that early assessment of the mayoral landscape—and his closeness to Democratic Gov. Carey—that he was cool to candidacy. Just how well his younger survivors can rally the party around Goodman may be determined by the reach of Rose's shadow.

"We play classical music on the harmonica," Rose once said of the party, which boasts an enrollment of just over 100,000 and has attracted a progressive, anti-Communist coalition that has included such diverse individuals as Mayor Beame's father and Nelson Rockefeller's first wife.

Rose wielded power in a number of ways, engineering Wagner's remarkable "beat-the-bosses" mayoral win in 1961; running Franklin D. Roosevelt Jr. on the Liberal line in the 1966 gubernatorial race, thereby doing in Democract Frank O'Connor and reelecting Rockefeller; sticking with John Lindsay after he lost the 1969 Republican mayoral primary, and endorsing Charles Goodell in the 1970 Senate race—ironically helping Conservative James Buckley to slip into office.

"There were a fairly large number of races where we had a very dramatic result, even if it was in a negative way," said Edward Morrison, a former deputy mayor and now a front-runner to be Rose's successor.

Rose was renowned as a savvy political practitioner who could size up candidates and campaigns long before his counterparts in other parties.

In May 1974 he cast his lot with Carey after Councilman Robert F. Wagner Jr. told him about a Manhattan poll that gave 35% of the vote to Howard Samuels, 12% to Ogden Reid and 6% to Carey. Rose concluded that if 35% was all Samuels could muster in Manhattan, Carey would win the nomination and the governorship.

He was also known for modesty and for keeping his commitments—increasing rarities among political leaders—and for a zealous pursuit of "good government." Rose also "did pretty well" when it came to patronage, the elder Wagner recalled, always carrying "his little book with him in a very business-like way and always insisting that his people were of the best quality."

Rose's political power was, on the surface, obscured by his title—vice chairman, under the Rev. Ronald Harrington—and by the fact that Councilman Henry Stern is the only elected official who is an enrolled Liberal.

"We will miss Alex sorely, but in the final analysis, this is a movement," Morrison observed.

Pollster Louis Harris described Rose as "the stategic glue that held the party together." And party Secretary Ben Davidson explained that "people referred to him as a strategist, a tactician. But whatever you call it, we all realize that he was the political leader of the party—and we all knew it."

[From the New York Post, Dec. 29, 1976]

ALEX ROSE (1898–1976)

Alex Rose played a decisive role in the political life of the city and state and, at crucial intervals of the nation, that may defy the comprehension of future historians. Nor is it likely that we will soon see his counterpart. Even his detractors were obliged to admit that this was an extraordinary man.

He was the leader of the numerically small Liberal Party and the even more diminutive Hatters Union. But his influence planly bore no relationship to the numerical size of his troops.

He achieved widest media recognition as "a master tactician," a sort of continuing consultant to incumbent presidents and aspiring politicians alike. Although his judgments were hardly infallible, the description had incontestable validity. His realistic sense of the possible mingled with a daring instinct for the implausible became legendary.

But to portray him, as some of his critics often did, as primarily a highly skilled craftsman in the industry of politics is to miss the depth, breadth and totality of the man.

He admittedly revelled in the chess-playing aspects of election years. But to Alex Rose, politics was much more than fun and games. He had profoundly progressive convictions, and he cared deeply about the human condition.

More often than not, he translated his beliefs into concrete crusades—from the time he enlisted in the Jewish Legion of the British Army in World War I and fought in Palestine in the cause of labor zionism to his latterday battles, in warm alliance with David Dubinsky, against both underworld and Communist infiltration of the union movement here.

He derived legitimate pride from the knowledge that no taint of financial corruption ever touched his leadership of the Liberal Party or the Hatters Union. He lived modestly, in contrast to the style of many modern labor barons, obtaining his highest satisfactions from the success of his political and social initiatives.

He was not a charismatic orator; he functioned most effectively behind the scenes of many political dramas, including early sponsorship of Hugh Carey's gubernatorial campaign. His avoidance of headline-hunting no doubt helped to explain why presidents and other high officials welcomed and valued him as confidant.

Not until the memoirs of many other men are written will the full story of Rose's place in history be unfolded. Although he disclaimed autocracy, there will be immediate speculation about whether the Liberal Party can survive as a significant force within him. But there will be other days for such reflections.

For the moment it is more fitting to dwell on the dedication of his commitment to both his party and his union and his unfaltering vision of a more equitable, rational world.

[From the New York Post, Dec. 29, 1976]

ALEX ROSE: A LAST VISIT

(By James A. Wechsler)

Death did not come as an unexpected intruder to Alex Rose. He had seen its shadow approaching for a long time, and resolved to face it with dignity and stoicism.

He talked about his preparation for it in almost detached tones when I saw him for the last time. The time was the evening of May 4 in a room at Columbia Presbyterian Hospital.

He had telephoned me from there on the previous afternoon and quietly suggested that he would welcome a visit. He emphasized then, however, as he did after I arrived, that he assumed I would not divulge where he was.

The motive for secrecy was not elusive. He was hardly an innocent about the behavior of political animals; he knew that if the word of his illness spread, his influence in many areas would be quickly written off.

He said almost matter-of-factly that he had been told he might not survive an imminent operation for what he described as a recurrent "small polyp in the esophagus." (It was an understatement; I later learned that it was a malignancy of the colon.) A previous operation, he said, had been apparently successful. This time, however, he was still recovering from a blood ailment—septicemia—and his doctors feared his weakened heart might not endure the ordeal of surgery.

"To be perfectly honest with you" a phrase he so often used—he said, "I'm not afraid. I have faced death before—when I was a young boy fighting in Palestine for labor zionism in 1918 and when we fought the union gangsters here in New York."

Through most of his political existence, Alex Rose had made an art of political anonymity.

This is not to suggest that he was a man without pride of achievement or devoid of vanity. He was simply wise enough to know that boasting was counterproductive.

He was indeed a mover and shaker, and a man for many seasons. But he was also, as he whimsically acknowledged in private conversation, the product of a journalistic myth. The myth was that he was the man behind everything who, in any clouded political picture, was serenely manipulating events and would eventually show his hand.

Probably more often than that, there was some truth in that characterization. But there were the occasions, such as the early maneuvering for this year's Senate Democratic nomination, when he would say off-the-record:

"Please don't give away my secret—but I can't figure out an answer yet."

On that evening in May, however, with the warning that death might be near, he wanted to reminisce about days of quiet glory and talk about the memoirs he had begun writing. He had fastidiously resisted many headlines he could have won; he did care about history's view of him.

He recalled how he had implored Bob Wagner to run as the "anti-boss" mayoralty candidate in 1961, telling him: "You're too young to die politically." He recounted a hitherto unrevealed story of how, during the 1956 convention, he persuaded Estes Kefauver to withhold a blast against Adlai Stevenson's convention operatives, paving the way for Kefauver as vice-presidential choice in an open competition.

The recollections were a blend of nostalgic episodes and critical events in which he had been a participant. He cited with visible pleasure a private letter hailing his part in the shaping of the Carey gubernatorial candidacy.

* * * * *

Since he had introduced the subject of death, I finally asked him what fate he envisaged for the Liberal Party.

He said much of the book he was writing was devoted to what he believed was the enduring function of the Liberal Party as a "good government" force. He refused to concede that his loss would decisively change things; he said there were "good people" who would rule it "as a committee." It was not a subject that I could press in that setting.

In fact the prophesies of sudden death were wrong. He not only survived; he became absorbed in the intrigue surrounding next year's mayoralty campaign, but his activity was largely confined to the telephone.

Except for an appearance at the annual Liberal Party dinner, he was rarely seen in public. He told me once not long ago, "I don't want people to see how thin I am—they might take something for granted." Yet as recently as Monday he was still in active political phone dialogues.

The "devil theory" of Alex Rose has long been popular among some journalists. There is much more to be written about his career; he made no claims to sainthood. But, beyond all the controversial political sagas, there is a valued memory of his personal warmth, his wry wit and his concern for the have-nots of the universe. There was also a tolerance too rarely found in the political species.

He fought hard; he forgave generously. Two days after I had written a column sharply criticizing his role in arranging the Liberal Party endorsement of Pat Moynihan, he called to "make sure" I had received an invitation to the Liberal Party dinner. There was no reference to the abrasive column. It is my sorrow that I was unable to get there to glimpse him for a final moment.

[From the New York Post, Dec. 30, 1976]

ALEX ROSE: THE LAST TRIBUTES

(By Judith Michaelson)

Alex Rose will be remembered, Robert F. Wagner says in a eulogy today, "less for his power, less for his deeds—than for his friendship, his kindness, his humanity, his principles, and his basic innocence in an often corrupted world."

But Wagner did not neglect the power or the deeds of the Liberal Party leader who preferred to stay in the background while raising others—like the former mayor—to high political office.

Rose, said Wagner, who was hand picked by the 78-year-old ailing Liberal vice-chairman before his death to deliver the major address at his funeral today, "made things happen."

Others tapped by Rose at one point or another for high office who are expected to speak at the funeral at Metropolitan Synagogue, 40 E. 35th St., include:

Gov. Carey, whose election Rose masterminded two years ago and whose administration he influenced until his death Tuesday morning.

John Lindsay, whom he supported for mayor in 1965 against Abraham Beame when Lindsay was still a Republican and once more in 1969 when the GOP shunned him.

Also speaking will be the Rev. Dr. Donald S. Harrington, state chairman of the Liberal Party and pastor of Community Church—which shares the same chapel with Metropolitan Synagogue; and Nicholas Gyory, acting president of the United Hatters, Cap and Millinery Workers, the union Rose led.

With politicians of several parties, union leaders, rank and file, and other friends present, Rose's funeral is expected to be a major New York event, despite some notable absences.

Mayor Beame, who paid a condolence call on the family Tuesday night, is in Florida on vacation. And Vice President Rockefeller, who sent a telegram of condolence, is vacationing in Venezuela.

President-elect Carter sent a half page telegram to Rose's wife of 12 years, Elsie. Wagner will read it at the opening of his remarks.

"Alex was one of the legends of the political life of our country," Carter began. "His courage was the conscience of his community. . . . He sought no offices or titles for himself but gave abundantly of his wisdom, experience and insight to those who shared his ideals.

"As a labor leader, as a guiding force of an important political party, as a devoted supporter of Israel, Alex will be remembered for his genius and leadership. But all of us who benefited by the warmth of his friendship, will treasure his wit, his humor and his kindness as well."

Wagner, who said he felt "much more a mourner than a eugolist," spoke of these and other characteristics of Rose in his prepared remarks.

"He could be obscure, direct, byzantine, straight-forward, remote, accessible, depending on the need of the moment. . . He had an almost uncanny sense of timing. He knew how to build coalitions and sometimes, when necessary, how to tear them down."

But to concentrate, Wagner says, on the politician alone—and he was "a grand master, a brilliant strategist, a shrewd technician"—is to "miss what he was really all about."

Rose, Wagner says, was a man of "good humor" and "ready wit," who loved to laugh and be laughed with.

"Alex was a man of style and grace. He rarely raised his voice about an even tone. Often one had to strain to hear him, which was not unpremeditated. He was gentle. His manners were impeccable and even courtly in the presence of strangers.

"He loved beauty, art and good music. He was a cultivated and cultured man.

"Alex was both honest and honorable. He would admit mistakes. His word, once given, w s his bond, and never broken."

Last night at Riverside Chapel there was a private visiting of Rose's friends, relatives, Hatters Union and Liberal Party members, who called on the family. Besides his wife, Rose is survived by his daughter, Mrs. Carmi Schwartz, who lives in Israel; his son, Herbert, a lawyer here; four grandchildren and one great granddaughter.

ARE AMERICA'S AIRLINES AFRAID OF COMPETITION?

Mr. KENNEDY. Mr. President, Mr. Fred Smith, who is chairman of the board of Federal Express Corp.; recently delivered an address which should serve as a healthy reminder that our economic system of private enterprise might function better if those who serve in industry would support efforts in the Congress to reduce Government regulation that interferes with the free market.

Mr. Smith uses the example of Federal airline regulation through which the Civil Aeronautics Board sets the prices and limits the markets in which private firms can offer their service. As practiced by the CAB, airline regulation is a rigid form of Government price control. CAB rules also severely limit the ability of corporate management to respond to changing economic or market conditions. Nevertheless, many of those who run the airlines support rigid control by the Federal Government. One reason is because the CAB protects airlines from competition by other firms. The effect of protection is to stamp out price competition and raise air fares to the public.

Mr. Smith in his address challenges the airline industry to take a closer and longer range look at the question of regulatory reform. His conclusions support the position that I, Senator HOWARD CANNON, Congressman GLENN ANDERSON, and others have argued for sometime—that less regulation will help consumers who will get more efficient service often at lower prices, and help the airline industry itself which will enjoy more corporate freedom and better profits to attract capital.

I ask unanimous consent that Mr. Smith's address be printed in the RECORD.

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

ARE AMERICA'S AIRLINES AFRAID OF COMPETITION? "THE CASE OF ADAM SMITH VERSUS CAB"

(By Frederick W. Smith)

Today our economic system is under its greatest strains since the early days of the Great Depression. Perhaps our greatest national challenge will be the resolution of how much government is necessary to meet our social goals while still preserving the vitality and benefits of the free enterprise system. This debate besets virtually every aspect of our national life. We in the air transport business may be in the vanguard of decisions on these questions which will transcend the esoteric effects of our particular industry.

As a consequence, I believe these issues are so important that they should engender an abiding interest by every concerned citizen. Their resolution is of very direct concern to federal express, and our experiences in Washington provide an insight into the shape of the much larger questions besetting our national society as a whole.

To understand the issues in our industry, I ask you to review with me several basic aspects of our economic history. As I think you will see, the role of regulation and competition within our industry might aptly be called the case of Adam Smith vs. Civil Aeronautics Board.

Nineteen seventy-six marked the Bicentennial not only of our national independence, but of our economic philosophy as well. If you will recall, two hundred years ago the publication of Adam Smith's iconoclastic book, "The Wealth of Nations," literally shook the world. In this work, Smith upset the centuries-old belief that any economic system was simply a "zero sum" game. First articulated by Aristotle, this concept held simply that societal organization required that some be winners and others, losers. Logic held that one man's gain necessarily resulted in another's loss. And let us not forget, that the doctrine of the greatest believer in "zero sum" economics, Karl Marx, holds sway today over half of our global population.

Adam Smith's concept was almost incredibly simple: leave men to the unfettered pursuit of their own enrichment and their aggregate inventiveness will result in a system of exchange which will allow all men to prosper. The requirements were simple—a medium of exchange (namely money) which enjoyed the confidence of all; a system of governmental rules which respected the right of property; and an unfettered opportunity for any individual to pursue the accumulation of wealth. Smith reasoned that such a system was the best protection of individual choice and liberty since it diffused power into the hands of many "competing ambitions".

Certainly the prosperity of this country, and the unprecedented standard of living for even its poorest citizens, has proved that Smith's basic contention was valid. And this is in drastic contrast to the proletarian revolutions predicted by Marx. In fact, his theories have been adopted not in the industrialized world at all—only in the agrarian-based economies such as Czarist Russia and China. And as opposed to our system of property, in these countries a small elite, with the control of all property, denies individual liberties as a cornerstone in perpetuating their governmental systems.

Despite the good which has developed from Smith's laissez-faire doctrine, there were shortcomings as well since certain individuals often suffered severe temporary hardship as the exchange economy was influenced by technology and changing desires. This became apparent to the extreme during the great depression of the 1930's which proved conclusively the need for some national or governmental involvement in the complex economic processes of the modern world to insure both stability and the protection of national social goals.

It was in this context that our airline system was forged. Reacting to the debilitating excesses of competition that marked the air transport industry during the 1930's, the Congress regulated the industry in 1938 to provide a sound national air transport system and to assure the public that it would have a dependable stable transport utility. Creating the Civil Aeronautics Board to govern the industry's activities, the system chosen was one in which the government would grant licenses, or certificates of public convenience and necessity. The CAB was

also given a severely limited exemption power as well.

It should be remembered that the original legislation was intended to provide a rational framework for a fledgling industry, based on an emerging technology, to grow in accordance with the public need. The 16 trunk carriers in operation in 1938 were given "grandfather" certificates, but it was recognized that some degree of competition was necessary to promote innovation and insure efficiency. To these ends, one of the authors of the original aviation act, Senator McCarran, noted that, "in the proposed bill there is nothing to prevent a little fellow with a new idea, with plenty of capital, from establishing an airline."

Now each of you can personally attest to the revolutionary development of our airlines since that act was passed almost forty years ago. Thirty passenger DC-3's which could cruise at 150 mph have given way to such marvels as the giant Boeings which can travel at 600 mph, carrying over 400 people in pressurized comfort around the globe. The industry is now a $15.0 billion mature business.

But have you ever reflected as to what really caused this transportation revolution? Certainly those daring aviation enterpreneurs of the early days had a significant hand in this dramatic story, but far more importantly, two other factors overshadow the most important of their contributions.

First, the aggregate product of demand predicted by Adam Smith caused millions of people to need to get to distant points in pursuit of their individual fortunes. Secondly, the inventive genius of the American aircraft manufacturers created marvelously efficient and comfortable flying machines which permitted the airlines to carry their increasing passengers at affordable rates. Perhaps nowhere are the merits of Smith's doctrine so pervasive as they are in the aviation industry. For virtually everyone has prospered as a result of our air transportation revolution, and the price for these services has risen only 22% in the last quarter century compared to a rise in the overall consumer index of over 200%.

Building around the desires of frequent and repetitive business travelers, the original fledgling airlines existing in 1938 have become giant transportation enterprises such as United, Trans World, American, and Eastern. And what of Senator McCarran's ideas? In 1938 there were 16 trunk airlines—today there are 10. Moreover, there have been 79 consecutive applications from new applicants which have been denied!

But there have been innovations in air transportation:

Local service carriers emerged after World War II with the idea of providing convenient air travel to the small and remote areas of our country.

All cargo airlines, led by the Flying Tiger Line, began the vigorous promotion of the advantages of shipping by air.

Supplemental or charter airlines were created to promote low-cost vacation travel.

Air freight forwarders came on the scene to provide ancillary ground services to make the convenience of door-to-door shipping a major element in selling air freight services.

Commuter airlines, moving into the void created by the local service carriers' decision to become smaller trunk, or long haul, carriers, have begun to provide new levels of air transport service to communities bypassed by the airlines' large jets, which cannot economically serve thin, short haul routes.

Intrastate airlines such as PSA in California and Southwest in Texas have promoted frequent, low fare service between large, synergistic markets with astounding stimulation of their respective markets.

And lastly, our company, Federal Express, has pioneered a new concept in the distribution of critical air express shipments, giving overnight service throughout the United States on a door-to-door basis to these critical items.

Our growth has been dramatic. When we began our service in April of 1973, we served 17 points: Flew 10 aircraft; employed 150 people; and we carried 24 shipments. At the end of November, 1976, we find ourselves flying into 75 airports with 44 aircraft, employing over 2,400 people, and carrying over 25,000 shipments per day. For the last six months, we will have generated revenues in excess of $52.0 million with profits of over $4.0 million. Our fiscal year ending next May should see us reach over $110.0 million in revenues and book over $8.0 million in earnings.

What do we have in common with the other innovative developments in air transport mentioned before?

