

tention to a distinguished citizen in my district. On July 9, Mrs. Marilyn Stockelman of the Delhi area of Hamilton County received the International Single Parent of the Year Award from Parents Without Partners at their convention in Boston.

Mrs. Stockelman, a widow with six children, was chosen for this honor for her interest in activities involving her children, and for her attention to the needs of members of Parents Without Partners in the Cincinnati area.

It is a great honor for me to recognize Mrs. Stockelman at this time and compliment Parents Without Partners for their selection of this fine parent.

## AMEND SOCIAL SECURITY ACT

## HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 1977

Mr. CARTER. Mr. Speaker, today I am joining with my distinguished colleague PAUL ROGERS, chairman of the Health and Environment Subcommittee, and several other Members in introducing legislation which would amend the Social Security Act to provide payment for rural health clinic services under medicare and medicaid. I would like to ex-

press my support, in particular, for the medicaid provisions of this bill. As you know, I have already introduced my own proposal which offers some further perspectives on the problem of rural health care delivery, and I would especially like to open up for discussion the area of preventive services, which are so essential to the good health of our rural citizens. I have included a broader description of such services in my remarks of April 18, 1977, page 11025. As a Representative from a rural district and as a physician I strongly endorse the goals of this legislation and feel it is sorely needed.

## SENATE—Wednesday, July 27, 1977

(Legislative day of Tuesday, July 19, 1977)

The Senate met at 11:30 a.m., on the expiration of the recess, and was called to order by Hon. ROBERT C. BYRD, a Senator from the State of West Virginia.

## PRAYER

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

Praise be to Thee, O Lord, for Thy providential care over this Nation and over us in our daily vocation. Be with us now in this place of high service and solemn duty. Enlighten us that we may lift those who are put down by poverty, hurt by war, or scorned by neighbors. Do not let us forget people who are remembered by Thee.

O Lord, our God, in whom we live and move and have our being, restrain us from doing the hasty, ill-considered thing which later must bring regret and repentance. But guide us by Thy higher wisdom to do what is right and good and true, remembering always that what we do here shapes the Nation's destiny and character for generations yet to come.

May we labor under the inspiration of Thy spirit with the assurance that goodness and mercy follow us all our days and at life's sunset we may abide in Thy house forever. 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 assistant legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, D.C., July 27, 1977.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ROBERT C. BYRD, a Senator from the State of West Virginia, to perform the duties of the Chair.

JAMES O. EASTLAND,  
President pro tempore.

Mr. ROBERT C. BYRD thereupon assumed the chair as Acting President pro tempore.

## RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The very distinguished Senator from Tennessee, the minority leader, is recognized.

Mr. BAKER. I thank the Chair.

## THE JOURNAL

Mr. BAKER. Mr. President, I ask unanimous consent that the Journal of the proceedings of yesterday, Tuesday, July 26, 1977, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. Mr. NUNN assumed the chair.

## ORDER OF BUSINESS

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

UNANIMOUS-CONSENT AGREEMENT  
H.R. 7797

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as Calendar No. 324, H.R. 7797, the foreign assistance appropriation bill, is before the Senate, there be a 2-hour time limitation on the debate on the bill, to be equally divided between Mr. INOUE and Mr. SCHWEIKER; that there be an additional 3 hours under the control of Mr. HARRY F. BYRD, JR.; that there be a time limitation on any amendment of 1 hour; that there be a time limitation on any amendment to an amendment of 30 minutes; that there be a time limitation on any debatable motion, appeal, or point of order, if such is submitted to the Senate for its decision, or if the Chair entertains debate thereon, of 20 minutes; that the agreement be in the usual form with respect to the division and control of time; and that three amendments by Mr. ALLEN be without limitation.

(The following proceedings occurred subsequently:)

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, with respect to the foreign aid appropriation bill, that the agreement be modified as follows: That no tabling motion be in order to any of the three amendments which may be proposed by Mr. ALLEN.

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

The text of the unanimous-consent agreement is as follows:

Ordered, That when the Senate proceeds to the consideration of H.R. 7797 (Order No. 324), an act making appropriations for foreign assistance and related programs for the fiscal year ending Sept. 30, 1978, and for other purposes, debate on any amendment in the first degree (except three amendments by the Senator from Alabama (Mr. Allen), on which there shall be no time limitation and no tabling motions thereto in order) shall be limited to 1 hour, to be equally divided and controlled by the mover of such and the manager; debate on any amendment in the second degree shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill; and debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the Minority Leader or his designee.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 5 hours, to be divided with 1 hour each under the control of the Senator from Hawaii (Mr. Inouye) and the Senator from Pennsylvania (Mr. Schweiker), and with 3 hours under the control of the Senator from Virginia (Mr. Harry F. Byrd): *Provided*, That the said Senators, or any one of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

## RETIREMENT OF FRANCES G. KNIGHT

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. McCLELLAN, I send to the desk a resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated.

The assistant legislative clerk read as follows:

Mr. ROBERT C. BYRD, on behalf of Mr. McCLELLAN, for himself, Mr. EASTLAND, Mr. CURTIS, and Mr. THURMOND, submits a resolution (S. Res. 231) to pay tribute to Frances G. Knight on the occasion of her retirement from Federal service:

Whereas the Senate of the United States wishes to recognize the thirty-eight years of service by Frances G. Knight to the Nation and her Government;

Whereas Miss Knight will be retiring on July 31, 1977;

Whereas she has served for twenty-two years as Director of the Passport Office of the Department of State; and

Whereas during this period, she has demonstrated outstanding administrative ability and has provided immeasurable assistance to Senators and their constituents: Now, therefore, be it

*Resolved*, That it is the sense of the United States Senate that Frances G. Knight be commended for her diligence in the faithful performance of her duty and outstanding service to the Nation during a landmark career of public service.

Sec. 2. The Secretary of the Senate shall transmit a copy of this resolution to Frances G. Knight.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the resolution (S. Res. 231) was considered and agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### SMALL BUSINESS ACT AMENDMENTS

Mr. ROBERT C. BYRD. Mr. President, I submit a report of the committee of conference on H.R. 692 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 692) to amend the Small Business Act and the Small Business Investment Act of 1958 to increase loan authorization and surety bond guarantee authority; and to improve the disaster assistance, certificate of competency and Small Business set-aside programs, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

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

(The conference report is printed in the House proceedings of the Record of July 26, 1977.)

Mr. HATHAWAY. Mr. President, the conference report on H.R. 692, the 1978 and 1979 Small Business Administration Act, which is current before us for consideration, represents an important step forward in legislation affecting this vital agency.