First, not one of these endeavors was created or initiated under the licensing or certification procedures provided by Congress. Each and every one of these ventures was launched outside of the primary legal framework under some form of exemption—usually an exemption which did not contemplate the type of service which was eventually provided. There have been virtually no de novo licenses granted by the CAB. Only after establishing these services through virtual loopholes in the law, and proving their worth, were they sanctioned with licenses by the CAB.

Secondly, each and every one of these innovations was bitterly contested and fought by either the entire trunk airline industry or a majority of its members with an eye to destroying these encroachments—despite the fact that the airlines themselves had never attempted to develop these market needs.

Last, and most important, after the tremendous efforts used to stop these endeavors, it has been the trunk airlines who have reaped the major benefits from the development of these new markets for air transportation.

Thus, last year the combination airlines, in domestic service, carried over 16 billion revenue ton miles of freight compared to the all-cargo carriers share of 450 million rtm's.

Millions of local service and commuter passengers, first drawn to the air by these promotion-minded carriers, journey on connecting long haul trunk airline flights.

The air freight forwarders provide over 40% of all of the cargo carried by the trunk airlines.

The trunks carried over 1.5 million charter passengers in the domestic markets compared to less than 400,000 for the original supplementals who truly developed the market.

And finally, despite Federal Express' dramatic growth, the airlines today carry more express traffic than ever before.

Last year, our company tried first with the CAB to get an exemption to fly several large aircraft to augment the small, 7,500 pound payload jets, that our existing exemption as an "air taxi" permits us to use. The airline industry opposed our request with an almost hysterical frenzy as to the dangers of such tampering with the certification system. The CAB said they lacked the authority to grant us such an exemption.

We then tried to get legislation through the Congress which would have given us capacity relief and permitted us to expand our service and lower our rates while we went through the laborious and lengthy certification proceedings required under the still unchanged 1938 law. Here we met a legion of airline lobbyists who opposed us. Even so, we only narrowly failed in these efforts.

And I might point out that the CAB had given virtually identical authority to the all-cargo carriers and the supplementals before the trunk airlines closed that door through the courts in a 1956 challenge as to the scope of the CAB's exemption powers.

Now over the past year there has been a much larger debate in the halls of Congress over what, if any, reform measures should be made in our aviation laws. These proceedings have erroneously been called deregulation attempts rather than a reform movement which they truly are. In lengthy hearings, the airlines argued persuasively that under the existing controlled revenue structure, their totally uncontrolled costs had squeezed profits to the point that reinvestment in new equipment was impossible. In fact, the Air Transport Association, the industry group of the certificated carriers, has noted that between now and 1990 the industry will need almost $60.0 billion to re-equip its aging fleets. More importantly, failure to increase the airlines' level of profitability may cause our air transport system to be incapable of meeting our air travel needs by a factor of 50% by 1985!

Equally important, the airlines rightly noted that the incredible delays in the CAB made rational management almost impossible. And you should note, that it is because of this same crippling regulatory lag that Federal Express requested relief.

Monumental problems. And the airlines' answer to date? Almost total opposition to any change.

Now I do not believe anyone could reasonably argue that there should not be some degree of regulation of the airline industry. The quasi-public utility nature of the industry demands some degree of protection for the Nation's commerce as a whole. But it does appear to be fairly obvious that the airlines' most serious problem could be solved by allowing some degree of price freedom. But with that freedom, of course, comes the requirement that either real or potential competition will hold prices to a reasonable level for the traveling public.

The airlines' should devote their attention, it seems to me, toward obtaining flexibility in pricing which they need to cover their rising costs at some level of competitive risk. To do otherwise would be to virtually guarantee nationalization when the industry has failed to equip to the level required by the Nation's commerce.

But it should be remembered, according to Adam Smith, that with competition and innovation comes opportunity, and new sources of revenue, which inure to the benefit of all. Using prior experience as a guide, it should be remembered that neither Hertz nor Avis lost their "war"—they both won. And despite their attempts to the contrary, the inventive genius of the promotors of new air transportation ventures have benefited everyone in the air transport industry—especially the original airlines.

And this, of course, is where Adam Smith, the CAB, and Federal Express all tie together.

Our economic system today can never, despite some politicians' simplistic and appealing rhetoric, return to the simplicities of the good old days of totally free enterprise. Our national commitment to social and humanistic goals, quite rightly, necessitates a mixed economic system with some measure of governmental control.

The real test of whether this Nation will continue to prosper will be decided by how well we mix the needed protection of these controls against the vitality of "competing ambitions" which have served us so well over these last two hundred years. And so, the airlines of this country provide an instructive case on the shape of things to come.

When reviewing Federal Express' flight to fly larger aircraft, I can honestly say that everyone lost—particularly the airlines that opposed us. And if it should come to pass that the basic freedom of property, the basic guarantor of our national liberty, should eventually be taken from us, I wonder who the historians will mark with the greatest blame: The bureaucrats—I doubt it; the radicals—

almost certainly not; foreign interests—never.

They will note that the captains of our largest accumulations of property, our biggest companies, forgot those basic lessons of Adam Smith. And that faced with the necessity of some governmental regulation, these should-have-been leaders opted for the protection against any and all competition in the mistaken belief that any free market test was the most terrible of all threats.

And the bewildered irony that will confront those distant scribes will be that those who have benefited most from the genius of Adam Smith's competitive system will surely have been the architects of its demise.

I, for one, hope that Adam Smith wins his case before the Civil Aeronautics Board.

CONFIRMATION OF THE ATTORNEY GENERAL

Mr. MATHIAS. Mr. President, on Tuesday, January 25, the Senate will take up the nomination of Griffin B. Bell for the Office of Attorney General.

The record of the Judiciary Committee's hearings is extensive, comprising more than 1,000 transcript pages, and testimony from over 23 witnesses.

To assist my colleagues in reviewing this record, I ask unanimous consent that an informal index to the hearing record be printed at this point in the RECORD.

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

JUDICIARY COMMITTEE HEARING RECORD, JANUARY 11–14, 17, 19, 1977

I. BELL'S ROLE AS "CHIEF OF STAFF" AND LEGAL ADVISOR TO GOVERNOR ERNEST VANDIVER, 1958-1961

A. December 1958: Bell's Trip to Virginia and Mississippi, December 1958, to study State laws on school segregation.

(1) Testimony of Bell, January 11, pages 139–140, January 12, pages 35–36.

(2) Testimony of Mitchell, January 12, page 174.

(3) Testimony of Rauh, January 13, page 109.

B. February-March, 1959: Bell's Role in Recommending some or all of the bills introduced and signed by Governor Vandiver, which:

(1) Authorized the Governor to close any public school within a school system to preserve the peace, dignity and good order of the State.

(2) Authorized the Governor to close any unit in the State University system to preserve the peace, dignity and good order of the State.

(3) Prohibited any city or county having an independent school system from levying ad valorem taxes to support integrated schools.

(4) Set age limits on those in the university system.

(5) Facilitated establishment of private schools by allowing taxpayers credits on state income taxes for contributions to such private schools.

(6) Authorized the Governor to appoint and compensate legal counsel representing schools defending against desegregation suits:

(a) Testimony of Bell, January 11, pages 140–141, January 12, pages 36–44.

(b) Testimony of Mitchell, January 12, pages 174–180.

(c) Testimony of Rauh, January 13, pages 109–112.

C. July 13, 1959: Vandiver meets at Governor's mansion with Bell and others to discuss District Court order in *Calhoun* v. *Lattimer*, (ordering Atlanta to produce desegregation plan by December 1, 1959):

1. Testimony of Bell, January 12, pages 106–108.

2. Testimony of Mitchell and Document introduced into Record (Handwritten notes referring to Bell's role in meeting), January 12, pages 179–183.

D. February-April, 1960: Sibley Commission:

1. Testimony of Bell, January 11, pages 110–114.

2. Testimony of Rauh, January 13, pages 113–125.

3. Testimony of Cochrane, January 13, pages 176–189, 205–211.

4. Testimony of plaintiffs in 1958 Atlanta school desegregation suit, January 19, pages 144–171.

5. Testimony of Mitchell, January 19, pages 171–175.

E. September 13, 1960: Federal District Court postpones desegregation of Atlanta schools (*Calhoun* v. *Lattimer*) to permit further study of Sibley Report 188 F. Supp. 412 (1960).

F. Was Judge Bell a moderating force during the Vandiver years?

1. Testimony of Bell, January 11, pages 38, 133, 135–36.

2. Testimony of Mitchell, January 12, pages 177–78.

3. Testimony of Rauh, January 13, pages 171–72.

II. TESTIMONY ON ISSUE OF JUDICIAL CONFLICTS OF INTEREST

A. Did Judge Bell comply with laws and regulations concerning reporting of financial benefits received from private clubs?

(1) Testimony of Bell, January 17, pages 40–53, 84–87.

(2) Testimony of Monroe Freedman, Dean, Hofstra School of Law; former Chairman, Federal Bar Association's Committee on Disciplinary Standards and Procedures; author, Lawyers' Ethics in an Adversary System; qualified expert witness on legal ethics, January 19, pages 118–127.

B. Should Judge Bell have participated in *Golden* v. *Biscayne Bay Yatcht Club* 530 F. 2d 16 (5th Circuit 1976) (whether private club action in barring Blacks and Jews from membership constitutes state action):

(1) Testimony of Bell, January 12, pages 130–31.

(2) Testimony of Monroe Freedman, January 19, pages 112–27.

(3) Testimony of Joseph Rauh, January 13, page 104.

C. Should Judge Bell have participated in *Calhoun* v. *Lattimer?* 321 F.2d 302 (5th Circuit 1963) (Atlanta School Desegregation case):

(1) Testimony of Bell, January 12, page 159.

(2) Testimony of Clarence Mitchell:

1. July 13, 1959 meeting of Vandiver, Bell and others to discuss *Calhoun* v. *Lattimer*, January 12, pages 180–183.

2. Handwritten notes of July 13, 1959 meeting January 12, pages 180–183.

(3) Testimony of Monroe Freedman, January 12, pages 104–107, 127–139.

III. TESTIMONY ON ISSUE OF JUDGE BELL'S LETTER CONCERNING CARSWELL NOMINATION

1. Testimony of Bell, January 11, pages 25–27, 51–59, 108–110, 131–132; January 17, page 52.

2. Testimony of Rauh, January 13, pages 96, 100, 102.

3. Testimony of Aaron Henry, January 19, pages 19–20, 34–35.

IV. TESTIMONY RE JUDGE BELL'S CIVIL RIGHTS DECISIONS ON FIFTH CIRCUIT

A. Julian Bond case:

1. Testimony of Bond, January 14, pages 116–18.

2. Testimony of Bell, January 11, pages 19–22.

3. Testimony of Rauh, January 13, pages 132–133.

B. School Desegregation cases:

1. *United States* v. *Texas Education Agency* 467 F.2d 848 (5th Circuit 1972) ("Austin Case"):

a. Testimony of Bell, January 17, pages 17–21.

b. Testimony of Rauh, January 13, pages 128–132.

c. Testimony of Mitchell, January 12, pages 184–6; January 19, pages 221–2.

d. Testimony of Plaintiff Volma Olverton, January 19, pages 178–190.

2. *Cisneros* v. *Corpus Christi* Independent School District 467 F.2d 142 (5th Circuit 1972):

a. Testimony of Rauh, January 13, pages 128–132.

b. Testimony of Clarence Mitchell, January 12, pages 184–186.

c. Testimony of Plaintiff, Mr. Lavernus Royal, January 19, pages 210–221.

V. TESTIMONY ON RETENTION OF CLARENCE KELLEY AS DIRECTOR OF FBI

1. Testimony of Bell, January 12, pages 68–70, 154–56; January 17, pages 81–84.

Mr. MATHIAS. Objective coverage of the hearings is provided by a series of articles on the hearings which appeared in the St. Louis Post-Dispatch, and I ask unanimous consent that they be printed in the RECORD at this point.

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

SENATORS PRESS BELL ON OPPOSITION TO INTEGRATION IN GEORGIA

(By Richard Dudman)

WASHINGTON, January 12.—Critical Senators are continuing to press Griffin Bell for an explanation of his role in efforts opposing the racial desegregation of Georgia public schools in the late 1950s.

Bell appeared today for the second day of hearings by the Senate Judiciary Committee on his confirmation for Attorney General.

Senator Charles M. Mathias (Rep.), Maryland, has put into the record six bills enacted by the Georgia Legislature in 1959 on the recommendation of Gov. Ernest Vandiver. Bell was then Vandiver's personal counsel and had the title of chief of staff.

Bell insisted yesterday that he had been a moderate by Georgia standards at the time and had helped to guide the state through a time of great tension so that all the schools remained operating and were desegregated.

One of the laws authorized the governor to close any public school if its continued operation threatened to lead to "violence or public disorder" in the community.

Another provision of that law provided for public financial grants to any student in a school that was closed who could not be transferred to an existing public school. This amounted to state financing of private schools in such cases.

Another law permitted the governor to close any branch of the University of Georgia for the same reason.

Still another permitted any city or town to increase taxes to support "separate public schools for the white and colored races" and prohibited any school-taxing power "if it shall be held by any court of competent jurisdiction that the support of separate public schools for the white and colored races is illegal or violative of the constitutional rights of any person."

One law authorized the governor to continue paying the salary of any teacher prevented from teaching by the governor's closing of a school. The salary could continue for the remainder of the current year and through the next year.

Mathias noted that the events in the Vandiver administration had occurred nearly 20 years ago. He said the committee was inter-

ested "not to what happened then, but in how you view it now."

He recalled that Bell had said he had acted as a friend and lawyer, not as a public official in the Vandiver administration and not in a policy role. He asked if Bell had any documents that bore on his activities in the period.

Bell replied that he had obtained copies of all the bills, some correspondence and newspaper clippings. But he said he had found no reference to statements he had made at the time. This was not surprising, he said, because he was a lawyer and there were public officials present.

Defending the end results of his efforts, he said:

"We kept the schools open. The only thing we could have done better would have been to let them desegregate on a local option basis. It was two years before that was done."

Earlier, he had claimed credit for seeing to it that Georgia closed only the individual schools that were desegregated, rather than the entire school district where one school was desegregated. Eventually, not even the individual schools were closed, and all became desegregated, he said.

Mathias quoted a newspaper interview with Vandiver praising Bell and saying that he had "transformed an honorary post, chief of staff, into an activist post."

Bell denied that he had been an activist and said the position had been something like that of a Kentucky Colonel, amounting to no more than getting "a certificate you put on the wall."

He stirred general laughter by saying that "someone started a Georgia navy, and they had an admiral, but I was never an admiral—I was just a colonel."

He denied a statement made by Richard Ashworth, Vandiver's press secretary, in another newspaper article quoted by Mathias. It described Bell as Vandiver's top legislative aid. Bell said he would not have had time for that as a senior partner in an Atlanta law firm.

Another newspaper clipping, dated Nov. 18, 1958, quoted Gov.-elect Vandiver as saying his legal advisers at the time, including Bell, were considering legislation that would close the schools if they were forced to desegregate.

Bell said he could not recall drafting the bills. He said many persons were involved in drawing them, and he observed that "legislators themselves sometimes come up with an idea of their own."

"It has been known to happen," Mathias said, joining for the moment in the general laughter.

On other matters, Bell refused repeatedly to repudiate G. Harrold Carswell, whose nomination by President Richard M. Nixon for the Supreme Court Bell had supported. He asserted at one point that his letter of support had been a recommendation rather than an endorsement, but he later acknowledged that it was not useful to argue about a difference between the two words.

Asked if he would back Carswell if he had it to do again, he said: "If I knew then what I know now, I'd have to reconsider."

Bell had indicated earlier that his position on the Carswell nomination would have changed because of a morals case in which Carswell recently was involved.

Senator Birch Bayh (Dem.), Indiana, disagreed with that stand, saying the Carswell nomination was "symbolic of the whole attitude of the Nixon Administration, its insensitivity toward racism." The Senate refused to confirm Carswell after a long fight.

Senator Edward M. Kennedy (Dem.), Massachusetts, elicited statements from Bell that as Attorney General he would enforce the open housing laws and various fair employment practices laws and would pursue investigation of illegal mail openings by the Federal Bureau of Investigation and payments to Congressmen by the government of South Korea.

Bell said he had never taken a position on the Equal Rights Amendment, but he volunteered the view that it filled a gap that had been left in the Fourteenth Amendment and was probably an orderly way to extend civil rights to women.

At one point, Bell interrupted the interrogation to say he did not feel "put upon" by the questioning.

"I think it serves a public purpose to have me examined as thoroughly as I'm being examined," he said. "When I'm Attorney General, if I get there, I want to be trusted by the people."

RIGHTS LAWYER ASSAILS BELL'S RECORD

(By Richard Dudman)

WASHINGTON, January 13.—A prominent civil rights lawyer charged today that Griffin Bell "as lawyer and judge for 14 years gave aid and comfort to the segregationists of this country."

Joseph L. Rauh Jr., a Washington lawyer and national vice president of Americans for Democratic Action, was one of several witnesses who testified before the Senate Judiciary Committee on the third day of hearings on Bell's confirmation as Attorney General.

Rauh said that Bell's assistance to the segregationists began at least as early as 1958, when there was not one black child attending school with whites in the South, and extended at least into 1972.

Rauh divided this 14-year period into four phases: "First they tried massive resistance. When that didn't work, they turned to massive recalcitrance. When that didn't work, they went to freedom of choice. And when that failed, they resorted to roadblocks to desegregation."

Rauh described a series of bills, on which Bell has acknowledged he worked as chief of staff to Gov. Ernest H. Vandiver of Georgia, an outspoken segregationist. The bills provided for the closing of the public schools if they were ordered to integrate and the substitution of state-supported segregated private schools.

In the second phase, Rauh said, Bell developed the Sebley Commission which Rauh said recommended "maintaining segregation within the law" but then went on to make proposals that were were clearly illegal.

In his prepared testimony, Rauh said he was not accusing Bell himself of being a segregationist. But he said Bell had consistently assisted segregationists from at least 1958 through at least 1972.

Rauh quoted John Minor Wisdom, also of the Fifth Circuit Appellate Court, in a critical dissent to a majority opinion written by Bell in a 1972 Texas school desegregation case.

Bell had held, in reversing a district court decision, that the case should merely be remanded to the lower court for a new trial without recommendation.

Judge Wisdom, referring to Bell's opinion, wrote, "The looseness of the language opens the way for recalcitrant school boards to evade the Supreme Court's mandate."

Judge Wisdom said sarcastically that Bell's opinion "may have some value to first-year law students—except for the defects I have pointed out—as an example of how a reviewing court can pass the buck, give the school board a delay, and confuse the district courts on remand."

Leon Jaworski, the former Watergate special prosecutor, supported Bell.

Jaworski submitted to the Senate Judiciary Committee a report he had made in 1961 for the American Bar Association on Bell's qualifications for appointment to the United States Court of Appeals for the Fifth Circuit, a position Bell later held for 14 years.

Senator Charles M. Mathias Jr. (Rep.), Maryland, who has been Bell's principal critic in three days of hearings, noted that Jaworski's report made no mention of Bell's service in 1958 and 1959 as adviser to Georgia's segregationist governor, Ernest H. Vandiver.

Mathias and other Republican Senators told reporters they were asking Jaworski why his long account of Bell's career had omitted any mention of Bell's part in drafting and recommending laws intended to delay school desegregation in Georgia.

Jaworski, in a strong endorsement of Bell, said: "I am convinced he is a thoroughly qualified man for this post. I would be shocked if this man ever yielded to pressure—he's just not built that way."

Clarence Mitchell, director of the Washington Bureau of the National Association for the Advancement of Colored People, delivered a blistering attack on the Atlanta lawyer to the Senate Judiciary Committee yesterday.

"If he were a Republican, you would have given him the kind of going over that would convince the country he is not a proper nominee for Attorney General," including Senator Edward M. Kennedy (Dem.), Massachusetts.

"You have been asking gentle, leading questions that make the nominee look good."

He asked that the hearings be postponed to permit the full airing of Bell's record as a legal adviser and "chief of staff" to Vandiver and as a federal judge.

Mitchell ridiculed Bell's faulty memory as to which segregationist laws he might have drafted and recommended to Vandiver in the late 1950s and his failure to find any written record of his actions and views at the time.

Mitchell likened blacks from Atlanta who support Bell to puppies whose eyes have not yet opened and to elephants that have been chained so long that a small stake in the ground is enough to restrain them.

He called it "incredible" that President-elect Jimmy Carter would name Bell as Attorney General over such distinguished Southern judges as Wisdom and Elbert P. Tuttle of the same court on which Bell served.

Mitchell accused Bell of being one of those segregationists who "still seek ways of turning back the clock or slowing down progress."

Mitchell presented from the Georgia state archives a photocopy of a court decision ordering integration of the Atlanta schools. He said it bore what appeared to be Gov. Vandiver's written notes.

One note said that Bell "doubts advisability of appeal—might put us in worse shape." Another indicated that several lawyers, including Bell, were being instructed to "make recommendations for legislation if needed and report to me."

Mitchell said Bell had been evasive in discussing his role in resistance to school integration and in minimizing his position as Vandiver's chief of staff by likening the job to an honorary Kentucky colonel citation, when he had listed it quite seriously in his entry in "Who's Who In America."

Referring to Bell's testimony that he had been working behind the scenes to keep the schools open and ease the path toward desegregation, Mitchell said that the result had been prolonged delay and that Bell's role had been like that of "people in Nazi Germany who stood aside when people were being put into gas ovens."

Kennedy asked what value Mitchell would place on Bell's testimony that delay was the price of orderly desegregation in Georgia, that he believed in voting rights laws and that he had promised to oppose racial discrimination as Attorney General.

"I'm sorry to say I don't place any value on it, and I'll tell you why," Mitchell said. "If a man stole a jewel and he said he wouldn't do it again, you might believe him

but you wouldn't make him the night watchman. We have a jewel—equal rights under the law. Griffin Bell may have reformed, but you should not make him the watchman for the jewel of freedom."

Mitchell told the Senators that, whenever they said Bell's segregationist actions had been committed 20 years ago, he realized that there was a deep gulf between them. He said he doubted that a 20-year time lapse would make any difference to them if the actions had been embezzlement from a bank or an antitrust violation.

BLACK LEADER SAYS SENATE MAY REFUSE BELL'S CONFIRMATION

(By Richard Dudman)

WASHINGTON, January 14.—A prominent civil rights leader says there is a good chance that the Senate will refuse to confirm Griffin Bell as Attorney General.

Clarence Mitchell, director of the Washington bureau of the National Association for the Advancement of Colored People, made that estimate in an interview as hearings on the nomination in the Senate Judicial Committee went into their fourth day today.

Mitchell, who had assailed Bell's record and accused liberal Democrats of feeding him leading questions to make him look good, said some of them would begin wavering if the hearings were prolonged and additional details could be presented on Bell's record as an Atlanta lawyer and federal judge.

Although few other participants or observers in the hearing room drama this week saw any chance that Bell would be rejected, Michell has a good record. He accurately predicted rejection of the nominations of Clement F. Haynsworth Jr. and then of G. Harrold Carswell for the Supreme Court in 1969 and 1970.

Several Democrats replied to Mitchell's criticism yesterday with assurances that they were judging Bell just as strictly as they would a Republican nominee. Some seemed to sharpen their questions.

They appeared to take somewhat seriously a complaint by Joseph L. Rauh Jr., a Washington civil rights lawyer, that opponents had little time to arrange for witnesses to come from Georgia to tell about Bell's role in a campaign against school desegregation by former Gov. Ernest H. Vandiver.

Georgia witnesses who appeared yesterday were on Bell's side.

Warren Cochrane, former secretary of the Negro Voters League in Atlanta, said Bell had invited him and other blacks to a series of secret meetings in the late 1950s and early 1960s to tell them what Vandiver was doing to prevent integration.

Bell was Vandiver's "chief of staff" at the time, a title that Bell says was insignificant but that others may made him a top legislative adviser and strategist.

Cochrane recalled that Bell had told the group he was trying to get Vandiver to change his position and accept gradual integration.

In return, Cochrane said, Bell asked the black leaders to try to prevent any mass demonstrations and avoid bringing any new lawsuits involving the schools "until they could work something out."

"The idea was to accept segregation for a time?" He was asked.

"We never accepted segregation as a group," Cochrane replied. "We tolerated it for a time."

Under further questioning, Cochrane said the black group had thought it might take a year or a year and a half to integrate the schools—not the 10 years it eventually required.

"If someone wants to call me an appeaser, in terms of the circumstances of the times that's what we had to go through," he said. "We had to go step by step. If you want to call it survival, yes."

Lonnie C. King Jr., former president of the Atlanta chapter of the NAACP, testified that many of Bell's critics were "applying 1977 standards of morality to 1959 conditions and circumstances."

He said there was such racial hysteria in Georgia in 1959 that any person who advocated integration was called a 'nigger-lover' and often was run out of town." He said neither Bell nor anyone else could have openly advocated integration at that time.

King denied earlier testimony that Bell, in a meeting of black and white Atlanta leaders in 1972, had suggested that parties to an Atlanta school desegregation case meet without their attorneys to arrange a settlement.

"Judge Bell on the Atlanta plan is getting a bum rap," King said.

A. Jay Cooper Jr., mayor of Prichard, Ala., and president of the National Conference of Black Mayors, supported Bell strongly as a person "committed to working toward a biracial future."

Cooper said he had a different view of the civil rights struggle than did some who live in Washington or New York. As an Alabama Mayor, he said, "I have to struggle on a daily basis with reconstructed and unreconstructed white folk."

Earlier, Rauh, national vice president of Americans for Democratic Action, returned to Bell's opinion upholding the expulsion of Julian Bond from the Georgia Legislature. The United States Supreme Court later reversed the decision, and Bell said this week that he had made a mistake in that case.

"What scares me is that person who could yield to that kind of hysteria could also yield as Attorney General," he said. "If we'd had a strong Attorney General in either the Truman or Eisenhower Administration, we might have been spared the evil of McCarthyism. Both yielded to (Senator Joseph R.) McCarthy."

SOUTHERN PAST HAUNTING ATTORNEY GENERAL NOMINEE

(By Richard Dudman)

WASHINGTON.—The fight over whether Griffin B. Bell should become the next Attorney General of the United States grew serious this week, much to the surprise of most political observers and Bell supporters.

Bell, an Atlanta lawyer and former judge of the United States Court of Appeals for the Fifth Circuit, was expected to win easy confirmation in the Senate Judiciary Committee, despite the announced opposition of some civil rights groups.

In fact, opponents were talking about how Democrats on the Judiciary Committee friendly to President-elect Jimmy Carter were going to railroad the nomination through, regardless of the critics who wanted more time to build an opposition case and arrange for witnesses to testify against Bell.

There was talk for a while of a committee vote Friday, before the new President had been installed to send up a nomination and before the committee had been legally constituted to receive it.

By late Friday, however, the pace had been slowed. New recruits, including the National Organization of Woman, were joining the opposition. The Rev. Mr. Jesse L. Jackson of Chicago, head of People United to Save Humanity (PUSH) asked to testify on Monday.

Finally, Chairman James O. Eastland (Dem.), Mississippi, an outspoken Bell partisan, announced that the hearings would be extended into a second week with Bell being called back as the first witness.

At the start of the hearings last Monday, Senator Charles M. Mathias (Rep.) of Maryland at one point held up this thumb and forefinger a quarter inch apart to show how thin the record was on the committee's hearing eight years ago into the qualifications of one of Bell's predecessors. John N. Mitchell wound up with a conviction as one of the Watergate criminals.

As the week progressed, Mathias asked by far the most searching questions. The committee's conservative Southern Democrats said at the outset they planned to vote for confirmation, and the friendly leading questions by the liberal Democrats led observers to believe that they, too, had already decided in Bell's favor.

Some of Bell's opponents believe that President-elect Jimmy Carter decided on Bell for Attorney General some time ago and deliberately floated other names as trial balloons to confuse the opposition.

The National Association for the Advancement of Colored People began a thorough investigation of Bell's background several weeks ago but dropped it when Carter's campaign director, Hamilton Jordan, said he didn't think Carter would choose him. Jordan said the choice would smack of nepotism, since Bell was a member of the same law firm as Carter's senior adviser, Charles Kirbo.

The nominee was introduced by Georgia's senior Senator, Herman E. Talmadge, who, as governor of Georgia 22 years ago, pushed through a state constitutional amendment that permitted the "massive resistance" to school desegregation that Bell helped organize as a young man.

Instead of calling on two other nationally known lawyers who had agreed to appear if needed, the Carter team placed its greatest reliance on Leon Jaworski, the former Watergate special prosecutor.

Jaworski's chief credentials were his assignment in 1961 to investigate Bell's background, experience and character for the American Bar Association when Bell had been nominated for the U.S. Court of Appeals for the Fifth Circuit.

But, as critics quickly pointed out, Jaworski's report contained no mention of Bell's service as legal adviser and "chief of staff" to Georgia's die-hard segregationist governor, Ernest H. Vandiver. In fact, Jaworski's testimony omitted any mention of Bell's record or attitude on civil rights.

Jaworski's chief sources of information about Bell, moreover, were two Atlanta lawyers who had served Vandiver along with Bell in the maneuvers to block school integration in the late 1950s and early 1960s.

The case for Bell, aside from his being a widely respected lawyer and judge, is that he is an old and trusted friend of Jimmy Carter. They have known each other from boyhood, when they grew up in towns eight miles apart.

Choosing such a confidant as Attorney General has become standard practice. Presidents Truman, Eisenhower, Kennedy and Nixon all chose their campaign managers as Attorney General. Kennedy's was also his brother.

In the case against the nominee, Bell's close association with Carter is likewise a factor. Critics have argued that their close personal ties might conflict with other important aspects of the job. An Attorney General must be the legal conscience of an administration and the "people's lawyer."

At the heart of the controversy over Bell's nomination are conflicting views of the same set of facts in the decade of turmoil and struggle over the desegregation of Georgia's public schools.

Gov. Vandiver was elected in 1958, four years after the U.S. Supreme Court had ruled that the schools had to be desegregated "with all deliberate speed."

The governor campaigned on a platform of keeping the schools segregated. He sent Bell

and other lawyers to Virginia to study that state's "massive resistance" campaign, in which the public schools were closed and private white academies were set up.

Two days after his inauguration he introduced a package of what he called the "Vandiver segregation bills," stemming from "a distinguished committee selected by me of the best legal minds in the state." Bell was a member of the group, although he testified that he could not remember working on some of the bills.

The new laws, passed within three weeks, authorized the governor to close the schools and the University of Georgia rather than integrate them, provided tax credits for individual contributions to private schools, provided funds to hire lawyers to defend desegregation suits, cut off school taxes if schools were integrated and set age limits for admission to the university. The last was to block most blacks from admission.

Massive resistance became impossible, however, when the Supreme Court ordered a faster pace of integration and when the Federal Government showed at Little Rock that it would enforce the courts' orders.

Bell has claimed credit for devising the next phase, creation of a special commission to hold hearings around the state and advise the Legislature. He testified that this commission was a force for moderation, for gradual integration and for keeping the schools open.

The majority report, however, denounced the 1954 Brown v. Board of Education decision as "a usurpation of legislative function through judicial process" and recommended a number of steps including a "freedom of choice" plan assuring that "no child will be required to go to school with a child of a different race except on a voluntary basis."

Bell and his supporters, including some black witnesses from Atlanta, say he helped prevent chaos and performed a role of moderation. His detractors say he was fighting a rearguard action against integration, maneuvering for obstruction and delay through the entire period.

Critics, including Clarence Mitchell, director of the Washington Bureau of the National Association for the Advancement of Colored People, and Joseph L. Rauh, national vice president of Americans for Democratic Action, believe much more time should be allowed to explore Bell's entire record, including the Vandiver era and his 14 years on the court.

One of Rauh's concerns, as he wages a somewhat lonely campaign, with many of his liberal friends supporting the nomination, is that Bell's record showed that he yielded to the pressure of racist hysteria in a time of turmoil in the South.

He asks how such a person, as Attorney General, could stand up to whatever emotional pressures may arise in the next four years.

Hearing on Griffin Bell Is Recessed in Senate

(By Richard Dudman)

WASHINGTON, Jan. 17.—Senator James O. Eastland (Dem.), Mississippi, recessed the hearing today on Griffin B. Bell's nomination as Attorney General without indicating whether or not additional would-be witnesses were to be heard.

After Bell had testified for two hours on a fifth day of the hearings, the 72-year-old chairman of the Senate Judiciary Committee abruptly mumbled "We'll go over until the call of the chair" and walked from the room.

Senator Donald W. Riegle (Dem.), Michigan, who happened to be presiding at the time, said, "I take that to mean the committee is in recess."

Clarence Mitchell, director of the Washington bureau of the National Association for the Advancement of Colored People, renewed his request to the committee staff for additional time to hear witnesses from Georgia and other parts of the country in opposition to the nomination.

Eastland was expected to call for a vote tomorrow if most Senators are present. But Mitchell said he hoped members of the committee would vote to hear the additional witnesses and give them 24 hours notice to reach Washington.

Several of those who have asked to testify were involved in the prolonged Atlanta school desegregation case in which Bell is said to have helped arrange a settlement.

Bell acknowledged today under questioning that he had not filed required reports with the U.S. Judicial Conference, disclosing complimentary private club memberships worth about $2000 a year that he had received as a member of the U.S. Court of Appeals for the Fifth Circuit.

He would not commit himself on whether he would rejoin the clubs, which he has promised to resign from, when he leaves office.

Among the clubs in question were the Capital City Club and the Piedmont Driving Club of Atlanta, which discriminate against blacks and women.

When Bell was nominated by President-elect Jimmy Carter, he first said he would not resign and later said he would, in effect, take a leave of absence while serving as Attorney General so as not to lose his $10,000 initiation fee.

When Bell began testifying before the committee last Monday, he said he would resign from the clubs if and when he received Senate confirmation.

When Reigle asked what Bell would do about the club memberships after leaving the Government, Bell replied:

"I've made no decision. I don't know if I'm going to be confirmed. I don't know if I'm going to be Attorney General. I don't want to say what I'd do as a private citizen."

He went on to say that he hoped to make the Department of Justice a place where trust in Government would be restored. He said he thought he would not be trusted fully if he remained a member of clubs that had discriminatory practices.

Riegle suggested that Bell might not be fully trusted if it were known that he was, in effect, putting his memberships in trust while serving as Attorney General.

Bell replied, "We don't have a system of Government that makes you promise something for the rest of your life as if you're serving in the penitentiary."

Senator John H. Heinz III (Rep.), Pennsylvania, carried the issue further by asking whether Bell's tax-free honorary memberships in two of the clubs, worth about $1000 a year, should not have been disclosed to the plaintiffs in a Florida case in which he ruled against someone excluded from the Bay Biscayne Yacht Club for reasons of race.

Bell answered that most judges in the South belonged to such clubs. He said that if he had disqualified himself almost every judge on the United States Court of Appeals for the Fifth Circuit would have been disqualified and "there would have been nobody to try the case."

Senator John H. Chafee (Rep.), Rhode Island, questioned Bell's assertion that he had been a moderating influence in the late 1950s and early 1960s on then-Gov Ernest H. Vandiver, a bitter-end opponent of school desegregation. Chafee noted that a series of harsh segregationist laws were enacted, at least partly with Bell's advice, and asked "where was the moderation?"

"The moderation was in the fact that we did not close the schools and we have had no violence of any sort," Bell replied. "In Georgia that was a moderating influence. In Rhode Island, I don't know."

Bell offered to produce witnesses about the Georgia school dispute if necessary, but said he did not want to extend the hearings. He said Attorney General Edward H. Levi and deputy attorney general Harold R. Tyler Jr. wanted to depart.

"Somebody has to run the department," Bell said.

At the start of today's hearing, Bell noted that he alone of many witnesses in five days of hearings had been put under oath," he said.

"I don't mind being put under oath, but people who testified against me for four or five hours have not been put under oath," he said.

The committee chairman, Senator James Eastland (Dem.), Mississippi, is expected to call for a vote possibly as early as tomorrow, despite efforts by persons opposing Bell's nomination to have the hearings extended to permit further witnesses from the South to testify.

Bell Back on Stand; Inquiry May Be Extended

(By Richard Dudman)

WASHINGTON, January 17—Griffin B. Bell was back for a fifth day of hearings today on his nomination as Attorney General, with opponents pressing for a further extension of the inquiry.

Senator James O. Eastland (Dem.), Mississippi, chairman of the Senate Judiciary committee, said last week that he was thinking of calling for a vote this afternoon.

But Clarence Mitchell, director of the Washington bureau of the National Association for the Advancement of Colored People, said yesterday that he would ask for additional time to bring witnesses to testify about three controversial opinions by Bell when he was a judge of the United States Court of Appeals for the Fifth Circuit.

Mitchell said he would ask that the witnesses be given 24 hours' notice. That would mean an extension of hearings through tomorrow or possibly Wednesday.

Mitchell said in a telephone interview that he had received many calls expressing opposition to Bell on the basis of his civil-rights record as a lawyer and as a judge.

"This is getting through to the country," he said. "If my telephone calls are any indication of the mood of the people, they are getting more and more concerned about this sort of person being made Attorney General."

Mitchell dismissed testimony in Bell's favor by some blacks from Atlanta as being from "go-slow faction" that generally takes its cue from the white power structure in Atlanta.

"Their approach is to say just what the white people told them to say," he said.

He said he wanted to call witnesses who would give details of school desegregation lawsuits in Atlanta and in Austin and Corpus Christi, Tex.

Those who oppose the nomination have been concentrating on the liberal Democrats on the committee, hoping to make them uncomfortable in failing to join the attack on a nominee accused of having given aid and comfort to segregationists for at least 14 years.

That charge was made by Joseph L. Rauh Jr., a Washington civil rights lawyer who is national vice president of Americans for Democratic Action.

Senators Edward M. Kennedy of Massachusetts, James Abourezk of South Dakota and Birch Bayh of Indiana have usually sided with Mitchell and Rauh in the past.

This time a Republican, Senator Charles M. Mathias of Maryland, has led the way in posing critical questions about Bell's background.

Bell has come under fire for his role in the long dispute over school desegregation for court opinions in cases dealing with other matters for his membership in Atlanta clubs that exclude women and blacks and for this

close political relationship with President-elect Jimmy Carter.

Bell has stated that he would resign from the segregated clubs if confirmed by the Senate. Asked if he would rejoin them after he ceased being Attorney General he replied by saying that they might be integrated by that time.