I am pleased to have introduced the bill which formed the core of the Senate version of this measure on May 2 of this year and that it received prompt action from the Senate Select Committee on Small Business. In order to underline the goals of this legislation and the improvements it represents over the prior statutory structure, I ask unanimous consent that my introductory statement of May 2 be printed in the Record at this point.

There being no objection, the statement was ordered to be printed in the Record, as follows:

#### SMALL BUSINESS ADMINISTRATION AUTHORIZATION ACT, 1978

Mr. President, today I am pleased to introduce the Small Business Administration fiscal year 1978 authorization bill. This authorization measure is especially important to small business which plays such a key role in the economy of our Nation.

There are over 13 million small businesses in the United States, and these businesses constitute 97 percent of all the business entities. Small business accounts for over half of all private employment, 43 percent of business output, and over one-third of the Gross National Product.

I am particularly pleased to introduce this bill in behalf of the Senate Select Committee on Small Business, and that it will be referred to this committee for consideration. This morning, I participated, along with the Senator from Connecticut (Mr. WEICKER), in a hearing of the committee at which Small Business Administrator Vernon Weaver testified regarding the authorization levels for SBA programs.

I cite these events because they are all activities which the Select Committee on Small Business would not have undertaken in the 94th Congress, or in any of the preceding Congresses in its 27-year life. Instead, the Committee on Banking, Housing and Urban Affairs had direct legislative authority and authorization jurisdiction over the programs of the SBA.

This jurisdictional set-up was altered with the passage of Senate Resolution 104 in April of last year, which took effect at the beginning of this Congress. I was pleased to introduce that resolution and that it ultimately received the sponsorship of over three-fourths of this body.

It is particularly gratifying that this organizational change is leading to substantive legislative improvements in SBA programs, of which this bill is a prime example.

A new approach to budgeting for the SBA is represented by this bill. Previously, authorizing committees simply increased loan program ceilings periodically. SBA would then decide how quickly it intended to lend the ceiling increase. The increase might be spent in 1 year or 2 or 3. The decision was entirely the SBA's.

This bill, however, sets program levels for the 1978 fiscal year alone and thereby sets targets and goals for such programs. For the first time, it establishes how much, and at what rate, the SBA will spend on business loans, handicapped assistance, disaster assistance, and all other lending functions. This process represents a major step toward responsible budgetary control of SBA's loan programs.

This bill also affirms the belief that SBA must be more than a lending agency. Specific line items are established for nonlending SBA programs such as management, technical, and procurement assistance, advocacy, and economic research. Mitchel Kobelinski, the past SBA Administrator, has said that he believes the SBA must do more than lend money. He told the Senate Small Business Committee that the SBA must deliver effective

management help and that it must do a better job in advocating the interests and needs of small business within the Federal Government and around the Nation. So far, the level of the agency's funding requests for these nonlending programs indicate that the SBA may not be prepared to do much more than articulate its commitment.

This bill demonstrates an intention to act, as opposed to the SBA's apparent intention to do little more than talk. It earmarks funds for salaries and administrative expenses of the SBA to specific programs. It provides \$30 million for management assistance with particular emphasis to be placed on training, counseling, and small business development centers. It provides sufficient funding to establish the beginnings of competent advocacy and economic research operations in the SBA.

The bill also provides increased funding for procurement assistance. As chairman of the Small Business Committee's Government Procurement Subcommittee, I am well aware of the importance of providing detailed assistance on procurement processes to individual small businesses, to insure that they benefit from procurement business opportunities. This bill would begin to provide that help by directing the SBA to employ more procurement officers in order to increase the number and total value of small business set-asides. It also sets as a priority for SBA's procurement office that it build a small business source data base to be used to widely expand the scope of SBA's business set-aside program.

The Administrator is already empowered under Section 8(b)(2) et seq., of the Small Business Act to make a complete inventory of all productive facilities of small business concerns and to coordinate how these facilities might be best used in all procurement activities. But thus far, there is no definitive data base available which includes all potential small business Government contractors. If SBA is to increase the number and value of small business set-asides, as required by this bill, it seems clear this data must be gathered and disseminated to all relevant procurement agencies.

Also, in the procurement area, the bill includes a section which expresses the policy that priority should be given to the placing of set-asides within areas of substantial unemployment, or so-called labor surplus areas. This section includes language to allow for total set-asides of individual contracts to small business firms within such areas pursuant to Defense Manpower Policy Number 4.

In this regard, on April 25 of this year I introduced S. 1380 which is intended to achieve this same goal.

The bill also gives the Administrator additional authority to declare a given contractor as qualified to perform Government work under the certificate of competency program.

Further, the bill responds to a major complaint by small business people that they do not know what SBA programs do or how they can use them. To a large degree, SBA presently lends to the most persistent, who may not always be those most needing help. SBA should serve small business; SBA should not force eligible and deserving small businesses to run an obstacle course in order to gain needed assistance. Therefore, reasonable funding for public information is provided to inform small business people of what SBA programs do and how they can be used.

This bill is a blueprint for the development of a complete Small Business Administration. If we follow it, the SBA will become a full service agency, not just a lending body.

Mr. HATHAWAY. Mr. President, during committee markup improvements were made from the initial draft. Particularly important was the inclusion in

the reported version of the provisions of the bill authored by the Senator from Colorado (Mr. HASKELL), S. 1305, which established on a permanent basis a sound and reasonable structure for assisting victims of physical and non-physical disasters.

This legislation passed the Senate on May 19, and the conference committee reached agreement on July 20. The House cleared the conference report yesterday, and with Senate action today, I am confident that this vital legislation will be signed into law promptly by the President.

Also, I appreciate very much the cooperation and consideration of the majority leader (Mr. ROBERT C. BYRD) in the scheduling and expedited treatment this bill has received, as well as his strong support with respect to the disaster provisions.

In order that my colleagues might be better aware of the depth and breadth of the provisions contained in this bill, I ask unanimous consent that a summary of its provisions, as prepared by the distinguished chairman of the House Committee on Small Business (Mr. SMITH of Iowa), be printed in the RECORD at this point.

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

#### SUMMARY OF PROVISIONS

##### 1. AUTHORIZATION FOR APPROPRIATION

Repeals the existing open-ended authorization for appropriation, and instead specifies the dollar amount of program levels by fiscal year effective at the beginning of fiscal year 1978, October 1, 1977. It also authorizes the appropriation of specific dollar amounts needed to carry out the program levels specified and eliminates the restrictions on the amount of assistance which may be outstanding and makes other conforming changes.