BELL IS UNREPENTANT SEGREGATIONIST, SAY 2 BLACK LEADERS

(By Richard Dudman)

WASHINGTON, January 19.—Two black civil rights leaders charged today that Griffin B. Bell is an unrepentant segregationist who could not be expected to change his views as Attorney General under a liberal President.

The Rev. Jesse Jackson of Chicago, president of People United for Self-Help (PUSH), appealed to President-elect Jimmy Carter to "be morally consistent" and withdraw Bell's nomination.

Aaron E. Henry, president of the Mississippi state conference of the National Association for the Advancement of Colored People, said of Bell, "I would be very hesitant to rely on his words when his actions don't show that he has done what he says he will do."

The two were the first of eight opposition witnesses appearing today in what was expected to be a sixth and final day of hearings before the Senate Judiciary Committee. A vote was scheduled for late this afternoon.

Jackson assailed Bell for what he called a record as lawyer and judge of obstructing school desegregation and other forward moves in the civil rights field.

"The Confederacy is still very deep in this man's chest," Jackson said. "He may never trust him."

Jackson asked committee members how seriously the Senate was taking the issue of Bell's confirmation and asked whether "we are in some kind of honeymoon period."

"We are wondering if enough cement can be poured in 100 days to lock our ankles for another 100 years," he said.

Jackson noted that Bell and "some others" were no longer in the hearing room as the black witnesses testified. The committee chairman, Senator James O. Eastland (Dem.), Mississippi, had sent word by an aid to Henry that he would be unable to attend today's session.

Black observers at the hearing noted that Eastland had absented himself whenever black witnesses opposing Bell were to be heard.

Calling attention to Bell's reluctant resignation from private clubs that discriminate against blacks, Jews and women, Jackson said: "Mr. Bell doesn't express any regret about his past, but only moves forward under the most political and opportunistic circumstances."

Henry, a pharmacist in Clarksville, Miss., who led a successful insurgent black delegation to the 1964 Democratic national convention, traced Bell's record as a judge for 14 years on the U.S. Court of Appeals for the Fifth Circuit.

Especially in cases involving school segregation and the Voting Rights Act, Henry said, "We always knew we would not have Judge Bell's vote . . ."

Henry said that in superintending the desegregation of about 30 school districts in the South, Bell always had provided for "as little desegregation as possible." The witness said all but 10 or 12 high schools in the entire state of Mississippi still had white principals, although most of the schools are predominantly black.

Henry characterized Bell as one of the "swing judges" on the Fifth Circuit in civil rights cases. He said Bell frequently voted with the majority whether for or against civil rights, but never, to his knowledge, wrote a pro-civil rights dissent when the majority decided against a civil rights case.

Henry noted that in 1972 Austin school desegregation case Bell held that there was no obligation to eliminate system-wide segregation. He recalled that liberal members of the court called Bell's view "destructive" and described his language as "blatant euphemisms to avoid desegregating the system, preserving the whiteness of certain schools."

Senator Edward M. Kennedy (Dem.), Massachusetts and Birch Bayh (Dem.), Indiana, questioned Henry's statement that Bell as Georgia Gov. Ernest H. Vandiver's chief of staff in 1960 had told the Georgia Legislature he would resist school desegregation in the state by "every legal means and remedy available to us."

Henry said the statement had been quoted in a publication called Southern School News. Kennedy and Bayh said they understood that Bell never had addressed the Legislature and that the statement may have been made by Gov. Vandiver.

"If you can find someone who heard Judge Bell say it, I think we've got a smoking gun," Bayh said.

PANEL APPROVES GRIFFIN BELL, NOMINATION GOES TO SENATE

(By Richard Dudman)

WASHINGTON, January 10.—Griffin B. Bell's nomination as Attorney General was expected to go before the Senate today after the Judiciary Committee voted 10 to 3 late yesterday to approve his confirmation.

Three Republicans opposed the nomination—Senators Charles M. Mathias of Maryland, H. John Heinz III of Pennsylvania and John H. Chafee of Rhode Island. One Democrat, Donald W. Riegle, Jr., of Michigan, voted "present."

The committee's approval, barely in time to permit the Senate to act today and Bell to join other Cabinet members in a group swearing-in ceremony tomorrow, came at the end of the sixth day of hearing.

Civil rights leaders said they would take the fight against Bell to the Senate floor.

Clarence Mitchell, director of the Washington Bureau of the National Association for the Advancement of Colored People, said he was "disappointed and chagrined" by the committee vote. He said he was particularly dismayed that Senators Edward M. Kennedy (Dem.), Massachusetts, and Birch Bayh (Dem.), Indiana, had voted for Bell.

Mathias said he had been troubled by the nomination and had wavered as the hearings progressed.

"Finally this afternoon I asked myself if this nomination had been made by a Republican President, would I advise him to go forward with it," he said. "I must say, I thought of the votes I cast against Judge (Clement) Haynsworth and Judge (G. Harold) Carswell (Supreme Court nominees), and I must say I found it impossible to go forward with this nomination."

Riegle said he was prepared to vote to refer the nomination to the Senate but not to join in recommending its approval.

Kennedy said he, too, was troubled about his vote but had become convinced that Bell was "a man of very considerable integrity" who would abide by assurances he gave the committee on such issues as civil rights, wire taps, voting rights and antitrust policy.

Mitchell returned to the witness chair to tell the committee members that they as well as President-elect Jimmy Carter would be responsible if Bell became Attorney General.

"You will be saying to the people, 'We will put in charge of your rights one of your chief opponents when you were trying to get what you should have'," he said.

Heinz said Bell apparently had violated a federal law when he cast the deciding vote and wrote the majority opinion approving Atlanta's school desegregation plan in 1963.

Heinz cited a statute that required a federal judge to disqualify himself in any case in which he earlier had served as a lawyer He said it was clear that Bell had been "of counsel" in the same case when Gov Ernest H. Vandiver of Georgia was considering whether to appeal a lower court decision.

One of the last witnesses, Monroe Friedman, dean of the Hofstra University Law School in Hempstead, N.Y., said Bell had violated the code of judicial conduct adopted by the United States Judiciary Conference.

Friedman said Bell should have disclosed his membership in private clubs that discriminate against blacks, Jews, and women before hearing a case last year in which the Biscayne Bay Yacht Club was charged with discrimination against blacks and Jews.

On another point, Friedman said Bell should have disclosed in 10 or 12 semiannual reports that he was receiving complimentary memberships in the private clubs, worth about $2000 a year.

SENATORS SEEK DELAY ON BELL

(By Richard Dudman)

WASHINGTON, Jan. 20—Republican Senators moved today to block immediate confirmation of Griffin B. Bell as Attorney General this afternoon in time for a group swearing-in tomorrow of President Jimmy Carter's new Cabinet.

Senator Edward W. Brooke (Rep.), Massachusetts asked for a "hold" on the nomination until Monday to provide time for the Senators to read the record of six days of hearings on the nomination.

He objected to a plan by the Democratic leadership to have 100 copies of the transcript specially made up and placed on the Senators' desks just before the nominations were to be taken up this afternoon.

"How are they supposed to absorb it—by cosmosis?" a member of Brooke's staff asked.

Several other Republicans reportedly were prepared to ask for a roll call vote on Bell's nomination. One senator said this would have the effect of postponing consideration until Monday, since many senators will be away from Washington tomorrow.

A spokesman for Senator John C. Danforth (Rep.), Missouri, said Danforth expected a rollcall vote and had not yet made up his mind how to cast his own vote. Danforth's reservation stemmed from a question of Bell's position on Clarence M. Kelly, director of the Federal Bureau of Investigation, who is a former chief of police of Kansas City

Danforth objected to reports that Bell had indicated he would fire Kelly if confirmed as Attorney General. Bell has pointed out since then that he made no such statement but said merely that Kelly would be retiring "before long."

Danforth has been awaiting a direct reply from Kelly to a letter of inquiry on the matter. Government sources say Kelly probably will retire soon after next Oct. 1, when he will obtain certain pension advantages.

The blocking of the Bell nomination today opened the way for development of bipartisan opposition for a debate Monday or later on the Atlanta Jurist's qualifications and record. Senators William Proxmire (Dem.), of Wisconsin, and Daniel Patrick Moynihan (Dem.), New York, have joined the growing opposition to Bell.

The Judiciary Committee had voted 10 to 3 late yesterday to recommend that the Senate confirm Bell's nomination

Three Republicans opposed the nomination—Senators Charles M Mathias of Maryland, H. John Heinz III of Pennsylvania and John H. Chafee of Rhode Island One Democrat, Donald W. Riegle Jr. of Michigan, voted "present."

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swearing-in ceremony tomorrow, came at the end of the sixth day of hearings.

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Kennedy said he, too, was troubled about his vote but had become convinced that Bell was "a man of very considerable integrity" who would abide by assurances he gave the committee on such issues as civil rights, wire taps, voting rights and antitrust policy.

Heinz said Bell apparently had violated a federal law when he cast the deciding vote and wrote the majority opinion approving Atlanta's school desegregation plan in 1963.

Heinz cited a statute that required a federal judge to disqualify himself in any case in which he earlier had served as a lawyer. He said it was clear that Bell had been "of counsel" in the same case when Gov. Ernest H. Vandiver of Georgia was considering whether to appeal a lower court decision.

CHALLENGE POSSIBLE ON BELL

(By Richard Dudman)

WASHINGTON.—President-elect Jimmy Carter's selection of Griffin Bell as Attorney General has raised the first threat of a major confirmation fight against the new administration.

The announcement yesterday caused surprise and consternation among civil rights leaders. They had been opposing the Atlanta lawyer and former federal appeals court judge and had been led to believe that he had been dropped from consideration.

They long have considered him a skillful opponent and obstructor of school desegregation. With Bell's appearance at Carter's press conference in Plains, Ga., yesterday, they had new grounds for opposition.

Bell said he had no regrets for having supported the 1970 nomination of G. Harrold Carswell to the Supreme Court. The nomination was defeated by those who opposed Carswell's anticivil rights record as well as by those who questioned his competence.

Bell was criticized also for citing a Supreme Court decision signed by only three Justices as an indication that the court agreed with his restrictive views on school desegregation, favoring school busing only as a last resort.

Clarence Mitchell, director of the Washington bureau of the National Association for the Advancement of Colored People, said that "these two assertions raise very serious questions about his competence, aside from his racial point of view."

Mitchell said he had sent for an opinion in a Corpus Christi, Tex., case that Bell said expressed his views on pupil transportation. In addition, Mitchell resumed a canvass of Bell's other opinions that had been suspended two or three weeks ago when it appeared that Bell was out of the running.

"As of now, it appears he ought not to be Attorney General," Mitchell told the Post-Dispatch.

Another civil rights leader who opposes Bell, Nate Jones, the NAACP's general counsel described Bell as "basically the person who erected obstacle courses in the path of persons who wanted their rights validated."

One of his objections was that Bell had set up court-appointed biracial councils to assist all-white school boards in carrying out desegregation programs. Although the system might have been good in principle, he said, it worked out as "just another layer of exhaustion the plaintiffs had to run through." Questions of the make-up and behavior of the councils provided new subjects for litigation and new cause for delay.

A second objection raised by Jones and others was something Bell did in connection with the Atlanta school desegregation case. In 1973, Bell appeared as guest speaker at the Atlanta Downtown Action Forum, a group of black and white business leaders.

Although the meeting was supposedly off-the-record, it was reported afterward that Bell had proposed that the parties to the 14-year-old lawsuit meet without their lawyers to try to reach a settlement.

Although the Atlanta case was not pending before the Fifth Circuit Court of Appeals, on which Bell sat, he was a member of a three-judge panel that had the so-called Atlanta Metro case, an effort to desegregate the schools of the whole metropolitan area.

The Atlanta school board had been considering joining the plaintiffs in the Metro case. But when Bell's suggestion was followed and the Atlanta case was settled, the school board dropped the idea.

Bell rejected a motion that he disqualify himself from the Metro case. His written statement explaining his conduct at the meeting did not dispute the facts as stated. It said he was trying to overcome the uncertainty and instability that had been caused by years of litigation, in which white attendance in the city's schools dropped to 22 per cent from 67 per cent and 20,000 students were lost from the school system.

The staff of the Lawyers Committee for Civil Rights Under Law was preparing to study Bell's background and possibly gather information for presentation to its board for another possible challenge to the nomination.

Carl J Character, of Cleveland, president of the National Bar Association, an organization of black lawyers, in a message to Carter Sunday, said the proposed appointment "alarms the black bar and is harmful to the black community." He said Bell's record "demonstrates his total lack of sensitivity to the legitimate rights of black citizens."

When a civil rights lawyer telephoned an acquaintance on the transition staff Sunday to quote a radio report that Bell was to be appointed, the staff member said, "That can't be true—not after the memo we wrote to Carter."

But the memorandum is not publicly available. In fact, the staff member who blurted out that comment said yesterday, after the Bell announcement, that she knew nothing about any unfavorable material developed on him.

Carter's associates had calmed the concerns of civil rights leaders by saying that Bell's two recent visits to Carter's headquarters were merely for consultation on other likely appointments.

Hamilton Jordan, Carter's chief recruiter for top administration jobs, had added to this impression by saying that he thought it would "smack of nepotism" if Bell were named Attorney General, because Bell is a law partner of Carter's old friend and senior adviser, Charles Kirbo.

The firm, old and prestigious, represents General Motors, Coca Cola and other large corporations. Another partner is Jack H. Watson, Jr., who headed transition preparations during the campaign and now heads the issues side of the operation.

Bell is 58 years old. He was born in Americus, in Carter's home county of Sumter. It was Bell who introduced Carter and Kirbo.

He obtained his bachelor's degree at Georgia Southwestern College and his law degree from Mercer University in Macon, Ga.

Bell was Georgia chairman of John F. Kennedy's presidential campaign. Kennedy named him a federal judge a year later. He resigned early this year to re-enter private practice.

Mr. MATHIAS. I also ask unanimous consent that a telegram I received from Prof. Vernon Countryman of the Harvard Law School be reprinted in the RECORD. In his telegram, Professor Countryman raises a most serious issue which deserves the careful study of the Senate as it prepares to consider the Bell nomination and I ask that it be printed at this point.

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

[Telegram]

Senator CHARLES MCC. MATHIAS, JR., *U.S. Senate, Washington, D.C.:*

In view of obvious improprieties of Bell in sitting as Judge on appellante court which ruled on validity of school desegregation plan in a case in which he provided legal advice and on the desegregation of a Biscayne Bay Yacht Club while he maintained membership in 3 clubs with similar segregationist policies, as well as his failure to report free and discounted club memberships to judicial conference even after its advisory committee had specifically ruled such memberships should be reported, cannot reconcile his confirmation with the Senate's vote on Judge Haynsworth. Confirmation of Bell would make mockery of President Carter's conflict of interests guidelines. Please circulate this message to other Senators.

VERNON COUNTRYMAN,
Harvard Law School.

Mr. MATHIAS. Additional information on the issue raised by Professor Countryman is provided in an article in Newsday of January 24, 1977 by Monroe Freedman, dean of Hofstra Law School and an expert on judicial ethics. Professor Freedman testified before the Judiciary Committee during its hearings on the Bell nomination. Mr. President, I also ask unanimous consent that this article by Professor Freedman be printed in the RECORD.

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

[From Newsday, Jan. 24, 1977]

(By Monroe H. Freedman)

A DISSENTING VOTE FOR JUSTICE

Testifying before the Senate Judiciary Committee last week, the dean of Hofstra Law School claimed that Griffin Bell's conflicts of interest disqualify him from being confirmed as attorney general. Here are some of his reasons.

When campaigning for the presidency, Jimmy Carter emphasized that the attorney general, above all others, should be "removed from politics" and independent of the White House. President Carter then nominated Griffin Bell, a personal and political friend, to be attorney general. Bell observed that the attorney general is a symbol of equal justice before the law—the context was the controversy over his memberships in three country clubs that exclude blacks and Jews from membership.

I agree with President Carter and Griffin Bell. The attorney general should be removed from politics and is a symbol of equal justice. On those standards, Bell is clearly unqualified to be attorney general.

In addition, Bell, while a federal appellate judge, committed serious violations of the federal conflict-of-interest statutes and canons. Those ethical violations are viewed by some senators as the "smoking gun" in the case—misconduct going beyond a mere "po

litical" disagreement with the president over his choice of attorney general. The cases of conflict-of-interest violations are these:

1. THE ATLANTA SCHOOL CASE

In a school desegregation case in Atlanta in June, 1959, the Federal District Court judge ordered the school board to present a desegregation plan by Dec. 1. A group of lawyers met at the mansion of Gov. Vandiver to discuss litigation strategy in the case. One of the members of that group was Griffin Bell, who was on leave from his law firm to serve as the governor's lawyer.

Some members of the group favored an immediate appeal in the case. Bell disagreed, however, urging that an appeal "might put us in worse shape." Instead, Bell supported the view that a committee should be appointed to develop a plan that might be acceptable to the trial judge. That counsel was followed, and subsequently Bell was involved to some extent in legislative changes that were necessary to implement the plan.

Bell's strategy worked. The district judge accepted the plan, despite the fact that it delayed complete integration of the schools for several years and imposed special requirements for black students seeking transfer in white schools (e.g., a personality interview and a higher score than half the white students had to achieve on a standardized test). Thus, the proponents of desegregation were compelled to take the appeal in that case.

On the appeal, the three-judge panel split 2 to 1. The judge who wrote the opinion in the case—*Calhoun v. Latimer*, 321 F. 2d 302 (1963)—and whose vote was decisive in approving the school plan, was Judge Griffin Bell. At that time, a federal statute—28 USC 455—required a federal judge to disqualify himself in any case in which he had been "of counsel." Judge Bell clearly violated that conflict-of-interest statute.

2. THE BISCAYNE BAY YACHT CLUB CASE

In 1976 Judge Bell participated in deciding a test case attacking the exclusion of blacks and Jews from what the defendants claimed to be a private club. At the time, Judge Bell was a member of three clubs which had the same exclusionary policies, and which could have been adversely affected if the dissenting judges' position in that case had prevailed. In addition, Judge Bell was receiving about $2,000 worth of free membership privileges in two of the clubs. Because Judge Bell failed to divulge his relationship to the clubs, the plaintiffs were deprived of the opportunity to move for his disqualification, which they have stated they would have done.

3. VIOLATION OF DISCLOSURE REQUIREMENTS

Beginning in June, 1970, Judge Bell was required by the Judicial Conference of the United States to report semiannually any gifts he received of a value greater than $100. The Judicial Conference prepared and distributed forms for that purpose. Instead of reporting the free club privileges he was being given, Judge Bell falsely wrote "None" in the applicable space.

4. BELL'S ATTITUDE TOWARD CONFLICT-OF-INTEREST GUIDELINES

When questioned about his failure to comply with the disclosure rules of the Judicial Conference, Judge Bell replied, "I am subject to the Judicial Conference, to the extent that I am willing to comply." (Transcript of testimony before Senate Judiciary Committee, page 87, Jan. 17, 1977)

Those words convey two thoughts. Either Bell considered himself to be above the rules—an attitude of which we have had enough in recent times—or he was saying, "I got away with it, didn't I?" In either event, Bell's attitude toward such rules raises serious questions concerning the good faith with which President Carter promulgated his new conflict-of-interest guidelines for his top political appointees.

As one who supported Jimmy Carter for the presidency, believing his assurances of higher ethical standards in public life, I feel that my trust has been betrayed by the nomination of a man like Griffin Bell to be attorney general of the United States. The Senate should refuse to confirm his nomination.

THE MYTH OF VOTER APATHY

Mr. BAYH. Mr. President, in the January 24 issue of Newsweek, Alexander E. Barkan authored a thought-provoking column entitled, "The Myth of Voter Apathy." I am proud to count Al Barkan as a friend and the perceptiveness of this article is typical of his willingness to consider new and innovative concepts.

He suggests that one major reason for low voter turnout in U.S. elections is the overly complex and time-consuming methods of registering voters. Although registration by mail has been successfully tried in several States, the institution of such a procedure in large industrial States could prove to be an administrative nightmare.

Therefore, Al Barkan suggests that we consider instituting the registration procedure currently being used in Wisconsin and Minnesota. In those States, a voter has only to appear at a polling place on Election Day with a driver's license or other proof of age and residence and he or she is allowed to vote without prior registration. In the 1976 election, Wisconsin's voter participation of 54.4 percent was 10 points higher than the national average and in Minnesota more than 22 percent of the 1.9 million who voted in that State were persons who had not registered before Election Day. Neither State appeared to experience increased problems with voter fraud as a result of this procedure.

One of the most important cornerstones of this Nation is the participation of all citizens in the process of choosing their elected officials. The Constitution has been amended and laws written to enfranchise large segments of our population who originally were denied the right to vote. It is important, therefore, that it be made as simple as possible for all Americans to exercise their right to participate in elections.

During his entire career, Al Barkan has been committed to furthering the rights of all our citizens to vote. His commitment to this ideal is further demonstrated by the ideas raised in his article. I commend Mr. Barkan's cogent article to the careful attention and consideration of my colleagues and ask unanimous consent that it be printed in the RECORD.

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

THE MYTH OF VOTER APATHY

(By Alexander E. Barkan)

We've just come through a national election. Many concerned with it were preoccupied not so much with the question of who would win but whether anybody would show up. "What if we hold the election," they asked, "and nobody comes?" As many bets were placed on the come-out as on the outcome. Newspaper headlines and other media comments on "apathy" in the Presidential race were so common some thought it must be a third-party candidate.

That's a joke. Apathy, voter frustration and mistrust are quadrennial stories, dusted off in Presidential-election years. I'm convinced they're inflated. Almost always in an election year, voter interest is slow to generate. While the media and the candidates are all in a dither and immersed in political matters, voters—many of them—keep one eye on the pennant races, the World Series, other concerns. In the last few weeks, their interest picks up perceptibly, then peaks in the final days of a campaign.

One problem is that by then registration in all but a few states has closed out—and millions of citizens have not registered. Meanwhile, millions of others have been discouraged from registering by archaic laws that make registration at least inconvenient and often a challenge to one's ingenuity and perseverance. A postelection New York Times poll found large numbers failed to register because "it was too hard for them."

PERFORMANCE

It's been too hard for too many too long, and the labor movement believes it's high time to erase the pointless laws that limit voter participation. It is time to enact a universal voter-registration law. The Federal government should take on the responsibility of registering voters. Our people will vote if it's made easier for them.

This year, approximately 150 million Americans were of voting age and eligible. About 70 per cent, or 105 million of them, were registered. On Nov. 2, more than 80 million voted—which was a record number, if not percentage.

So, almost 80 per cent of those who were registered voted. Not so bad, and good enough to suggest that millions more would have turned out had they been able simply to get in line Election Day and make their choice known.

Strong evidence undergirds this belief. In Wisconsin, a recently enacted state law permits voters to forget about registration entirely, just walk up on Election Day, provide a driver's license or other proof of age and residence and go into the booth and pull the levers. About 200,000 unregistered Wisconsinites voted Nov. 2, creating an actual increase in voting percentage over 1972. Voter participation was 10 points above the national average of 54.4.

In Minnesota, the case was made as compellingly Under a similar state law, more than 22 per cent of the 1.9 million persons who voted had not registered beforehand. Minnesota's voting performance of 75 per cent-plus was 7 points up from 1972 and more than 20 points over the national average. It was the highest in the nation. Walter Mondale's presence on the national ticket surely helped, but not that much.

REGISTRATION BY MAIL

In neither Wisconsin nor Minnesota was there fraudulent voting. Administrative headaches, if any, were minor. It cost nothing extra.

As an interim step to universal registration, the trade-union movement has supported, enactment of registration-by-mail laws. In the past two years, sixteen states have adopted them. In most, experience with the law supports the belief that they're a step in the right direction. In Texas, Tennessee, Maryland, Oregon and Kentucky, new registrations in 1976 alone approached or exceeded the number of citizens who had become newly eligible to vote in the 1972–76 period.

It is conceded the experience was less impressive in other states. But the program is recent, and logistical problems, particularly in big industrial states, are enormous even for the simplified procedure of mail registration.

The labor movement was the only organization fully promoting use of this new tool, and we registered some 6 million of our members for an over-all AFL-CIO member-registration rate of 80 per cent, 10 points higher than the electorate at large. The political parties and other interest groups almost uniformly ignored the availability of mail registration, and election officials with few exceptions failed to stimulate its use adequately.

But the labor movement seeks a quantum leap beyond registration by mail. We look at Canada and other nations where the government says to the citizen, "Don't worry about registration, we'll handle that—all you have to do it show up at the polls and vote Election Day." We look at the fact that citizens in these nations *do* show up Election Day in percentages far higher than our own. We think this is exactly how it should, and would, work here.

Argument has raged unremittingly throughout our 200 years over voting rights and voting performance. At first, voting was restricted to property owners. For nearly a century and a half, it was a club for men only, and white men at that. Women—white women—finally got the vote, but for nearly 50 years beyond that, minorities were effectively barred from voting by poll taxes, literacy tests and often violence. Now, with the Voting Rights Act—for which the labor movement fought—that has changed.

OPENING THE POLLS

Some argue we have come as far as we should in opening up the process. They lament that further efforts will only encourage more voting by the poor and the undereducated, who, they seem to think, are incapable of making wise political decisions. Personally, I find their political judgment as sound as that of lawyers, bankers, corporate leaders, professors and—yes—even media commentators.

However, I'm willing to leave the debate to those who pontificate regularly in this and similar journals. With or without their counsel, I am convinced the more citizen participation we have the healthier and stronger our democracy will be, and that all reasonable steps should be taken to increase it.

We need a universal voter-registration law. Any eligible citizen should be entitled to enter the voting booth on Election Day, his or her registration having been duly handled, without aggravation or inconvenience, by the government. The trade-union movement looks forward to the day when the question will be not, "What if we hold an election and no one shows up?" but, "What if we hold an election and practically everyone does?"

THE 28TH ANNUAL REPORT—1976

Mr. JAVITS. Mr. President, today I am submitting my 28th annual report to the people of New York State on my activities in the second session of the 94th Congress. In this report I wish to review the year 1976, its historical importance, the activities of Congress, and my role in these congressional activities.

Free men and women throughout the world joined with the American people in celebrating our Nation's Bicentennial in 1976. As a nation we celebrated this anniversary with a joyous and hopeful spirit.

For the first time in many years Americans were filled with the real Spirit of '76. We were a nation at peace at home and abroad. Pride in the United States and all we have accomplished in our relatively short but marvelous history filled the hearts of millions of Americans.

Much of the world witnessed spectacular events and celebrations throughout the United States on July 4. But perhaps the most significant event of all took place when the majestic tall ships sailed into New York Harbor.

The Bicentennial did much to improve our outlook on the future, and to help us move on constructively from the difficulties of the past few years. Even the strains of New York's fiscal crisis, with its personal consequences to each citizen, took on a new meaning with the generous and cooperative effort of so many New Yorkers to see us through. This spirit will be the salvation of our great city, and New York City will emerge from the current difficulties stronger and prouder, just as America will go forward into her third century, mindful of her problems, but with a renewed faith in the principle under which we were founded. To be a part of the Bicentennial has meant a great deal to me, and I look forward to all that can be accomplished, to the dreams that can be realized in our next century.

1976 was also the year of a Presidential election. The Nation owes a deep debt of gratitude to President Ford and to those who worked with him; they served the Nation during a tumultuous period, when our ship of state came perilously close to foundering, and they served with singular distinction.

We look forward with hope and expectation to President Carter's administration. I shall continue my every effort to help our new President achieve the best interests for our Nation, our State, and city and our people. I will cooperate with President Carter in every way that is proper and in accord with conscience and national policy.

FOREIGN AFFAIRS AND WORLD PEACE

For more than three decades I have dedicated myself to help bring peace to the world. Ironically, I suffered a personal tragedy this year in the murder of Hal Rosenthal, a member of my foreign affairs staff, during a terrorist attack at Yesilkoy Airport in Istanbul, Turkey. It is bitterly ironic that this young man, who devoted his career to international understanding, should lose his life to exactly the senseless violence he was committed to eradicating. In response to this tragedy, I introduced a Senate resolution calling on the President to enforce more strictly the provisions of the Anti-hijacking Act. I was also able to have a strong antiterrorism plank adopted into the national platform of my party.

THE MIDDLE EAST

Last spring, I traveled to the Mideast to confer with heads of state in Israel, Egypt, Syria, and Jordan. I returned to the United States with a cautious optimism that a beginning toward peace might now be possible.

Following my return to the United States, I worked to achieve assurance from the administration that there would be restraint on further sales of C–130 aircraft to Egypt, and I helped to work out with the President and Secretary of State Kissinger a reduction of a proposed sale of 2,000 Sidewinder and 1,500 Maverick missiles to Saudi Arabia to 850 and 650 respectively. I also helped to guide through Congress the necessary military and economic aid for Israel to meet her severe defense and economic needs.

The major legislative product of the Foreign Relations Committee this past year was the International Security Assistance and Arms Export Control Act which, although initially vetoed, is now Public Law 94–329. I was one of those who drew up the bill and I sponsored the adoption of three amendments: a resolution calling for a peaceful settlement of the civil war in Lebanon; an amendment to promote respect for human rights in countries that receive U.S. arms aid; and an amendment to prevent nuclear proliferation through the sale of nuclear power facilities.

ADDITIONAL FOREIGN AFFAIRS LEGISLATION

With Senators KENNEDY and HUMPHREY, I sponsored a resolution calling for a moratorium on the testing of strategic cruise missiles. I also authored a resolution calling on the Organization for Economic Cooperation and Development to set forth guidelines governing multinational corporations. In addition, I supported a Senate resolution offered by Senator CRANSTON, setting out goals of détente with the Soviet Union. In this connection, I issued a statement calling on the Soviets to abide by the human rights provisions of the Helsinki Agreement, particularly with regard to the emigration of Soviet Jews.

I persevered in a struggle I have carried on for many years by sponsoring S. 3155, a bill to implement the Convention on the Prevention and Punishment of the Crime of Genocide. The bill was referred to the Foreign Relations Committee. I will continue my efforts to have this vital agreement implemented in the 95th Congress and the Genocide Treaty ratified by the Senate—it has now been pending for almost 30 years.

The Japan-United States Friendship Commission, of which I am a member, as well as author of the law, began its first year promoting scholarly, cultural, and artistic activities between Japan and the United States. This Commission will do much to further the cultural alliance between the United States and our most important ally in the Orient.

This year I had the opportunity to attend the United Nations Conference on Trade and Development in Nairobi, Kenya, as congressional adviser to the U.S. delegation. At this conference, the United States presented major initiatives for economic relations between the developed and underdeveloped nations.

Pursuant to my interest in this area, I worked to develop a method to encourage greater private enterprise participation in economic development in the developing countries; and I continued to support Senate Concurrent Resolution 66, the right to food resolution, which provides funds to underdeveloped countries to feed their people.

I have a keen interest in the affairs of the African nations. These nations are rich in the natural resources, but their

ability to market them is severely restricted by the lack of capital. Consequently, with energy costs up more than 400 percent since the oil embargo of 1973–74 the Third World nations of Africa are experiencing enormous economic difficulties. We must do all we can to help bring these countries into the economic mainstream of the world. However, the United States must receive guarantees of a steady supply of raw materials at reasonable prices. In addition, these nations must be cooperative with the affirmations of peoples for peace and social justice for their people and the people of neighboring nations.

ECONOMIC ACTIVITY

One of the Nation's and New York State's most pressing concerns in 1976 was the continued economic recession. To improve the economy, it is essential to reduce unemployment and utilize a greater percentage of our productive facilities. Toward these ends, I sponsored several pieces of legislation to deal with unemployment and stimulate growth.

I introduced the Full Employment and Balanced Growth Act of 1976 to establish a national policy and program to achieve full employment of all Americans able and willing to work.

Also, the balanced growth and economic planning bill, which I wrote with Senator HUMPHREY, is seen as an alternative to the full employment bill. It provides a mechanism for long-term consideration of economic issues in the Federal Government. I plan to reintroduce this bill in the next Congress.

The emergency jobs program extension of public service employment under title VI of the Comprehensive Employment Training Act for fiscal year 1977 became Public Law 94–444. This stopgap measure contained three important provisions I introduced: targeting public service employment to long-term unemployed low-income people; designing and operating local projects of 1 year's duration for the long-term unemployed; and setting up a National Commission on Employment Statistics to study and analyze the methodology and validity of employment statistics.

With Senator HUMPHREY, I wrote and introduced the Employee Stock Ownership Fund Act. This legislation would facilitate broadened employee stock ownership through voluntary labor-management-collective-bargaining negotiations.

The Nation's economic needs of increased productivity, of enhanced capital investment in U.S. business, and the major reduction of unemployment and inflation can all be helped through expanded stock ownership by the rank-and-file American worker—people's capitalism. This measure also will create a framework for negotiation through collective bargaining of employee stock ownership trust funds along the same lines which have led to the vast networks of jointly trusteed pension and health and welfare plans throughout the United States. The stock ownership bill would allow for the equal participation of employer and employee representatives on the trust funds that manage security portfolios.

Hearings on this bill are planned before the Joint Economic Committee and the Labor and Public Welfare Committee early in this session. I serve on both of these committees and I look forward to favorable consideration of this bill. I believe this bill, when passed into law, will be milestone legislation perhaps as important and far-reaching as the Pension Reform Act which I authored and which was signed into law on Labor Day, 1974.

ENERGY

It is one of our greatest national disasters that we still have no comprehensive national energy policy, that we continue to import ever-increasing quantities of oil, and that we are thus dependent on an outside body—OPEC—for what is essential to our national interest.

I continued development of the effort to have a comprehensive energy program this year with the Energy Conservation Act—S. 3424. I coauthored this bill's basic feature mandating a complete energy reorganization, and I added amendments relating to a major energy conservation program in housing, an annual national energy conservation report, an increase in domestic oil refinery capacity, and a ceiling on oil price increases. This bill will be reintroduced in the 95th Congress.

Under the Tax Credits and Allowances Act, now Public Law 94–455, I cosponsored a tax credit for energy conservation improvements.

Also in the energy area, I introduced an amendment to the Nuclear Explosive Proliferation Control Act to slow the proliferation of atomic weapons by initiating a thorough review of our nuclear reactor—for power—agreements to make sure that no activities are permitted by the recipients which might lead to development of atomic bomb capacity.

LABOR AND JOBS

The common situs picketing bill (S. 1479) and the Construction Industry Collective Bargaining Act (S. 2305) which I cosponsored as a unit, were designed to equalize collective bargaining rights between industrial and construction enterprises and labor unions. Passed by Congress, they were vetoed by the President. Their purpose was to reform the collective bargaining structure of the construction industry which has been plagued by excessive fragmentation and frequent and prolonged work stoppages.

With Senator HARRISON A. WILLIAMS, I authored the National Workers Compensation Act (S. 2018), which is designed to establish minimum Federal standards for State workers' compensation programs. The Labor Subcommittee held extensive hearings on the bill, and amendments were developed to its provisions. I will reintroduce the revised bill in the next Congress, and I am hopeful that this will be the latest legislation in the area of improved benefits for workers who are unable to work because of industrial or work-related illness or injury. These are frequently required by justice and humanity.

Previously passed by the House, the Black Lung Benefits Reform Act of 1976 (H.R. 10760) was the subject of lengthy consideration in the Committee on Labor and Public Welfare. This bill was almost completely rewritten as a result of numerous amendments which I authored, but it failed to receive final action and must be reintroduced in this Congress. My amendments are designed to provide fair treatment to the victims of black lung disease, and to shift the Federal cost to the coal industry.

The Emergency Unemployment Compensation and Special Unemployment Assistance Amendments of 1976 (S. 3262), which I cosponsored, would establish a special unemployment assistance program of Federal unemployment benefits for those denied coverage under the regular Federal-State unemployment insurance system. This proposal would improve the special unemployment assistance program and extend it through next year. This bill was also pending at the end of the session and must be reintroduced this year.

The Federal Mine Safety and Health Amendments of 1975 were intended to bring all mining activities under one legislative framework with the Department of Labor, and to improve and strengthen Federal standards and enforcement authority to protect miners. I cosponsored the Senate bill which was still pending at the close of the session.

The Labor and Public Welfare Committee plans oversight hearings on administration of the Employment Retirement Investment Security Act—ERISA—landmark pension legislation which I authored with Senator WILLIAMS. We are surveying the need for technical amendments in addition to amendments to improve the efficiency of enforcement of the act by both the Labor Department and the Internal Revenue Service.

The committee also commissioned a General Accounting Office study of investment standards employed by public employee pension funds, and will move to design legislation to reform public employee pension funds in light of the Supreme Court's decision to strike down Federal regulation of State and local minimum wages and overtime pay.

SMALL AND MINORITY BUSINESS

As a member of the Small Business Committee, I was deeply involved in a variety of measures of both a technical and a policy nature. The Small Business Export Development Act, Public Law 94–305, which I cosponsored, provides for the President to undertake a comprehensive review of all Federal disaster loan authorities and provide the Congress with recommendations and legislative proposals, including recommendations for possible consolidation of Federal disaster loan authorities. Title II of the bill deals with the study of the Small Business Administration and establishes within the SBA an Office of Advocacy, which will assess the effectiveness of general assistance programs for small business, measure the costs and other effects of regulation of small businesses, determine the impact of the tax structure on small business, study the ability of financial markets to meet credit needs of small business and evaluate Federal and business efforts to assist minority enterprises.

The Equal Opportunity Enterprise Act of 1976 was introduced to amend the Small Business Act to expand assistance to business concerns owned by socially and economically disadvantaged Americans. The bill, which I cosponsored, would create an advisory committee on minority business enterprise under the direction of the SBA and the President to explore and provide solutions for the problems of minority business. In order to maximize efficiency and effectiveness the bill would restructure and transfer programs within the Small Business Administration. Though no action was taken on this legislation in the last Congress, it will be reintroduced next session. Small business and minority businesses are two economic areas that offer unlimited opportunities. Not only are they essential to the long-range economic growth of this Nation, they offer a prime opportunity for the reduction of unemployment for both minorities and those currently seeking employment in the job market. Despite the increased emphasis on funding for small business and minority enterprise, much more needs to be done. I am thankful that the Congress and the administration share this belief.