##### 2. SBA PROGRAM LEVELS—FISCAL YEAR 1978

Authorizes for fiscal year 1978 a surety bond guarantees program level of \$2 billion; a real estate lease guarantee authorization for appropriation of \$4 million to pay claims on prior guarantees; and a \$150 million program level for pollution control lease guarantees.

It also authorizes the following loan program levels:

Regular business loans: \$400 million in direct loans, \$15 million in immediate participation loans, and \$3 billion in deferred participation loans.

Handicapped assistance loans: \$30 million in direct and immediate participation loans and \$20 million in guaranteed loans.

Economic opportunity loans: \$60 million in direct and immediate participation loans and \$81 million in guaranteed loans.

Development company loans: \$45 million in direct and immediate participation loans and \$41 million in guaranteed loans.

Assistance to small business investment companies: \$20 million in direct purchase of debentures and preferred securities and \$180 million in guarantees of debentures.

Non-physical disaster and water pollution control loan programs: \$300 million in loans, guarantees, and other obligations or commitments.

##### 3. SBA PROGRAM LEVELS—FISCAL YEAR 1979

Authorizes for fiscal year 1979 a surety bond guarantees program level of \$2.2 billion; a real estate lease guarantees authorization for appropriation of \$4.4 million to pay claims on prior guarantees; and a \$300 mil-

lion program level for pollution control lease guarantees;

It also authorizes the following loan program levels:

Regular business loans: \$440 million in direct loans, \$17 million in immediate participation loans, and \$3.3 billion in deferred participation loans.

Handicapped assistance loans: \$33 million in direct and immediate participation loans and \$22 million guaranteed loans.

Economic opportunity loans: \$66 million in direct and immediate participation loans and \$89 million in guaranteed loans.

Development company loans: \$49 million in direct and immediate participation loans and \$45 million in guaranteed loans.

Assistance to small business investment companies: \$22 million in direct purchase of debentures and preferred securities and to make \$198 million in guarantees of debentures.

Nonphysical disaster and water pollution control loan programs: \$330,000,000 in loans, guarantees, and other obligations or commitments.

##### 4. SMALL BUSINESS INVESTMENT ACT REVOLVING FUNDS

Eliminates SBA's obligation to pay interest on capital appropriations to the Real Estate Lease Guarantees Revolving Fund, the Surety Bond Guarantees Revolving Fund, and the Pollution Control Lease Guarantees Revolving Fund. It also eliminates the authority to invest temporarily idle funds except that such authority is specifically retained for fees from the Pollution Control Lease Guarantees Revolving Fund. The reason for the distinction is that the Pollution Lease Guarantees Fund is new and although SBA is collecting fees for the guarantees, it is not anticipated that any claims will arise for several years and thus there should be funds available which are not currently needed and there is no reason SBA, and the Government, should not obtain interest on such amounts.

##### 5. SBA'S SALARIES AND EXPENSES

Provides that all salaries and expenses shall be paid only from appropriated funds and not by transfers from the revolving funds. It also eliminates the open-ended authorization and instead specifies that \$171 million is authorized for salaries and expenses for fiscal year 1978. Of this amount, \$58.9 million is earmarked for five specific functions with priorities being given within each function. In addition, it authorizes the Administrator to transfer funds among the various five categories but restricts the amount which may be transferred away from any such function to 10 percent of the amount specified and further provides that none of these functions may be increased by more than 20 percent. Those categories earmarked in the conference report are as follows:

Procurement assistance, \$13 million;  
Management and technical assistance, \$32 million;

Research and advocacy, \$6 million;  
Minority small business, \$4 million; and  
Data management, \$3.9 million.

For fiscal year 1979, the conference report authorizes \$188 million for salaries and expenses. Of this amount, \$64.8 million is earmarked for five specific functions with priorities being given within each function. Those categories earmarked in the conference report are as follows:

Procurement assistance, \$14.3 million;  
Management and technical assistance, \$35.2 million;

Research and advocacy, \$6.6 million;  
Minority and small business, \$4.4 million; and

Data management, \$4.29 million.

##### 6. REPORTS TO CONGRESS

Provides that certain enumerated reports go to the Senate and House Small Business

Committees instead of to the House and Senate Banking Committees and also specifies that certain reports go directly to the Senate Select Committee on Small Business as well as to the President of the Senate and the Speaker of the House.

##### 7. MINORITY SMALL BUSINESS REPORT

Specifically requires SBA's annual report to break out the assistance provided to socially and economically disadvantaged individuals. It also requires SBA to specify the goals of the Administration for the next fiscal year with respect to minority small business and to make recommendations for improving such assistance.

##### 8. ASSISTANCE TO HOMEBUILDERS

Specifically authorizes SBA to make regular business loans to small-home builders to finance residential or commercial construction or rehabilitation for sale, but provides that such loans may not be used primarily for the acquisition of land.

##### 9. MORATORIUMS

Authorizes SBA to undertake or suspend for a period of not in excess of five years a small business concern's obligation to make the required payments under a Small Business Administration loan providing that without the undertaking or suspension the small business would become or remain insolvent and that with the assumption or suspension the small business would become or remain a viable small business entity. The small business would be required to agree with SBA as to repaying the amounts that became due during the period of the moratorium and SBA would be authorized to extend the maturity date of the loan for a period to coincide with the moratorium. SBA would be authorized to require the borrower to take such action as is appropriate to assure that the rights and interests of the lender will be safeguarded.

##### 10. DISPLACED BUSINESS LOANS

Expands SBA's displaced business loan program by authorizing SBA to make displaced business loans to small concerns suffering substantial economic injury as a result of displacement by, or location in or adjacency or nearness to a program or project constructed by a State or local government or public service entity which has the authority to exercise the right of eminent domain on such program or project.

##### 11. ECONOMIC INJURY DISASTER LOANS

Authorizes SBA economic injury loans to small business concerns in an area affected by a natural disaster even if the extent of the natural disaster was not sufficient for a disaster declaration by the President, the Secretary of Agriculture or the Administrator of SBA. Assistance is to be provided upon the direct request to SBA from the Governor of the State involved.

In addition, economic injury loan assistance would be authorized in the event of "extraordinary, severe, and temporary natural conditions or economic dislocations" providing the governor certifies that such economic dislocations or natural conditions are of sufficient magnitude and that without economic injury relief loans, a significant number of small businesses in the impacted area would become insolvent or be unable to return quickly to their former level of operation. Such loans would have a special loan limit of \$100,000.

The refinement of what constitutes natural conditions or economic dislocations is left to determination by SBA. The conferees intend, however, that such loans be made available to businesses suffering substantial economic injury as a result of situations such as occurred where severe cold weather struck many parts of the Nation this past winter (such as western Pennsylvania, Columbus and Cincinnati, Ohio and Buffalo, New York); the lack of snow affecting ski

resorts; the land title dispute involving Mashpee, Mass.; and the Mexican currency devaluation. It is not intended that such authority only apply prospectively; if small businesses are still suffering substantial economic loss as a result of similar events occurring in the past, the financial assistance authorized by the bill should be made available.