ANTITRUST AND TAX REFORM

The implications of the antitrust laws both nationally and internationally have caused considerable concern. Consequently, the Senate, at my urging, passed S. 3799, a bill to establish a Presidentially appointed Antitrust Review and Revision Commission, to study the antitrust laws, their applications, and consequences, and to report to the President and Congress on necessary revisions. Upon its completion, the study may provide the Congress with the essential data it needs in order to embark on the arduous task of rewriting our archaic antitrust laws. This bill passed the Senate, but failed to pass the House. It will be reintroduced in the 95th Congress, and stands a good chance of passage then.

The tax bill passed last year, Public Law 94–455, contained several amendments which I sponsored. These included: an amendment to restore tax incentives which are vital to the construction of rental housing; an amendment providing tax breaks for energy conserving alteration of principal residences; an amendment which allows deduction of taxes, interest, and business depreciation by tenant stockholders of cooperative housing corporations to include banks or other lending institutions as tenant stockholders; an amendment which provides tax incentives to encourage the preservation and rehabilitation of historic structures.

HEALTH

During the last session, I was very active in developing legislation which will bring us a comprehensive national health plan, which I believe is essential if this Nation is to provide the medical care our people need and deserve. I introduced two bills, the Comprehensive Maternal and Child Health Practice Act, and the National Health Insurance for Mothers and Children Act, to establish a system of national health insurance for mothers and children and to develop a program of comprehensive maternal and child care. If enacted, these measures would begin a long overdue shift of emphasis from episodic illness treatment to preventive medicine and health maintenance. They were not acted on in the last Congress. I will reintroduce both bills in this Congress.

Finally, I introduced the Consumer Food Act, providing consumers increased protection from unfit and adulterated food, and requiring disclosure of ingredients on food labels. This bill will be reintroduced and I am optimistic that it will be enacted into law in this new Congress.

I also sponsored the Clinical Laboratory Improvement Act of 1976. This bill is designed to establish a national commitment to provide quality laboratory testing and honest laboratory business administration. This measure passed the Senate but not the House and will also have to be reintroduced.

A number of health bills did become law and were the result of legislation I authored, introduced or cosponsored:

Public Law 94–278, the Heart, Lung and Blood Research, Training and Genetic Diseases Act assures continuation of the National Heart and Lung Institutes and the National Research Service Awards, and establishes a national commitment for diagnosis, control, and prevention of fatal genetic diseases.

The Disease Control Amendments Act of 1976, Public Law 94–317, establishes community health education and prevention programs and assures continuation of immunization and other disease control programs.

The Nurses Training Act, Public Law 94–63, provides assistance for comprehensive public health services, family planning programs, continuation of community health care, neighborhood and migrant health center programs and support for nursing education.

The Medical Device Amendments of 1976, Public Law 94–295, assures the safety and effectiveness of medical devices; and Public Law 94–380, the swine flu immunization program, established an inoculation program to protect the American people from the threatened swine flu epidemic.

In 1976, I was the chief sponsor of several other Senate-passed bills, including Public Law 94–573, which continues the safeguards and the protection of the rights of people involved in biomedical research; Public Law 94–573, the Emergency Medical Services Amendments; and Public Law 94–484, Health Professions Educational Assistance Act, providing support for medical and other health professions with improved geographic and specialty distribution of physicians.

NUTRITION

I introduced the Food Stamp Reform Act in the closing days of the first session of the last Congress. Provisions of this bill would correct inequities in the food stamp program, and it was ultimately one of six major bills used as the basis of the bill reported by the Senate Agriculture Committee. I cosponsored the compromise package which was approved by the Senate in April.

I joined Senator KENNEDY in proposing an amendment to the supplemental appropriations bill to increase funding for the supplemental food program for women, infants, and children and the funding was increased.

SOCIAL WELFARE

CHILD CARE, THE ELDERLY, THE HANDICAPPED

Throughout all of my public life I have been an outspoken advocate for those in society who need Government assistance in the area known as social welfare, which includes child care, aid to the elderly and the handicapped, housing and welfare. In the 94th Congress I submitted numerous bills in these areas, some of which passed and are now law and others which will again be introduced in this new Congress.

The Senate held extensive hearings on the Child and Family Services Act, of which I was a cosponsor. This legislation was designed to provide comprehensive child care. Unfortunately, final action on the bill was not taken, but increased funds were obtained for day care for children under title XX of the Social Services Amendments. This additional funding is essential for thousands of mothers in New York who are attempting to provide for their families and themselves as working mothers.

Of special concern to senior citizens was S. 599, which became law. It amends the Older Americans Act of 1965 by extending appropriations for 2 years and requiring that organizations and projects serving low-income, racial minority, or limited English-speaking individuals be given preference with respect to certain grants and contracts.

I was also successful in amending title XX of the social services amendments to eliminate the demeaning means tests for senior citizens who participate in senior citizens centers—a matter of great concern to thousands of our elderly citizens.

Both of these amendments are now law.

I was active in the passage of several bills to assist the handicapped. The Developmentally Disabled Assistance and Bill of Rights Act (Public Law 94–103) embodies my bill of rights for the mentally retarded. Both the statement of rights of the mentally retarded and the system of advocacy are landmark provisions which can serve as models for innovative State-Federal relationships for systems for social service delivery.

I was also a cosponsor of Education for all Handicapped Children Act, Public Law 94–142, which will begin a massive national effort to provide equal education for the handicapped.

HOUSING

One of the most serious problems in the State of New York is the lack of adequate housing for hundreds of thousands of citizens of all ages and income groups.

I strongly supported the Housing Authorization Act of 1976 which is now law. Amendments to this act include provisions to allow nonelderly single persons eligibility for section 8 rent subsidies. In addition the amendments disregard social security supplemental income pay-

ments for the purpose of qualification to receive section 8 benefits.

It is important to note that this act also increases mortgage limits for FHA-insured mortgages by 50 percent for efficiency units, which is important for single persons and married couples—including the elderly—without children. Finally, as I mentioned previously in the area of tax reform, I introduced an amendment to the tax bill, which is now law, that provides added incentives for the construction of apartment buildings, row houses, and other living facilities.

WELFARE

Early in the year I was joined by Senator McGOVERN in introducing legislation to federalize welfare benefits. I was realistic about this legislation's chances of passage, due to the controversial nature of some of its provisions and the cost to the Federal Government, but I intended that the dialog on this issue begin and that the bill be used as a starting point—it is critical for our cities.

I sponsored the Tax Credits and Allowances Act which amends the Internal Revenue Code to create an allowance for basic living expenses, amends the Social Security Act with respect to the supplemental security income program; and requires supplemental payments by the States for certain families with dependent children. Since there was no favorable action in the past Congress on these provisions, I plan to reintroduce them.

EDUCATION, ARTS, AND HUMANITIES

During this past session, the Congress completed the most comprehensive education legislation in a decade, the Education Amendments of 1976, Public Law 94-482. This was an omnibus bill which reauthorizes and expands programs in higher education, vocational education, and education research. In higher education, the bill extends the Federal policy of financial aid going directly to students who are then free to choose their own college—a "consumers'" choice. Additional amendments I introduced reformed the student loan program, and update and expand Federal programs for graduate education.

In addition, I sponsored the Student Consumer Information Act, which assures that every student participating in Federal aid to higher education programs is provided with complete information about the programs, enabling students to function as informed "consumers" of the programs and grants available to them.

The 94th Congress established the strongest record in supporting cultural activities of any Congress in the last decade.

In January 1976, the President signed the Arts and Artifacts Indemnity Act which provides a Government indemnity on exhibitions of foreign art treasures. In the future, such presentations as the Chinese Exhibit and the Scythian Gold Exhibit will have the Federal Government protecting overseas owners from loss or damage. This will encourage foreign museums and private collectors to lend their collection to American museums due to heavy insurance costs otherwise required.

In September, the Congress completed and sent to the President the Arts, Humanities, and Cultural Affairs Act of 1976, which has since become law. This cultural legislation extends authority for 5 years for the National Endowment for the Arts and the National Endowment for the Humanities. It also establishes a new Museums Services Institute and it authorizes a new challenge grant authority in the arts and in the humanities, including the Bicentennial Challenge Grants which will stimulate a renewal of public participation in the principles established by our Founding Fathers. This legislation will continue Federal funding for the highly successful New York State Council on the Arts, and also strengthens the companion State program in the humanities—while it continues on a constantly expanding level the highly popular and prestigious Federal arts and humanities programs.

CRIME AND SOCIETY

The 94th Congress acted to reauthorize the Law Enforcement Assistance Administration, legislation to which I added a major amendment creating a program of community anticrime assistance within the LEAA. This program requires the participation of community organizations in the local criminal justice planning process, and encourages neighborhood participation in crime prevention. The amendment provides funding for such essential crime prevention features as escort services for the elderly, youth diversion projects, child protection services, neighborhood watch programs, court watch programs, block mothers, youth advisers to courts, volunteer probation aide programs, and volunteers in gang control.

In the all-important area of gun control, I sponsored two measures, not yet acted upon, the Intergovernmental Handgun Control Act, and the Intergovernmental Law Enforcement Cooperation and Reorganization Act. One of these bills would transfer Federal responsibility for firearms from the Treasury Department to the Justice Department; and the other would prohibit the possession, sale, importation, or delivery of handguns in certain standard metropolitan areas. Persons exempt from these restrictions would include law enforcement officials, licensed security guards, and military agencies. The measures were referred to the Judiciary Committee and to the Government Operations Committee. I serve on this committee, and was pleased that the proposed legislation was the subject of 4 days of widely publicized hearings, where the substance of the legislation was vigorously endorsed by local law enforcement officials. I expect to return to this measure in this new Congress.

The Marihuana Control Act, which I originally introduced in 1972, would decriminalize the personal private possession and use of 1 ounce or less of marihuana. People found to be in possession of such small amounts of the drug would be subject to a civil penalty of up to $100 and commercial sale for profit would remain a Federal criminal offense. Hearings were held on this bill in the Senate Juvenile Delinquency Subcommittee, and I am hopeful that action may be forthcoming in the 95th Congress.

WOMEN'S AND CONSUMER RIGHTS

The National Center for Women Act, which I cosponsored, would establish a National Center for Women, to review and coordinate Federal programs to insure equal opportunity for women and to serve as a clearinghouse for information on public programs and legislation of interest to women. The National Center would recommend to the Congress and the President proposals to improve the status of women. The act calls for each Federal agency to review regulations, policies, and procedures to permit full participation and equal opportunity for women. I will pursue it.

With respect to women in business, I chaired hearings on women and the Small Business Administration to explore the issue of the limited number of women in small business—especially proprietorship—and to develop additional opportunity.

Senator RIBICOFF and I originally introduced the Consumer Protection Act in 1969. Then we joined with Senator PERCY and it was reintroduced in this past session, and passed the House and the Senate, but was never brought to conference, because of administration opposition. The measure would establish an independent consumer protection agency. This whole concept will be followed up in this Congress.

GOVERNMENT REFORM

The Watergate investigations resulted in a commitment by Congress to establish certain Federal Government reforms. The Watergate Reform Act, S. 495, provides for the appointment of an independent special prosecutor whenever the Attorney General and the President have a conflict of interest with respect to a particular investigation or prosecution of certain high Federal officials. The act also establishes an Office of Congressional Legal Counsel; and it provides for the most comprehensive financial disclosure requirements for executive officials and Members of Congress ever proposed. I floor-managed this bill, which passed the Senate, but did not come up in the House before adjournment. It will be reintroduced.

On May 19 of 1976, the Senate passed a resolution to establish a Select Committee on Intelligence Activities, a standing committee to oversee and make continuing committee studies of U.S. Government intelligence activities—including the CIA—and programs.

The Lobbying Disclosure and Reform Act (S. 2477) represents the first effort to revise and strengthen the 1946 Federal lobbying law, by providing a system of disclosure and reporting requirements for traditional as well as grassroots lobbyists. The bill, derived from one I introduced in 1975, passed the Senate but did not receive final House action. It will be reintroduced in the 95th Congress.

The Government in Sunshine Act, now

Public Law 94-409, requires that meetings of Government agencies generally be held in public, and prohibits secret communications from participants in proceedings to agency members.

THE CRISIS OF THE CITY

The financial situation in New York City continues to be a major concern. Two working groups have been established to harness the talent of the business community and citizen volunteers to help the city through its fiscal crisis. I am active in both of these groups, the Emergency Financial Control Board, and the Citizens Committee, which was described by the New York Daily News as the largest volunteer effort in history short of wartime.

New York is not the only city beset by economic problems, and the Congress must address the needs of all such older and larger cities. These areas suffer from higher unemployment rates and higher inflation than other areas of the country, and are adversely affected by the maldistribution among the regions of Federal grants-in-aid and Federal payrolls. The new Congress and the new administration must recognize these problems in order to bring economic equity to the troubled urban areas.

One of the first efforts that can be made is in the area of revenue sharing. I have introduced amendments to the revenue sharing legislation calling for a speed up of payments to jurisdictions such as New York. This would save cities in fiscal difficulty millions of dollars in interest costs. My legislation would also develop formulas for distribution of revenue sharing funds which would greatly aid these older urban areas.

Also relative to the New York City situation I wrote jointly with members of the New York congressional delegation to Secretary of the Navy Middendorf to protest a recent decision to move the Navy Resale Systems Office from Brooklyn. As a result of this action, the General Services Administration lowered the rent it charges the Navy Resale Systems Office for its facility, and the Navy has subsequently recommended that the facility remain in Brooklyn.

In September, I introduced the Urban Trees Act, which authorizes the Secretary of Agriculture to make grants on a matching basis to provide financial assistance to urban areas for planting, maintenance, and protection of trees and shrubs.

OF INTEREST TO NEW YORK STATE

As New York's Senator, I also worked to obtain legislation of special interest to the State. I have long urged Federal funding for Westway, New York's replacement for the derelict West Side Highway. My efforts—and many others including the Governor and Mayor—were recently rewarded when Secretary Coleman approved the application for funding. Westway will provide a desperately needed impetus to our construction and related industries, and it holds the potential for significant new housing and commercial development.

In October, the Federal Department of Transportation awarded the city of Buffalo $8 million for construction of a subway system. This will also provide much needed employment in the area.

In connection with Operation Sail—July 4, 1976—the Senate passed a joint resolution providing for the dredging of New York harbor to insure safe entry and passage of the Tall Ships.

Other bills included S. 867, which provides additional money for land acquisition for Fire Island National Seashore. This bill was passed by the Senate and was pending in the House Interior and Insular Affairs Committee at the close of the last session. I am hopeful that it will be revived and passed in the 95th Congress.

I also sponsored a joint resolution to preserve St. Paul's Church in Eastchester as a national historic site. This beautiful church came very close to destruction before being rescued by the joint resolution.

I also introduced a bill, now Public Law 94-427, to authorize funding for the 1980 winter Olympic games at Lake Placid; $49 million is provided for this project, with special consideration being given to strict environmental safeguards on any construction in the area.

I introduced an amendment to alleviate noise pollution by retrofitting all airplanes with sound suppression equipment, but unfortunately the measure was defeated in the Senate. However, it did help to prompt a Presidential directive to diminish aircraft noise which is now being implemented and also recommends retrofit.

To insure that New York and other urban areas will not be discriminated against in Federal funding formulas, I sponsored an amendment to the mid-decade census bill providing that determination of the eligibility of States, local governments, and other recipients of Federal benefits be based on the most recent data. The census of population would be taken every 5 years instead of once a decade.

In November, I attended the Conference of Northeast Governors at Saratoga. New York State forms an integral part of this area which is under siege from high unemployment rates, scarce and expensive energy supplies, and an aging industrial plant. The conference was very productive, particularly with regard to energy proposals for the area. I have pledged my support to this group, and I will continue to fight in the Congress on issues that affect the Northeast.

CASEWORK AND PROJECTS

The ability to be of service to the citizens of New York State in their dealings with the Federal Government is one of the greatest satisfactions of my work.

My activities in this field range from helping an individual citizen with a social security, veteran, immigration, discrimination, and poverty problem to assisting cities in obtaining loans; or helping an employee group with the multimillion dollar purchase of a company about to leave a community, saving thousands of jobs.

Hundreds of applications for Federal grants and loans receive my personal support each year. Each case has an impact on the employment and economic climate of the individual community, and represents a return of Federal tax dollars to the State.

Here are some especially successful efforts of the past year:

I was gratified to have a leading role in the purchase of Allegheny Ludlum's steel bar plants in Dunkirk and Watervliet. The plants were bought by Al-Tech, an employee-based new firm. Al-Tech was formed after Allegheny Ludlum indicated its desire to close the two plants which employed over 2,200 people. With my assistance, the new firm was successful in obtaining an Economic Development Administration grant for $10 million in the form of a loan to assist Al-Tech in making the purchase. The repaid loan will go into trust funds to benefit future economic development in Chautauqua and Albany Counties.

The difficulties of several areas in obtaining Federal rental subsidy—section 8—assistance for housing, especially for senior citizens, also attracted my efforts. Communities as diverse as Lockport, Elmira, Binghamton, Heuvelton, Star Lake, Rochester, and Buffalo were among the many areas which my office assisted.

The new community of Gananda in Wayne County, which has been in financial difficulties, received the concerted help of myself and Congressman HORTON. Gananda is now in the process of a negotiated settlement taking into account the interests of the local communities, school district, and creditors. Reaching that point took much work and personal meetings with the Secretary of Housing and Urban Development, and the Comptroller General.

In addition to these large cases and many more like them, my office handled over 19,000 individual constituent problems in roughly the following proportions:

	Percent
HEW, social security, medicare and medicaid, State social services	32
Military and veterans	28
Visa, immigration and labor certifications	30
Miscellaneous—Post Office, Civil Service, etc	10

CONCLUSION

During this Congress, I intend to focus my attention on initiatives that were not acted upon by the 94th Congress. The major concerns, as I see them, are improved health and medical care for our citizens, especially to begin with pregnant mothers and children; realinement of the formulas to provide New York State additional funds for housing, education, revenue sharing, et cetera; a massive jobs program targeted to the hard core unemployed and to youth, including 1 million public service jobs to put our unemployed back to work; provision of more housing for citizens in all income brackets; and, finally, dealing forcefully with the crisis of our cities.

While I recognize the agenda represents a long litany of priorities, it is a list of issues to which I have dedicated myself for all of my years in the Senate. We have made some significant progress in the past but we still have much more to

do. I am hopeful that this Congress, working with the new President, will finally, recognizing the condition of our country, put forth the effort needed to solve those major problems. Given the resources of the United States in terms of talent, wealth, and natural resources, these problems can be solved. But it takes only the will to pursue them aggressively; and this I will press to do in this new Congress.

SECRETARY OF STATE CYRUS VANCE

Mr. BAYH. Mr. President, it was indeed a privilege to support the confirmation of Cyrus R. Vance to be our next Secretary of State. Cy Vance brings to this office a wealth of experience in Government service. His positions of special counsel to the Preparedness Investigating Subcommittee to the Senate Armed Services Committee, Secretary of the Army and later a deputy Secretary of Defense have provided the nominee with a background and appreciation of the national security dimension of foreign policy. His efforts in the Panama negotiations of 1964, Dominican crisis in 1965, Cyprus in 1967, Korea, and Vietnam in 1968 have likewise provided examples of his diplomatic expertise as a tough, competent manager and negotiator in the field of international diplomacy. The praise in this country and abroad which accompanied President Carter's selection of his Secretary of State also testifies to the high esteem and solid reputation which Cyrus Vance enjoys.

In addition to Cyrus Vance's distinguished record of public service, I was also deeply impressed by his opening statement to the Senate Foreign Relations Committee. As my colleagues know, the panel unanimously recommended that he be confirmed as Secretary of State. In his first reply to the committee's questioning, the Secretary outlined a principled foreign policy committed to the maintenance of peace through improving relations with our allies and pursuing in an "active and aggressive" way a lessening of tensions with the U.S.S.R. He went on to emphasize how the importance of developing a close partnership with Congress, an openness in the foreign policy process and winning the public trust are indispensable to successful diplomacy.

The long-term objectives which bear reference to international decisionmaking were touched upon in Secretary Vance's testimony as well. Foremost among these are our arms control efforts, resolute attempts to stop the spread of nuclear weapons, control of unbridled arms sales and international economic development. Indeed, it is a sobering thought to realize that since 1960 the capacity of the nuclear arsenals of the world to kill every human-being on Earth has increased from 7 times to 632 times. To make no less than a total effort to manage the doomsday problem of nuclear proliferation will jeopardize our best efforts in so many other areas. As Secretary Vance stated:

These are the global issues which will determine how the next generation lives, and even whether it lives.

If we can secure the survival of mankind into the next century, it is necessary as well to forge a partnership of mutual trust and mutual responsibility with the developing nations of the world. While protecting our own interests and tending to the problems confronting our own society, we must realize that the United States cannot "go it alone." Yes, we are the most powerful country in terms of sheer economic product. But that fact provides no justification of an American foreign policy of fortified retreat.

The long nightmare of the war in Southeast Asia is over for America. With it has come a new awareness of the limitations of American power and influence, of our capacity to determine the destiny of nations on the periphery of our national security interests and the realization that a successful American foreign policy can enjoy lasting success only with the support of the American people.

Despite the general recognition of the catastrophic effects of the Vietnam misadventure, real dangers in the world remain. Trouble spots abound no less in the late 1970's than they did in the early 1960's. The focus of attention has changed. Some areas, like the Middle East will require the very best we have to offer in facilitating but not imposing a settlement which will permit Israeli and Arab to live in peace. In South Africa and Rhodesia the integrity of our commitment to majority rule will be tested. Cyprus continues to be a source of deep humanitarian concern as well as of diplomatic importance to the NATO alliance.

The Panama Canal issue presents us with yet another urgent challenge. In our relations with governments which do not fully share our commitment to fundamental human rights, it is essential that our policies continue to make meaningful reference to our fundamental democratic values.

These concerns which I have expressed in a general way and which the new Secretary of State has addressed himself to cannot be overestimated. Make no mistake about it, we face great challenges in the world. As I express my strong support for Secretary Vance, I am expressing my belief that our Nation—the greatest on Earth—can become even greater through the tough-minded pursuit of realistic policies in a wor'd full of both danger and promise. I wish Secretary Vance well in discharging the duties of this high office.

WEST POINT HONOR CODE AND THE NEED FOR PERSONAL VALUES

Mr. PERCY. Mr. President, many Americans have been deeply and understandably concerned about the West Point honor code problem—and the growing moral relativism in our society which this problem seems to symbolize.

The January 16, 1977, Chicago Daily News carries an interesting commentary by a gifted columnist, Georgie Anne Geyer, describing efforts that are being made to forge new ethical standards, not only at West Point but in other U.S. military institutions as well. I would particularly underscore her comment that it is "very hard for societies to have institutional morality when the individual does not have personal morality based on some kind of personal belief."

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

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

CHEATING AT WEST POINT: IS IT TOO LATE FOR A NEW MORAL CODE?

(By Georgie Anne Geyer)

WASHINGTON.—Lawyer Martin Hoffmann is a man with bright, vivid eyes and a bright, vivid mind, belying the popular wisdom that only graybeards can be secretary of the army. Even more unusual—though a hard man, he is a thinker.

Sitting recently in the incongruous homeyness of his grass-cloth-papered Pentagon office, he thought aloud about West Point and the gradually resolving moral horrors there.

"West Point represents a monument to established values," he mused. "The values have not changed, but some of the young men coming in have. The whole thing upsets many people greatly because basically people want West Point to stand for values."

Then he went on to some of the causes of the greatest scandal in West Point history. His eyes were intense. "At least two-fifths of the cadets of the classes of '76 and '77 at West Point, when asked what the causes were, brought up removal of mandatory chapel."

Mandatory chapel? When it was eliminated several years ago, he went on, it had the effect of "removing limits." He threw up his hands. "Who among us would have thought of this effect of removing chapel?" he asked in wonderment.

"They felt the sanctity was driven out of the moral code."

While the cheating scandal had many and complicated roots, the chapel issue apparently did become symbolic. It exemplified the fact that it is simply very hard for societies to have institutional morality when the individual does not have a personal morality based on some kind of personal belief. This pinpoints one of the major problems of an increasingly secularized society.

So last week Hoffmann moved somewhere in the middle. In not immediately readmitting the 151 ousted cadets, while accepting many of the recommendations of the study panel, he demonstrated a good blend of openness to change with a hard line on basic morality.

At the same time, he is doing something else. "We are beefing up the curriculum on ethics—the morals side—so you have more than the honor code," Hoffmann explained. (The report of the panel headed by former astronaut Frank Borman required that "all cadets should be required to have formal ethical studies on problems likely to be faced by military officers.") In effect, they are trying to insert moral precepts, formerly the realm of religion, into the program on other levels. What is so interesting is that, very quietly, the military is going ahead with this in places other than West Point.

Three years ago, for instance, I was invited to a seminar at the Army War College in Pennsylvania. For someone like me, who had been in Vietnam and knew what moral agonies the best of military officers went through, it was a dramatic time.

Night after night at gatherings, Vietnam veterans would discuss with me the terrible slippage of military honor in Vietnam. At that time, they were being assaulted for this very same slippage by the captains who came up from Fort Benning.

Today, this particular era is past. Instead, the War College is holding seminars dealing with practical ethical questions regarding, as Hoffmann puts it, "society and the individual coming into it."

And is this not of a piece with the attempts of Jimmy Carter to promulgate new ethical guidelines for himself and his people? And the attempts to restructure the FBI? I think it is.

It also seems that, despite a corrosive moral relativism among many of the young, there is a great yearning for clear moral lines. At West Point, for instance, it was the cadets themselves who voted by a small margin for continuation of the "single sanction" (expulsion), although Hoffmann amended it to read that a cadet would "hormally" be expelled for violation of the code, thus opening the gates to mercy.

The questions all of this raises are these. Is it possible, once religion is no longer operative for a good many people, to "create" a new moral code? Can moral relativism be turned back, or is it too far gone? Are we so far sold on the virtue of personal relationships and values, as sociologist Richard Sennett so brilliantly argues, that we have lost all sense of public and institutional values—the structure of civilization?

The hope lies in great part in these plodding, difficult, self-conscious, tiresome, noble attempts to design this new moral code, divorced of a religious base.

PROPOSED ARMS SALES

Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification from the Department of Defense of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask unanimous consent to have printed in the RECORD at this point the two notifications I have just received. A portion of the notifications, which is classified information, has been deleted for publication, but is available to Senators in the office of the Foreign Relations Committee, room S–116 in the Capitol.

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

TRANSMITTAL No. 77–8

(Notice of proposed issuance of letter of offer pursuant to section 36(b) of the Arms Export Control Act)

(i) Prospective Purchaser: Greece.

(ii) Total Estimated Value: $27.5 million.

(iii) Description of Articles or Services Offered: Thirty-five (35) UH–1H helicopter.

(iv) Military Department: Army.

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid:

A. (Deleted).

B. (Deleted).

C. (Deleted).

E. The information contained in paragraph (v) consists of proprietary data within the meaning of 18 U.S.C. 1905, and, accordingly may not be disclosed except pursuant to the provisions of the Code.

(vi) Date Report Delivered to Congress: 19 January 1977.

TRANSMITTAL No. 77–14

Notice of proposed issuance of letter of offer pursuant to section 36(b) of the Arms Export Control Act

(i) Prospective Purchaser: Israel.

(ii) Total Estimated Value: [Deleted].

(iii) Description of Articles or Services Offered: [Deleted] guns [deleted], radio equipment, tools and spare parts.

(iv) Military Department: Army.

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: 19 Jan., 1977.

PROPOSED ARMS SALES

Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification from the Department of Defense of proposed arms sales under that Act in excess of $25 million or, in the case of major defense equipment as defined in the Act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the Chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask unanimous consent to have printed in the Record at this point the 7 notifications I have just received.

TRANSMITTAL No. 77–7

Notice of Proposed Issuance of letter of offer pursuant to section 36(b) of the Arms Export Control Act

(i) Prospective Purchaser: Thailand.

(ii) Total Estimated Value: $42.5 million.

(iii) Description of Articles or Services Offered: Various types and quantities of conventional ammunition ranging from 30 caliber to 155mm.

(iv) Military Department: Army.

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: 19 Jan. 1977.

TRANSMITTAL No. 77–9

Notice of proposed issuance of letter of offer pursuant to section 36(b) of the Arms Export Control Act

(i) Prospective Purchaser: Spain.

(ii) Total Estimated Value: $11.0 million.

(iii) Description of Articles or Services Offered: Eighteen (18) self-propelled, 8" Howitzers (M110), spare parts and communications equipment.

(iv) Military Department: Army.

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: 19 Jan. 1977.

TRANSMITTAL No. 77–10

Notice of proposed issuance of letter of offer pursuant to section 36(b) of the Arms Control Act

(i) Prospective Purchaser: Greece.

(ii) Total Estimated Value: $7.5 million.

(iii) Description of Articles or Services Offered: Three-hundred (300) AIM–9J–1 Sidewinder Missiles.

(iv) Military Department: Air Force.

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: January 19, 1977.

TRANSMITTAL No. 77–11

Notice of proposed issuance of letter of offer pursuant to section 36(b) of the Arms Export Control Act

(i) Prospective Purchaser: Netherlands.

(ii) Total Estimated Value: $21.2 million.

(iii) Description of Articles or Services Offered: Eight-hundred (800) AIM–9J–1 and forty (40) AIM–9J–1 captive training Sidewinder missiles.

(iv) Military Department: Air Force.

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: January 19, 1977.

TRANSMITTAL No. 77–12

Notice of proposed issuance of letter of offer pursuant to section 36(b) of the Arms Export Control Act

(i) Prospective Purchaser: Sweden.

(ii) Total Estimated Value: $22.0 million.

(iii) Description of Articles or Services Offered: One-hundred (100) Improved Hawk missiles, modification kits to convert three basic Hawk batteries to improve Hawk configuration, repair parts and 18 months of engineering assistance.

(iv) Military Department: Army.

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: 19 Jan. 1977.

TRANSMITTAL No. 77–13

Notice of proposed issuance of letter of offer pursuant to section 36(b) of the Arms Export Control Act

(i) Prospective Purchaser: Spain.

(ii) Total Estimated Value: $25.5 million.

(iii) Description of Articles or Services Offered: Technical assistance support of the Spanish Naval Coastal Escort Program including four (4) ship sets of the following types of equipment: interrogation friend or foe, navigation, communications, sonar system equipment (less sonar) torpedo tubes and control panel and associated logistic items.

(iv) Military Department: Navy.

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: 19 Jan. 1977.

TRANSMITTAL No. 77–16

Notice of proposed issuance of letter of offer pursuant to section 36(b) of the Arms Export Control Act

(i) Prospective Purchaser: Korea.

(ii) Total Estimated Value: $10.2 million.

(iii) Description of Articles or Services Offered: Two hundred (200) air-to-ground Maverick missiles, support equipment and spare parts.

(iv) Military Department: Air Force.

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: 19 Jan. 1977.

LESS AIRLINE REGULATION, LOWER PRICES, BETTER SERVICE

Mr. PERCY. Mr. President, John Robson, Chairman of the Civil Aeronautics Board, recently wrote an excellent piece which appeared both in the Chicago Daily News and the New York Times on

competition in the air travel industry. This thoughtful and timely article should be required reading for anyone interested in reform of Federal regulation.

Chairman Robson effectively refutes the notion that relatively modest price rise in airline tickets over the past decade indicates the present regulatory system works well. He points out that enormous savings resulting from advances in technology in the 1960's were not passed on to consumers through lower prices. Rather, they were squandered as airlines overscheduled flights, flew planes with plenty of empty seats, and competed to give away free drinks, movies, and the like.

Today's regulatory system encourages inefficiency. By limiting the number of airlines which can provide service between different cities, such regulation discourages airlines from lowering ticket prices. Less regulation will not lead to destructive competition as some maintain, but instead will encourage cost-efficient, innovative practices. Chairman Robson feels that this is especially important now that the "financial bloom has [come] off the airline industry's rose."

It is time we in Congress reexamined the 1938 airlines regulatory legislation. All Federal regulatory agencies need a fresh look. The Regulatory Reform Act of 1977 is a refinement of last year's bill (S. 2812) which mandated a comprehensive overhaul of the regulatory system. It will be introduced in the 95th Congress this week. In the interest of consumers, working people, business continuing and a strong, vigorous, competitive U.S. commercial airline service, recognized as the best in the world but, with further improvements possible. I urge my colleagues to give careful consideration to this measure upon introduction.

I also hope all my colleagues will read Chairman Robson's valuable essay. Mr. President, I ask unanimous consent for "Competition Needed Now in Air Travel," appearing in the Chicago Daily News editions of January 15–16, 1977, to be printed in the RECORD.

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

COMPETITION NEEDED NOW IN AIR TRAVEL

(By John E. Robson)

WASHINGTON.—Defenders of current aviation regulation warn of a "naive and dangerous" idea reforming the 1938 federal regulatory laws to make air transportation more competitive.

The reforms contemplate fewer restrictions against entering the airline business and more freedom to lower or raise fares and expand or contract service. They are embodied in legislation supported by President Ford, congressional aviation leaders of both parties and the Civil Aeronautics Board.

Because airlines fares have historically risen less than the consumer price index, opponents of reform argue that fares cannot be considered "too high." In the highly competitive electronics business, a technological revolution made hand-held calculators available to the consumer at a fraction of their introductory price. In 1959, jet aircraft brought a technological revolution to the airlines. Yet from 1958 to 1968—while airlines enjoyed spectacular operating-cost savings and the consumer-price index inched up at an annual average barely over 1 per cent—regulated airline fares were basically static. Even the historically favorable comparison to the general price index despite airline complaints that the CAB unconscionably suppresses fare levels.

If airlines fly fewer empty seats, fares can be lowered or stabilized. Yet, even during the dramatic airline passenger growth of 1960–1970, "load factors" declined. ("Load factor" is the percentage of seats flown occupied by passengers.) The reason was that the airlines went on an overscheduling binge, mounting many more flights than were needed to handle the traffic.

Indeed, a pernicious airline tendency under current regulation is to compete by trying to outfly or out-gimmick the other guys instead of beating their basic price.

There is a dizzying variety of "discount" air fares, customarily restricted to particular markets or time periods and by other conditions. But no federally regulated scheduled airline ever sought to reduce regular coach fares throughout its route system.

Under the existing regulatory structure, a limited number of airlines are authorized to fly each route and price-cutters can't jump in. So incumbent airlines have little incentive for basic price competition. Instead, they compete with some flights or other enticements. Too many flights and "freebies" raise costs and, ultimately, fares. One airline official called the current New York-to-Florida airline war being waged with complimentary lox, bagels, drinks and movies a "giveaway scramble" that will "be passed on to the customer."

But there are notable exceptions outside the federally regulated scheduled air system where carriers provide excellent, low-fare service and can make money at it.

In a genuinely competitive system, limited instances of short-run over-capacity might occur. But, in the long run, the efficient carriers will set the competitive benchmarks and no airline could long afford wasteful forms of competition. To argue, as some regulation opponents do, that airlines would pursue long-term self-destructive competitive practices seems a most damning assessment of the industry.

Defenders of the status quo claim that America's air system would wither without federal regulation. What built and sustains our air system is not regulation but the tremendous demand for air travel in a geographically immense, affluent, travel-minded nation. The CAB doesn't make people buy airline tickets. And reducing CAB regulations would not curb either the public's appetite for air travel or the airlines' motive to furnish it.

In recent years, the financial bloom has been off the airline industry's rose. And, during the last quarter-century the airlines earned the currently authorized return on investment only three times. With their subpar historical earnings record and a need for greatly improved future earnings if they hope to attract adequate capital, one wonders why the airlines cling so doggedly to the old regulatory regime.

The regulatory laws were passed in 1938 when air transportation was an infant industry. It is now mature. And many see the airlines' future economic environment as much less salubrious than the past: more modest traffic growth, rapidly rising costs and limited productivity gains. These changes require changes in the regulatory system.

Advocates of a more competition-oriented regulatory system have not promised magic. We maintain that, in the long term, it should foster a more efficient air-transportation system that can be reflected in fare levels, can stimulate growth, can enable airlines to attain more consistent profitability, and meet the demands of the flying public.

Admittedly, the transition from the present protective regulatory system to a more competitive one poses uncertainties for the airlines. Nonetheless, the potential benefits seem strongly to warrant the change. It is relevant that, following the Northeast railroads' financial collapse, federal rail regulation was relaxed to stimulate a more competitive climate.

CAPITOL POLICE PRAISED

Mr. ALLEN. Mr. President, the past Thursday's activities here in the Nation's Capital were heartwarming and stirring with tens of thousands of Americans from every State gathered for the inauguration, for the parade and for the other activities associated with what I consider to be one of the most important days in our country's political life.

I had the pleasure of attending our open house Thursday afternoon in the Dirksen Senate Office Building sponsored by the Alabama State Society. Hundreds of Alabamians who reside in this area were present as were additional hundreds of Alabamians who made the long trip from home just for the inauguration.

Mr. President, I wish to pass on to the Senate some observations from my fellow Alabamians relating to the reception which they received here in the Capitol complex—the Capitol and the Congressional Office Buildings. Without exception these comments were in praise of the calm, gentlemanly and gentlewomanly help provided them by members of the Capitol Police Department. Amid all of the day's activities—with tens of thousands of people pressing to get close to the inaugural ceremony on the Capitol steps; with thousands of visitors asking directions or seeking lost members of their parties or trying to find parking spaces and then later trying to remember where they had parked—amid this turmoil the Capitol police remained calm, pleasant, and helpful. Visitors from my home State, and I am sure visitors from each of the other States, have gone home with a good feeling about the helpful treatment accorded them by the Capitol police. In behalf of Alabamians who came to participate and to view the past week's events, I want to express my appreciation to our Capitol police and to commend them for a job well done.

EGYPTIAN DOMESTIC DISTURBANCES

Mr. PERCY. Mr. President, from foreign intelligence sources, and other sources available to me, I have confirmed that the riots in Egypt, begun by students, were quickly exploited and expanded by well-prepared urban leftists, then rightists, attempting to embarrass the administration of President Sadat. It is obvious that these are extremist elements who are hostile to President Sadat's efforts to seek peace and stability in the Middle East.

The origin of the agitation, of course, was in the decision to raise the prices of certain food items and other products. Gasoline, for example, was raised 31 percent, and bottled cooking gas 46 percent. Under pressure from international monetary institutions and certain na-

tions to end the heavy subsidization of food prices for lower income people, President Sadat was obliged to take this action. Some have observed in hindsight that he should have raised prices more gradually, but he chose to move boldly.