In order to administer the disaster loan provisions of sections 7(b)(1) and 7(b)(2) of the Small Business Act, the Small Business Administration has developed regulations and criteria for determining natural disaster assistance on the basis of physical damage to real and personal property not involved primarily with agricultural production. No specific regulations have been developed, however, for declaring a disaster on the basis of a physical disaster to those enterprises engaged in the production of food and fiber, ranching, and raising of livestock, and all other farming and agricultural related enterprises. Because the disaster relief provided herein will be available to these enterprises, SBA should develop, as soon as possible, regulations and criteria specifically defining a natural disaster both in terms of physical damage and economic injury to such agricultural enterprises under sections 7(b)(1) and 7(b)(2) of the Small Business Act and in terms of economic dislocation under section 7(b)(9).

#### 12. DISASTER LOAN INTEREST RATES

Reduces the interest rate on SBA physical disaster loans to homeowners to 1 percent on the first \$10,000 of the loan and 3 percent on the next \$30,000 of the loan. The interest rate on SBA physical disaster loans to others is reduced to 3 percent on the first \$250,000 and similar reductions are made in the FmHA disaster loan programs.

A corresponding reduction of the interest rate of 3 percent is also made on economic injury disaster loans to small businesses in amounts up to \$25,000.

All interest rate reductions apply to loans made as a result of disasters occurring between July 1, 1976 and October 1, 1978.

The SBA will be required to make adjustments in loans made prior to the date of enactment; however, it is intended that any excess interest which has already been paid on such loans can be applied as a credit against future payments; it does not need to be refunded.

Also, all repayments of principal shall first be applied to reduce the principal amount of lower interest rate loans and only then applied to reduce the principal of the balance of such loans.

#### 13. USE OF DISASTER LOAN PROCEEDS FOR HOME INSULATION

Authorizes SBA to increase the principal amount of a physical disaster loan by up to \$2,000 to cover the cost of insulating property—regardless of whether the building was insulated prior to the disaster. This is to avoid the literal interpretation of regulations allowing only "repair or replacement" which might prohibit rebuilding with insulation where none existed before the disaster.

This is a trial program which will expire January 1, 1978. It will then be evaluated based upon a report to be prepared by SBA.

#### 14. CERTIFICATE OF COMPETENCY

Authorizes the SBA to make all determinations regarding the responsibility of a small business concern to perform a specific Government contract. The term "responsibility" would include all criteria presently used by procurement officers. The bill also provides that a contract may not be withheld for any such reason without referring the matter to SBA for a determination. In addition, if the procurement officer believes that an otherwise qualified concern is in violation of the Walsh-Healey Public Contracts Act,

this finding must be referred to SBA which is given the authority to either dismiss the finding and direct the officer to award the contract, or if it concurs, submit the finding to the Department of Labor for final disposition. It does not, however, in any way change the requirements of this act; it merely provides for a more uniform application of them in all areas of the United States.

Finally, the bill provides that whenever SBA issues a certificate of competency, it shall be deemed conclusive and the contract awarded.

#### 15. SMALL BUSINESS SET-ASIDES

Provides that if the amount of a proposed small business set-aside contract is in excess of \$1 million (the maximum amount of a contract on which SBA may issue a surety bond guaranty), the contracting procurement agency should, to the extent practicable, divide the contract so as to reduce the dollar amount of each set-aside contract to less than \$1 million.

#### 16. PROCUREMENT ASSISTANCE FOR NONPROFIT ORGANIZATIONS

Authorizes public and private organizations and individuals who qualify for assistance under section 7(h) of the Small Business Act (handicapped assistance), to compete for small business procurement set-asides for a 1-year trial period during fiscal year 1978; such participation would be limited to the total value of 11 such contracts or any parts thereof in an aggregate amount not to exceed \$100 million. Also, SBA is directed to prepare and transmit by March 1, 1979, a report on the impact contracts awarded to such individuals and handicapped organizations have on the small business set-aside program.

#### 17. LABOR SURPLUS AREA SET-ASIDE CONTRACTS

Encourages the placement of contracts and subcontracts into the labor surplus area program. Where determinations are made that sufficient competition exists, Government contracting agencies may designate total set-asides of labor surplus area contracts.

First priority in the awarding of Government contracts would be given to total set-asides to small businesses in labor surplus areas. Second priority would be given to total set-asides for small businesses. Third priority would be given to partial set-asides for small businesses. Fourth priority would be given to total labor surplus area set-asides for large and small firms.

#### PROCUREMENT ASSISTANCE—LABOR SURPLUS PROGRAM

Mr. HATHAWAY. Mr. President, there is one provision of this bill which is of particular interest to me—section 502 which amends section 15 of the Small Business Act to stipulate that total labor surplus area set-asides are authorized notwithstanding any other provision of law, and that small business is to receive highest priority in the implementation of such set-asides.

As further background on the need for these provisions and the substantial benefit which will be realized by small business, I ask unanimous consent that the relevant excerpt from Senate Report No. 95-184 be printed in the RECORD at this point, along with portions of my testimony on June 2, before the House Small Business Committee.

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

#### TITLE IV—PROCUREMENT ASSISTANCE BACKGROUND ON LABOR SURPLUS SET-ASIDE SECTION

Section 2 of the Small Business Act stipulates as a declared policy of the Congress that

a "fair proportion of the total purchases and contracts or subcontracts for property and services for the Government . . . be placed with small business enterprises. . . ."

To implement this policy, section 15 of the act mandates that small businesses shall receive awards or contracts, or any parts thereof, whenever it is determined by SBA and the contracting procurement agency "(1) to be in the interest of maintaining or mobilizing the Nation's full productive capacity, (2) to be in the interest of war or national defense programs, or (3) to be in the interest of assuring that a fair proportion of the total purchases and contracts for property and services for the Government are placed with small business concerns. . . ."

This language is the statutory basis for the small business set-aside program by which contracts or parts of contracts are allocated for competition solely among small business concerns.

In fiscal year 1976, small businesses received approximately \$12.4 billion in procurement awards from both defense and civilian procurement agencies out of a total of approximately \$57 billion, or 22 percent. But of the \$12.4 billion awarded to small business, only \$3.19 billion were for set-asides.

Almost three-fourths of the aggregate value of procurement awards made to small firms, therefore, resulted not from set-aside procedures, but rather from small companies succeeding in open competition with large concerns. The net result was that small business set-asides constituted approximately 22 percent of the value of total procurement contracts awarded to smaller businesses and only 5.6 percent of overall Federal procurement.

The committee believes that in order to meet the requirements imposed by existing law, an increased number and proportion of contracts, with an increased aggregate value, should be subject to set-aside procedures. It is also the committee's conclusion that small firms should be assured a "fair proportion" of Federal procurement. An appropriate target goal should be a proportion equal to not less than the small business proportion of private employment in the economy of the United States. As of last year, this figure was approximately 55 percent. It is clear that there is a great need for expansion of contract set-asides to achieve this goal.

This bill specifically authorizes \$13 million for salaries and expenses for procurement assistance. These funds are to be used to employ an increased number of procurement officers to increase the number and total value of set-asides, and to develop a procurement data bank of small business concerns.

In order that these increased set-asides are awarded to those businesses which have the greatest need and could most benefit from such contracts, the committee feels it appropriate that priority be given to concerns which are located in areas of concentrated unemployment, underemployment, or labor surplus areas. In establishing this priority, the committee intends that there be greater coordination and interaction between the small business set-aside procedures and the set-aside procedures established pursuant to Defense Manpower Policy No. 4 (32A C.F.R. Part 8), the so-called Labor Surplus Policy. This policy, first made effective in 1952, applies to defense and civilian procurement and to large and small concerns.

Unfortunately, the Labor Surplus Policy has not been fully implemented and therefore remains largely dormant. In fiscal year 1975, labor surplus concerns received \$74.4 million or 0.19 percent in preference awards of prime contracts in excess of \$10,000 from the Department of Defense procurement

agencies. Expansion of this total would be of benefit to the small business sector since, in fiscal year 1975, these small businesses received approximately 77 percent of the DOD labor surplus preference awards. In the preceding fiscal year, the figure was 76 percent.

One of the principal reasons that the labor surplus program has not been adequately implemented is that under a General Accounting Office interpretation of existing law, labor surplus set-aside contracts must be split into two or more units. One of those units must be bid among all eligible firms to establish a competitive price. If Labor Surplus concerns can meet this price on the reserved portion of the contract, they are eligible to receive that portion as a labor surplus area set-aside.

While this procedure insures that the procurement agency receives a reasonable price on the total production run of the contract involved, it artificially restricts the number of contracts going into this program to contracts susceptible to being split into two production runs. It also ignores whether a reasonable price for the entire contract could be obtained from labor surplus area concerns.

#### SUMMARY OF LABOR SURPLUS SET-ASIDE SECTION

The Small Business Act is amended to authorize total labor surplus area set-asides if the head of the procurement agency involved "determines that there is a reasonable expectation that offers will be obtained from a sufficient number of eligible concerns so that awards will be made at reasonable prices."

The amendment requires that a contracting agency give highest priority to the setting aside of a total contract for performance by small business concerns eligible for labor surplus area contracts. If this is not feasible due to a lack of reasonable expectation that offers will be obtained from a sufficient number of eligible small business concerns, the contracting agency would then consider setting aside the entire contract to small firms regardless of their location. If this is not feasible, next consideration would be given to setting aside part of the contract for small business concerns regardless of location. Final consideration would be given to a total set-aside for large and small firms eligible for labor surplus area contracts.

#### TESTIMONY OF SENATOR WILLIAM D. HATHAWAY

Mr. Chairman, I regret that I am unable to testify in person before this hearing of your Subcommittee, but I am pleased to have the opportunity to submit written testimony.

First, I commend the distinguished Chairman and the members of the Subcommittee for holding these hearings on Defense Manpower Policy Number 4, the so-called Labor Surplus Policy.

This policy, first made effective in 1952, applies to both defense and civilian procurement and to large and small concerns. Generally, DMP-4 requires that priority be given to the awarding of contracts and to the placement of subcontracts to concerns which shall perform a substantial proportion of the production on those contracts and subcontracts within areas of concentrated unemployment or underemployment or within labor surplus areas.

Unfortunately, the Labor Surplus Policy has not been fully implemented and therefore remains largely dormant. In fiscal year 1975, labor surplus concerns received \$74.4 million or 0.19 percent in preference awards of prime contracts in excess of \$10,000 from the Department of Defense procurement agencies.

DMP-4 has been of considerable interest to me for a number of years and I am pleased that recently a number of other

Members of Congress and other elected officials throughout the country have shown a strong interest in making this program more workable.

One of the primary reasons that the Labor Surplus Program has not worked well is a provision of existing law, the Maybank Amendment, which has been included in every Defense Appropriation Act since 1953. This language states:

"No funds shall be used for the payment of a price differential on contracts made for the purpose of relieving economic dislocations."

This language has been interpreted by the General Accounting Office to apply to both defense and civilian procurement and to prohibit the setting-aside of a total contract for competition among labor surplus concerns. The GAO views the Maybank Amendment to mandate instead the splitting of all contracts otherwise eligible for DMP-4 into at least two production runs, one of which is open to competition among all firms, inside and outside labor surplus areas. Under the GAO interpretation, the open competition on one portion of the contract determines the highest price payable on the remaining portion of the contract to be set aside for labor surplus areas. This construction is based on the theory that the best price can only be obtained by an open competition among all sorts of firms and would not be obtainable under a total set-aside to labor surplus areas. Such a theory might have made some sense in times of low levels of unemployment where there were few qualifying labor surplus areas, but makes little sense today.

I might add that in 1953, when Senator Maybank first introduced his amendment, unemployment was only 3-percent. In a time of 7.3-percent unemployment when approximately 800 areas across the country were designated by the Secretary of Labor as having substantial unemployment in a count made a year ago, setting aside a Government contract for procurement among firms in these areas would surely yield a competitive price. Furthermore, the GAO interpretation which refuses to allow such a total set-aside severely limits the labor surplus area set-aside program's goal of helping alleviate localized severe unemployment. The time has come to change the statutory structure to allow total labor surplus set-asides and to eliminate the GAO's tortured construction to the Maybank amendment. I have attempted in each of the last three sessions of Congress to amend the Defense Appropriations Act to modify the Maybank Amendment to allow for total labor surplus area set-asides where the Secretary of Defense or his designee specifically determines that a reasonable price will result. The Senate has accepted these modifications each time, but the changes have been dropped in Conference, due apparently to concern over the impact which such a change might have upon small business set-aside programs.

It has been my belief that the Labor Surplus Program and the small business set-aside program were totally compatible and mutually complementary. But in order to ensure that the interests of small business are fully protected and enhanced in any altered structure, it is probably necessary to establish by statute a system of priorities for the implementation of the Labor Surplus Program which guarantees that small businesses located within labor surplus areas receive highest priority in the awarding of total labor surplus area set-asides, and that small businesses located elsewhere receive preferential treatment thereafter.