Certainly this action would have come much sooner had it not been for the beneficial and essential economic assistance that Egypt has been receiving from the United States, Iran, Arab countries, Japan and the OECD. Egypt has many friends in the world. It will continue to be a high priority with them to provide economic assistance to Egypt, both for the welfare of the Egyptian people and in support of President Sadat's efforts to achieve stability in the region.

This will probably not be the last time that extremist elements of left and right seek to make political hay at the expense of reasonable leaders of the area. I would hope that responsible people in all the countries of the Middle East would give support to those leaders such as President Sadat, whose highest priorities are to improve the lot of their people through economic development and by constructive moves to achieve regional peace and stability.

SENATOR JACKSON CONGRATULATES PRESIDENT CARTER ON WITHDRAWAL OF GASOLINE DECONTROL PROPOSAL

Mr. JACKSON. Mr. President, earlier this afternoon President Jimmy Carter's decision to withdraw the Ford administration's gasoline decontrol plan was announced at the White House. I want to congratulate President Carter on a forthright and statesmanlike action. The withdrawal of these 11th-hour Ford proposals shows that President Carter understands the essential importance of credibility in Government. It shows that he is prepared to act on this understanding.

There is simply no way to make reasonable the effort by Mr. Ford—acting on the last day of his authority as President—to remove mandatory price and allocation controls from sales of motor gasoline. Acquiescence by Congress or the new administration in a plan of such uncertain and complex impact, submitted in this fashion, would really be unthinkable. I am gratified that President Carter moved quickly to retract an inappropriate and unfortunate proposal.

The legacy of the FEA's management of domestic petroleum supplies and prices deserves early consideration by the Carter administration and the 95th Congress. The regulations now in existence were written by the Nixon and Ford administrations in response to a congressional mandate to control domestic prices and preserve competition in the petroleum industry. It is no secret that these administrations were staffed by reluctant regulators. The energy policy advice which has emanated from the FEA for the past 3 years has been a drumbeat for decontrol. A direct result of this attitude has been a regime of controls which is in many respects inconsistent with the intent of Congress.

The solution to the problems with FEA regulations, however, is not total decontrol. Removal of all protection against unwarranted price increases is no solution. Removal of all effective guarantees to supply to independent businessmen at competitive prices is no solution.

I believe we can devise equitable ways to deal with the real problems associated by past FEA regulation without the extreme measure of total decontrol. I believe we will obtain the cooperation and assistance of the FEA under President Carter in this effort. President Carter's action of today is a positive and welcome beginning for this cooperation.

I ask unanimous consent that the letter to Vice President Mondale from Gorman C. Smith, Acting Administrator of the Federal Energy Administration, rescinding the gasoline decontrol amendments proposed in energy actions numbered 8 and 9 be printed in the RECORD, at this point.

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

FEDERAL ENERGY ADMINISTRATION,
Washington, D.C., Jan. 24, 1977.

Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: I have today directed FEA's Acting General Counsel to rescind the amendments which were issued January 19, 1977 exempting motor gasoline from the Mandatory Petroleum Allocation and Price Regulations. This action is intended to withdraw from congressional consideration Energy Actions Nos. 8 and 9 which were transmitted to the Congress on January 19, 1977 under the provisions of the Emergency Petroleum Allocation Act of 1973, as amended by the Energy Policy and Conservation Act.

Accordingly, I wish to inform you by this letter of our withdrawal of Energy Actions Nos. 8 and 9.

The reason for this action is to provide an opportunity for the new Administration to determine whether the exemption of motor gasoline would be consistent with the energy policy proposals, which are currently being developed for submission to the Congress. This action is not intended to constitute any position regarding the merits of Energy Actions Nos. 8 and 9, but is instead taken only to afford the opportunity for full consideration of the implications of the exemption of motor gasoline from price and allocation controls in the context of the comprehensive national energy policy now being developed.

Sincerely,

GORMAN C. SMITH,
Acting Administrator.

SECRETARY OF DEFENSE HAROLD BROWN

Mr. BAYH. Mr. President, I was delighted with the action of the Senate in giving unanimous support to the nomination of Dr. Harold Brown to be Secretary of Defense. The qualifications which Dr. Brown brings with him to this high office are impressive: 24 years of involvement in national security policy, nuclear weapons expert, Director of Defense Research and Engineering for the Department of Defense at age 33, Secretary of the Air Force, delegate to the 1969 SALT negotiations where he was the "unofficial" representative of the scientific community, and president of the California Institute of Technology.

During his testimony before the Senate Armed Services Committee, Dr. Brown states that he views the high post for which he is being considered as an "intimidating responsibility." Based on his previous record as an outstanding physicist and his sensitivities to arms control policies that reflect our national security considerations, I believe Harold Brown possesses both the necessary technical expertise and sufficient political awareness which will enable him to shoulder this responsibility.

No one in this Chamber would challenge Dr. Brown's statement that the preservation of our national security is the foremost responsibility of a national administration. But this task has become increasingly difficult as the issues associated with it have become more complex. Greater demands are being made on our resources to the point where "guns and butter" are not possible in unlimited combinations. A new awareness, which is not so new to some of us, has been articulated by a new administration which says that the strategic balance cannot be measured in terms of military arsenal alone. National leadership, economic strength, reliability of allies, public trust in Government and an open Government which trusts the public are also necessary indicators of national strength. I believe that Secretary of Defense Harold Brown understands this. His knowledge of the limitations and capabilities of weapons of mass destruction in no way renders him incapable of understanding the human dimension of national security.

We must leave no room for doubt that we are committed to a defense posture that will continue to deter even the thought by a potential adversary that a successful attack on our country is possible. To this extent disarmament can never be an adequate substitute for defense. Still, the Strategic Arms Limitation Talks must continue to occupy the foremost place in the consideration of a force structure appropriate to our security needs. SALT II negotiations must be pursued vigorously and a final agreement must be fully considered by the American people.

Our present defense establishment must also make constant reference to the real world, to the capabilities of the Soviet Union, and to the doctrine which guides the U.S.S.R. in its defense policies. While this latter point regarding intentions may force us to live in ambiguity, as Dr. Brown insightfully noted, it is important that we recognize that important differences exist in our view of the world and in the global outlook of the Soviet Union. This is important if we are to avoid making the mistake of "mirror-imaging" our chief competitor in the world arena. It also emphasizes the need to better understand our own role in the world and fashion our capabilities to support that role. We have had enough instances of "weapons in search of missions."

More specifically, I hope Secretary Brown makes the determination that we

do not need to spend some $2 billion on 244 B–1 bombers to maintain a credible deterrent posture. This is simply not the wisest way to spend defense dollars; nor is it the best way to accomplish a significant savings in the defense budget while maintaining adequate defense capabilities. It has been pointed out in Senate debate that the funds proposed for the B–1 could be used to support 1 armored division for 5 years, reengine our B–52 strategic bomber fleet, and pay for 10 Trident underseas long-range ballistic missile submarines equipped with 200 missiles and 2,000 nuclear warheads. I hope that Secretary Brown will carefully consider these alternatives.

An important study on the role of the U.S. Navy which was recently completed by the Congressional Budget Office also merits consideration by the Secretary. This is especially important in view of the growing Soviet presence and the need to protect the sea lanes which are so vital to our national security. In this regard, we must examine thoroughly the combat readiness of the fleet and its ability to perform a sea control mission with the flexibility to project political presence. It is in this context that I am skeptical about the legitimacy of the Aegis air defense system in fulfilling this mission. The study I am referring to states with regard to the "sea control" navy that:

> Neither AEGIS, an air defense system geared to carrier protection in high-threat environments associated with the projection mission, nor its possible platforms, whether conventional or nuclear would be required for this navy.

Knowing of Secretary Brown's stated view that one of the principal responsibilities of the Secretary of Defense is to determine the most cost-efficient force structure, I hope that he will thoroughly review the Aegis concept as it applies to our strategic needs. I am confident that he will evaluate every program and weapons system on its national security merits, from the largest aircraft carrier to the smallest caliber lightweight gun.

As the conventional balance of forces becomes more important in political terms with the nuclear balance of power being stabilized, we must also look at our military presence in Europe, the advantages of greater weapons standardization to NATO and the possibility of moving some of our tactical nuclear weapons there out of exposed forward positions. Also, as a strong advocate of effective tactical air defenses and as a strong opponent of the SAM-D air defense missile system—now named Patriot—I am anxious to see a hard look taken at the adequacy of our capability in dealing with a Soviet air assault against our positions in Europe. I want to be sure that we do not invest billions of dollars in a system that will not survive to perform its mission. Unfortunately, this appears to be what Patriot holds the potential of doing. Again, we must ask ourselves if this is the best way to spend our defense dollar.

As we work to find ways of saving the taxpayers' dollars by scrutinizing the economy of our nuclear and general purpose forces, we should also examine present manpower policies to determine where costs can be cut and efficiency improved. Implementing fully the industrial funding concept for certain defense activities is one way to begin. I hope that Secretary Brown and his personnel who are in charge of management problems will carefully review shortcomings in these areas of Defense Department operations.

Surely there are other areas worthy of discussion. Let me just say that I know Secretary Brown will be confronted—or plagued—with each of them. I do not wish him "happiness without sorrow" because the problems he will face are of the utmost gravity. Nor do I promise not to argue with him or President Carter when policies are advocated with which I disagree. I do offer him my strong support and my pledge to work with him to provide for the common defense.

THE GENOCIDE CONVENTION AND ITS LESSON FOR THE NEXT GENERATION

Mr. PROXMIRE. Mr. President, almost every day the Senate has been in session during the past 10 years, I have urged my colleagues to take affirmative action on the ratification of the Genocide Convention.

The pros and cons of this convention have been debated for years. Many issues and questions have been raised by this treaty. Although much of the initial opposition to it has lessened over the years due to a greater understanding of its objectives and provisions, the treaty has not yet been ratified. Why? Apparently its significance still needs to be clarified.

Under the provisions of the treaty, genocide is defined as an act committed with intent to destroy, in whole or in part, a national, ethnic, racial, or religious group. Whether committed in time of peace or in time of war, genocide would be considered a crime under international law. This provision alone is reason enough for ratification.

The most important of the convention's objectives is the preservation of what I consider a person's most precious right: The right to live—and to live peaceably. It is time now to protect this basic right, a right that will always exist with future generations. In failing to ratify this convention, the United States has also failed to uphold the morals and beliefs of its people.

As Sigmund Freud once said:

> The history of the world which is still taught to our children is essentially a series of race murders.

Let us teach our children something else: That we care about our people. Make genocide an international crime! Mr. President, I urge the Senate to ratify this convention at once!

NOMINATION OF PATRICIA ROBERTS HARRIS

Mr. BAYH. Mr. President, it was with extreme satisfaction that I joined with my colleagues in unanimously approving the nomination of Patricia Roberts Harris for the office of Secretary of the Department of Housing and Urban Development—HUD. It has been my pleasure to know Pat Harris for more than a decade, and it is an honor to be able to refer to her as a friend. I am definitely looking forward to working closely with her, as we strive to implement housing policy that will improve the quality of life for all our citizens.

Undoubtedly, the confirmation of this outstanding American shall prove to be among the finer Cabinet appointments that any President has made in our 200-year history. I have absolute and total confidence in Ms. Harris' ability to conduct the affairs of her office in an impeccable manner. She has a long and impressive history of being successful and aggressive in every endeavor that she has undertaken. Mr. President, it is not necessary for me to extol this lady of great accomplishments. She is well-known and admired; the record speaks for itself. For example, she has served as our country's Ambassador to Luxembourg, as a delegate to the United Nations, as a member of the Council on Foreign Relations, director of the Twentieth Century Fund, as a member of the executive board of the National Association for the Advancement of Colored People's legal defense fund, and as a member of the board of directors of International Business Machines, Chase Manhattan Bank, and the Scott Paper Co.

One might argue that Ms. Harris' background and training does not qualify her for the position for which she has recently been confirmed. Let me, Mr. President, go on record as a staunch supporter of this appointment. Patricia Harris is a black woman who has lived and struggled all her life with the problems confronting our urban areas, and thusly, has a sensitivity and concern for such problems that most people cannot duplicate. She is acutely aware of the necessity for HUD to take a leading role in the implementation of programs that will solve the terrible conditions under which millions of our citizens live and struggle each and every day of their lives.

In essence, Pat Harris has synthesized the practical experience of life with a well-rounded educational and professional career. This synthesis uniquely qualifies her to serve in this challenging position in the President's Cabinet. I commend the President for his outstanding choice of Patricia Harris for the position of Secretary of HUD and offer my wholehearted support to her.

ATTORNEY GENERAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, without any time being consumed thereon today, that the Senate proceed to the consideration of the nomination of Mr. Bell.

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

The nomination will be stated.

The legislative clerk read as follows:

> The nomination of Griffin B. Bell, of Georgia, to be Attorney General.

Mr. ROBERT C. BYRD. Mr. President, has the nomination been laid before the Senate?

The PRESIDING OFFICER. It has.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will recess shortly and go over until 10 o'clock tomorrow morning, under the order previously entered.

When the Senate convenes on tomorrow morning, it will be in executive session. Immediately after the two leaders or their designees have been recognized under the standing order and the 15-minute order for the recognition of Mr. HATFIELD, which was entered previously, has been consummated, the Senate will proceed to the consideration of the nomination of Mr. Griffin Bell for the office of Attorney General of the United States, under a time agreement which provides for not to exceed 8 hours of debate thereon. If the 8 hours run their course, this would mean that the Senate would vote circa 6:15 or 6:30 p.m., but it is quite possible that not all the time will be used. Hence, the rollcall vote could come prior to that time.

Whether or not there will be other rollcall votes on tomorrow, I am in no position to say that this moment.

I think that about sums it up so far as tomorrow's program is concerned.

Mr. BAKER. Mr. President, I thank the distinguished majority leader for that view of tomorrow.

PROPOSED COMMITTEE REORGANIZATION

I wonder whether the majority leader can give us any idea about the progress toward the consideration and disposition of the so-called Stevenson report.

Mr. ROBERT C. BYRD. The Committee on Rules and Administration, under an order of the Senate, must report that resolution no later than midnight tomorrow night. The chairman of the committee, Mr. CANNON, hopes to be able to report the resolution today; but if that is impossible, it will be reported prior to the deadline of midnight tomorrow night.

Mr. BAKER. I wonder whether the majority leader could have some indication of whether we will proceed immediately to the consideration of the Rules Committee report or whether there will be the requirement of the 3-day rule.

Mr. ROBERT C. BYRD. I hope that in due time a time agreement can be secured on the Stevenson proposal. I believe that the Senate would be more willing to enter into such a time agreement, if it is possible to do so, if Senators were allowed the full 3 days under the rule for consideration of the committee report. Therefore, it will not be the intention of the leadership to move to proceed to the consideration of the Stevenson proposal this week.

Mr. BAKER. I think that is a wise and prudent judgment. This is an important and fundamental change in the structures of the Senate organization, and I hope that we can in fact have the committee report in hand for the full 3 days before we proceed to its consideration.

I assume, then, that that would put the matter over effectively until, say, Monday of next week, before we could take up and attempt to dispose of the Stevenson matter.

I hope, Mr. President, that the distinguished majority leader will attempt to formulate a unanimous-consent request to limit the time for debate on this report from the Rules Committee. We have a group of freshmen on our side who are eagerly awaiting their permanent assignments. We have other Members who cannot make their wishes known until that matter is disposed of. So I wonder whether the majority leader can give us his indication that he would plan to ask for a limitation of time in that respect.

Before he answers, I will hastily pledge my cooperation and efforts to try to find some workable agreement.

Mr. ROBERT C. BYRD. I thank my friend, the distinguished Republican leader. Beginning next week, I will make an effort to work out a time agreement, and I will be working with him. But until then, I think we might just be touching bases in order to see what might be feasible.

Mr. BAKER. Mr. President, if the distinguished majority leader will yield for one more inquiry, since we have the Marshall time limitation agreement in order, the Griffin Bell nomination, and it appears that the report of the Committee on Rules and Administration will go over until Monday, might I inquire what the majority leader sees in prospect for the latter part of this week?

Mr. ROBERT C. BYRD. I am not in a position to respond beyond saying that it is the present intention of the leadership to proceed to the consideration of the nomination of Mr. Marshall on Wednesday. If I could elaborate on that answer, I would do so, but I am unable to at this point.

Mr. BAKER. Mr. President, I thank the majority leader.

Mr. ROBERT C. BYRD. I thank the distinguished Republican leader.

RECESS UNTIL 10 A.M. TUESDAY, JANUARY 25, 1977

Mr. CRANSTON. 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 10 o'clock tomorrow morning.

The motion was agreed to; and at 4:15 p.m., the Senate recessed in executive session until Tuesday, January 25, 1977, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate January 24, 1977:

DEPARTMENT OF HEALTH, EDUCTATION, AND WELFARE

Joseph A. Califano, Jr., of the District of Columbia, to be Secretary of Transportation.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

IN THE COAST GUARD

Coast Guard nominations beginning John H. Guest, to be captain, and ending Richard H. Berry, to be lieutenant (j.g.), which nominations were received by the Senate and appeared in the Congressional Record on January 6, 1977.

IN THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

National Oceanic and Atmospheric Administration nominations beginning Donald R. Tibbit, to be captain, and ending John D. Friend, to be ensign, which nominations were received by the Senate and appeared in the Congressional Record on January 6, 1977.

EXTENSIONS OF REMARKS

STONEWALL JACKSON—ILLUSTRIOUS SON OF WEST VIRGINIA—WAS BORN 153 YEARS AGO—WE SHALL REMEMBER HIS GREATNESS

HON. JENNINGS RANDOLPH

OF WEST VIRGINIA

IN THE SENATE OF THE UNITED STATES

Monday, January 24, 1977

Mr. RANDOLPH. Mr. President, the long march of history includes many stellar individuals in its ranks, and it is proper that we pause to note their presence in our past. We have recently marked the commemoration of the 153d anniversary of the birth of one of the illustrious sons of West Virginia and of our country. On January 21, 1824, Thomas Jonathan Jackson was born in the western region of Virginia, in what is now Clarksburg, W. Va.

His grandfather, born in England, came to America in 1748. Young Jackson was reared by his uncle for 12 years following the death of his parents, who died in poverty.

From this underprivileged and disadvantaged background, and with a poor preliminary education, Jackson entered West Point in July 1842. He later admitted that he "studied very hard for what he got." By 1846 he was graduated in the top third of his class.

Stonewall Jackson was a born fighter. He earned the colorful sobriquet of "Stonewall" for his tenacious defense of positions during the Civil War. His poverty-stricken youth contributed to his stern self-discipline.

Stonewall Jackson demanded much of himself, and of his subordinates. Yet he was respected and popular with his staff and troops.

Although he fought for an unpopular cause in a losing war, Stonewall Jackson earned his place in military history in less than 25 months as a leader of the Confederate Army. He was one of our great military strategists. He mastered the art of initiative and surprise in battle.

Gen. Stonewall Jackson died on May 10, 1863, at the age of 39. His short but spectacular career ended when, during the famous Battle of Chancellorsville, Jackson was mortally wounded by fire from his own men while returning to the battlefront. He had led a rear attack on the large Union forces to help Gen. Robert E. Lee achieve perhaps his most decisive victory.