With this in mind, on April 25, 1977, I introduced S. 1380 which amends the DoD Appropriation Act and establishes a priority structure for the awarding of small business

and labor surplus area set-asides. This structure protects the interests of small business and ensures that it benefits from an expansion of the Labor Surplus Program.

Also, of particular interest to this Committee, included in Title IV of the Senate amendments to H.R. 692, the SBA Authorization bill, as approved by the Senate on May 19, are similar provisions which integrate the goals of the small business and labor surplus set-aside programs and mandate that total labor surplus set-asides occur notwithstanding the Maybank amendment or any other provision of law. I am hopeful that, based on the findings of today's hearings, these provisions will receive favorable consideration in the course of the upcoming Conference on the differing versions of H.R. 692.

Since I am unable to appear today to respond personally to any questions which Members of the Subcommittee might have, I would be pleased to respond subsequently to such questions.

Mr. HATHAWAY. Mr. President, as the author of these provisions, and as the primary proponent of implementation of Defense Manpower Policy No. 4, I am particularly gratified to see these provisions, which mandate that implementation, on the verge of being enacted into law.

I appreciated the cooperation and assistance I have received from the distinguished House conferees on this issue, particularly for the strong support of the Congressman from New York (Mr. ADDABBO) and of the Congressman from New York (Mr. LaFALCE).

#### OVERRIDES GAO INTERPRETATION OF MAYBANK AMENDMENT

These provisions, contained in new subsection (d) through (f) of section 15 of the Small Business Act, are especially important, because they will succeed in removing a substantial impediment to the implementation of DMP 4; namely, the Comptroller General's interpretation of the Maybank Amendment, as explained in the prior inserted material.

The Maybank language itself says nothing whatsoever about DMP 4, and the GAO construction seems to me to be tortured and patently unreasonable. Consequently, I have attempted in each of the last 3 years, and again this year to amend that portion of the DOD appropriations bill to state explicitly that total labor surplus set-asides are permissible under certain circumstances. The Senate on July 19 approved this change, and it is now pending in conference. In explanation of this change, I ask unanimous consent that the relevant portion of Senate Report 95-325 be printed in the RECORD at this point.

There being no objection, the excerpt from Senate Report No. 325 was ordered to be printed in the RECORD, as follows:

#### SECTION 823—"BUY AMERICA" PROVISIONS

The House included the "Buy America" provisions which were requested by the Administration in the Budget. The Committee recommends additional language in order to give the Secretary of Defense or his designee greater flexibility in awarding defense contracts under Defense Manpower Policy Number 4. Without this additional language, a GAO interpretation of the language in the House Bills, the so-called Maybank Amendment prohibiting the payment of price differentials on Defense contracts, restricts the flexibility of the Secretary of Defense in this area.

The additional language recommended by the Committee is very similar to that approved by the Senate during consideration of the fiscal year 1977 appropriation bill. The language is indicated by italics in the proviso:

*Provided further, That no funds herein appropriated shall be used for the payment of a price differential on contracts hereafter made for the purpose of relieving economic dislocations, except that nothing herein shall be construed to preclude total labor surplus area set-asides pursuant to Defense Manpower Policy No. 4 (32A. C.F.R. Chapter 1) or any successor policy if the Secretary or his designee specifically determines that there is a reasonable expectation that offers will be obtained from a sufficient number of eligible concerns so that awards will be made at reasonable prices.*

Mr. HATHAWAY. Mr. President, I am hopeful that this language will survive conference to underline the need for implementation of this policy.

But I point out that the language contained in section 502 of the pending measure makes the conferees' actions academic, since it clearly stipulates that, notwithstanding any other provision of law, total labor surplus set-asides are authorized.

Mr. President, I ask unanimous consent that new subsections (d) through (f) of section 15 of the Small Business Act, as contained in section 502 of the pending measure, be printed in the RECORD at this point.

There being no objection, subsections (d) through (f) were ordered to be printed in the RECORD, as follows:

"(d) For purposes of this section priority shall be given to the awarding of contracts and the placement of subcontracts to concerns which shall perform a substantial proportion of the production on those contracts and subcontracts within areas of concentrated unemployment or underemployment or within labor surplus areas. Notwithstanding any other provision of law, total labor surplus area set-asides pursuant to Defense Manpower Policy Number 4 (32A. C.F.R. Chapter 1) or any successor policy shall be authorized if the Secretary or his designee specifically determines that there is a reasonable expectation that offers will be obtained from a sufficient number of eligible concerns so that awards will be made at reasonable prices. As soon as practicable and to the extent possible, in determining labor surplus areas, consideration shall be given to those persons who would be available for employment were suitable employment available. Until such definition reflects such number, the present criteria of such policy shall govern.

"(e) In carrying out labor surplus area and small business set-aside programs, departments, agencies, and instrumentalities of the executive branch shall award contracts, and encourage the placement of subcontracts for procurement to the following in the manner and in the order stated:

"(1) Concerns which are located in labor surplus areas, and which are also small business concerns, on the basis of a total set-aside.

"(2) Concerns which are small business concerns on the basis of a total set-aside.

"(3) Concerns which are small business concerns, on the basis of a partial set-aside.

"(4) Concerns which are located in labor surplus areas on the basis of a total set-aside.

"(f) The provisions of subsections (d) and (e) shall cease to be effective subsequent to September 30, 1979, unless renewed prior to such date."

Mr. HATHAWAY. Mr. President, further, it is clear that, as I explained earlier, the language of Maybank was not, by itself, what prevented total labor surplus set-asides.

Rather, it was the judicial gloss placed on that language by the General Accounting Office.

The clear, unequivocal language in section 502 of the pending measure is not susceptible to any misinterpretations, and would require the GAO and all other Federal agencies concerned with procurement to alter their present policies to allow and implement total labor surplus set-asides.

Furthermore, the rules of the Senate support this conclusion, since rule 16 prevents any appropriation bill from containing legislative language.

DMP-4, established by Executive Order of the President in 1952, has the force of law. Section 502 of H.R. 692 will soon become law. Taken together, there can be no doubt that all of the procurement agencies must fully implement the labor surplus policy.

#### POTENTIAL IMPACT

The potential for this program is great indeed. The over \$60 billion in procurement contracts in our federal system can be directed, at no additional cost to the Government, to areas which need such work the most.

The potential savings in unemployment benefits, welfare payments, food stamps, and so on, from such a policy are enormous. Those individuals who are now unproductive and, through no fault of their own, a drain on our Federal, State, and local revenues, would become productive.

In this regard, Congressman LaFALCE chaired hearings of his House Small Business Subcommittee yesterday and heard testimony from two distinguished economists on this issue.

I ask unanimous consent that this testimony be printed in the RECORD at this point.

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

#### STATEMENT OF DAVID W. RASMUSSEN

After reviewing the Labor Surplus Policy the GAO concluded it is of questionable effectiveness. GAO recommended that Congress strengthen the policy by 1) giving it a statutory base, 2) placing it under one executive department that would focus on areas of persistent unemployment, and 3) providing for total labor surplus set asides if they are feasible. The alternative to these recommendations, according to GAO, is to rescind the policy. In agency comments there is support for each alternative.

In my comments today I would like to address three aspects of the Labor Surplus Policy. First, although the policy is not widely implemented, in some respects it appears more effective than GAO suggests. Second, I will discuss the role a Labor Surplus Policy can play to facilitate macroeconomic policies.

I will close with a few comments on the appropriate definition of a labor surplus area.

Effectiveness of the Labor Surplus Policy has been challenged because of a decline in disadvantaged hires from 1973 to 1976. Set aside procurement as a percentage of the total is small and declining. Despite this evidence, in some ways the Labor Surplus Policy is an effective program that should be strengthened rather than dismantled. Effectiveness of the existing program is best shown by performance ratios rather than absolute figures. Last year 25,900 of the 65,200 workers hired were disadvantaged—almost 40 percent of the total. Even more impressive is the dollar cost of each disadvantaged new hire. Set aside procurements of \$260.5 million generated 25,900 jobs—each job cost about \$10,000. That is impressive policy leverage and an effective response from the certified firms. If these firms provided the goods at competitive prices, from a social point of view these disadvantaged new hires met a social purpose without cost except for those of administration. Expansion of such a program could yield extraordinary results if these performance ratios can be maintained.

An important reason to support a stronger Labor Surplus Policy is its potential contribution to our national macroeconomic policy. Ever since the Employment Act of 1946 we have attempted to keep unemployment as low as possible while maintaining relatively stable prices. Successful policy manipulates the rate of economic growth so to achieve an acceptable balance between these primary employment and price level objectives.

To reach a target rate of unemployment, say 4 percent, we manipulate the rate of economic growth and live with the related changes in the price level. To increase the number of jobs in areas of persistent unemployment the rate of growth must be accelerated to the point that inflationary pressures occur in many labor market areas. Capacity in some industries is strained before some geographic areas feel the effects of increased economic activity. The Labor Surplus Policy is one way to raise the employment effects of a given rate of growth. It is an attempt to selectively raise employment in those areas which economic growth is last to reach. Such a policy lowers the amount of growth required to achieve any target rate of unemployment and therefore works to reduce inflationary pressures in the economy.

Some may view the Labor Surplus Policy as a zero sum game: that jobs created in areas of persistent unemployment will be lost in other areas. This is a misperception. In fact, the view presented above suggests that the entire nation receives some benefits from efforts to increase the number of jobs in high unemployment areas. If we take our commitment to full employment seriously, this policy will help produce conditions under which we can realize full employment in most labor markets with less inflation. Rather than having less than full employment in areas ineligible for the Surplus Labor Policy, they may suffer less inflation when they do have full employment. Monetary and fiscal policy can stimulate growth to generate full employment in most labor markets—these areas will not lose jobs because of the Labor Surplus Policy. In fact these regions benefit because the nation can reach full employment with less inflation. With a commitment to our stated goal of full employment, the Labor Surplus Policy does not rob Peter to pay Paul.

If the Labor Surplus Policy is used to supplement macroeconomic policy only areas in which unemployment is caused by long term factors should be eligible for the pro-

gram. Cyclical unemployment, no matter how long the business cycle is, should be attacked with macroeconomic tools. When 122 of 150 major labor markets qualify for the program as in 1975, macroeconomic policy has failed. The Labor Surplus Policy should not be the policy instrument to correct this shortcoming for it has neither the flexibility nor the impact of monetary and fiscal policies for this purpose.

To limit the Labor Surplus Policy to those areas with persistent unemployment is to have the program focus its efforts where it is best suited. Furthermore this might increase the program's effectiveness. Fewer eligible areas will concentrate expenditures and increase the number of jobs that any given area can expect to gain by participating in the program. The decline in participation from 1972 to 1976 is consistent with this interpretation; as more areas were eligible less effort in each area was made to take advantage of the now reduced expected benefits. Reducing the number of eligible areas will also reduce the problems of disseminating information about eligibility and program requirements.

In summary, I believe the Labor Surplus Policy should be strengthened instead of rescinded. The policy appears to be an effective way to increase disadvantaged hires and to stimulate employment in labor surplus areas. Expanded it could make a significant contribution to realizing our goal of full employment without unacceptable inflation.

#### TESTIMONY BY JAMES M. HOWELL

##### THE ROLE OF FEDERAL PROCUREMENT POLICIES IN COMBATING REGIONAL GROWTH DISPARITIES

Over the past decade and one half, I have had the opportunity to study the behavior of the national economy from two distinct vantage points. As an economist at the Federal Reserve Board and the United States Department of Commerce during the 1960's, I observed the formulation and implementation of national growth and employment programs and policies. As the Chief Economist of The First National Bank of Boston since 1971, I have witnessed the impact of national economic programming on the various regions of the country—especially among the economically mature Northeastern states. Throughout this relatively long period of research, I have developed a number of clear impressions about the effectiveness of Washington efforts directed at national economic development. Although I am tempted to elaborate these impressions in detail, it will be adequate to make the following observations:

"National economic policies are designed to achieve aggregate performance measures in growth, employment, and prices. As axiomatic as this may seem, it is important to always keep this narrow policy dimension in mind.

"These same national growth and employment policies simply fail to take into account the issue of regional growth disparities. Indeed, my distinct impressions are that the vast majority of economists who set national policies do not have much, if any, factual understanding of the structural dimensions to subregional economies—the very economic disparities that their policies should be designed to mitigate."

Together, these observations provide a departure point for examining why the Federal Government should pay more attention—serious attention in my opinion—to the issue of regional growth disparities and the

structural problems that prevent certain subregions from benefitting from national economic growth. What I find so encouraging about these hearings today is that we are considering the possibility of the broadening of Defense Manpower Policy No. 4 and whether such a broadening would alleviate the economic plight of lagging areas.

This is an important task, and as I go through my testimony I believe that it will be helpful to address two specific issues. First, we must begin to accept the fact that regional growth disparities are national in scope: that is, every region has both economically healthy and depressed communities within it. Second, our present level of economic understanding is sufficient to support the contention that a broadening of Defense Manpower Policy No. 4 will, in fact, assist the lagging communities. Yet, our current level of economic analysis—albeit increasingly sophisticated—should be strengthened to provide a more precise quantification of the local economic consequences of broadening Defense Manpower Policy No. 4.

In my testimony today I will elaborate these two points.

##### REGIONAL GROWTH DISPARITIES: A NATIONAL PROBLEM

In my numerous conversations with private and public sector leaders from all regions of the country, I frequently hear the following view expressed: national economic activity is now relatively evenly distributed throughout the country . . . there are high wages in the South as well as the North, and there has been a dramatic equalization of income and wealth among the various states. As commonly held as this view is, it is in sharp variance with statistical fact. Although there continues to be movement in the direction of regional income and employment equalization, this view masks the uneven pattern of income and wealth within subregions: pockets of distress may be found alongside pockets of affluence; communities experiencing rapid growth in population or income expansion exist alongside those suffering population loss and employment decline. For every Fairfield or Stamford, Connecticut has a Bridgeport or a Waterbury. For every Beaumont or Port Arthur, Texas has a Clear Creek or a Seabrook.

Over the past several years, the Economics Department has undertaken a number of research projects on national and regional economic growth patterns in an attempt to better understand these dynamics.\* In one of these studies we concentrated on economic change in the 3,064 counties of the United States in terms of a number of important statistical indicators, and I would like to comment on the significant portions of this investigation. To facilitate your understanding, I have included three of our county maps. The three accompanying maps are interesting in that they show the rate of change in economic activity, not the level of activity and, as such, provide valuable insights into the broad dynamic patterns of change—both growth as well as decline—in the country as a whole. On the accompanying maps, the relevant rates of change are expressed in quartiles.

The rationale for devoting attention to these changes of economic activity must not

\*This project was undertaken jointly with the Geography Department of Boston University because of its access to economic data at the county level for the 3,064 counties in the United States. In addition, its geographical computer programs allow this data to be plotted on maps.

be overlooked. It is essential to develop an understanding of the difference between the level of economic activity (a stock of housing) and changes in economic activity (variations in housing starts). That economic activity has shifted to the South in recent years explains in part why income, employment, and population are growing faster in this region, but it is also true that higher-wage, more sophisticated industries have remained in the Northeast and hence that market is still a large and high-income region, even though unemployment remains a major regional problem. In making regional economic policy assessments, it is always critically important to consider both of these factors for the following important reasons: income and unemployment have a tight relationship—the rate of change of income is strongly and negatively related to the change in the unemployment rate. A high-income area experiencing a long-term slowing in the rate of income growth is destined to suffer from long-term structural unemployment.

I want to concentrate on these maps because they are particularly relevant from an economic policy standpoint as well as the work of the Congress in its deliberations on Defense Manpower Policy #4. There are two critical conclusions to which this research and these maps inescapably point.

First, it is obvious, even from a casual glance, that economic change at this county level has followed a most uneven pattern in terms of population employment and share of manufacturing employment. Indeed, the checkered variation of the different rates of county change remind one of grandma's patchwork quilt. The key conclusion is that economic and demographic change has followed, and can be expected to continue to follow, a most irregular pattern. This is not to argue, however, that this pattern is random. Clearly, it is not, and if the principal locations of the county's cities were superimposed on these maps, the suburban dispersal of population and manufacturing activity among other well-known trends, would show through clearly. But what is so important about these uneven patterns to our testimony today is that underneath these actual changes, individual communities are experiencing growth and decline, often not knowing whether their success is the luck of the draw or whether their decline is attributable to poorly understood and rarely perceived locational factors. This is the "real world" dimension that is determined by economic dynamics, and, of course, strongly affects the locational decisions made by industry.

Second, it is clear that these maps, as well as the many others we have prepared and analyzed, provide considerable insights into the relative dynamics of economic change over the past decade. They do, however, possess a weakness in that it is difficult to estimate with any degree of precision the number of counties in which economic change is rising or falling absolutely. Because of the increase in national concern over regional growth disparities, this is an important question. To provide additional insight into this issue, I have prepared a series of special tables that show the number and percentage of counties in which there were absolute declines in economic activity during the various time periods. Each of these tables is organized in terms of the nine economic regions and similar statistical measures are clustered together.

## CHANGES IN POPULATION BY COUNTY

Region	Number of counties with absolute declines		Declining counties as a percent of total regional counties	
	1950-60	1960-70	1950-60	1960-70
New England.....	14	8	20.9	11.9
Middle Atlantic.....	32	33	21.3	22.0
East north-central.....	130	113	29.8	25.9
West north-central.....	401	410	64.9	65.3
South Atlantic.....	247	212	45.4	39.0
East south-central.....	252	165	69.2	45.3
West south-central.....	285	235	60.6	50.0
Mountain.....	123	141	43.8	50.2
Pacific.....	27	26	20.3	19.6
U.S. total.....	1,511	1,343	49.3	43.8

## CHANGES IN EMPLOYMENT AND THE MANUFACTURING SHARE

Region	Number of counties with absolute declines				Declining counties as a percent of total regional counties			
	All employment		Manufacturing share		All employment		Manufacturing share	
	1950-60	1960-70	1950-60	1960-70	1950-60	1960-70	1950-60	1960-70
New England.....	12	6	34	51	17.9	9.0	50.8	76.1
Middle Atlantic.....	41	16	63	97	27.3	10.7	42.0	64.7
East north-central.....	152	75	80	134	34.8	17.2	18.3	30.7
West north-central.....	451	364	80	144	73.0	58.9	12.9	23.3
South Atlantic.....	271	97	96	126	49.8	17.8	17.6	23.2
East south-central.....	239	100	21	39	65.7	27.5	5.8	10.7
West south-central.....	299	238	92	114	63.6	40.0	19.6	24.3
Mountain.....	136	118	80	125	48.4	42.0	28.5	44.5
Pacific.....	33	31	52	81	24.8	23.3	39.1	60.9
U.S. total.....	1,634	995	598	911	53.3	32.5	19.5	29.7

The data contained in these two tables should vividly remind us that demographic and economic decline are, in fact, a reality in our market economy.

Furthermore, it is important to keep in mind the fact that the increases in county employment themselves show wide variations over time. Shown in the tabulation below are the relative rates of change in employment that delineate the boundaries in the four quartiles.

Quartile	Percent change (in employment) by county			
	1950-60		1969-70	
I.....	-55.4	-12.6	-67.5	-3.4
II.....	-21.6	-1.8	-3.4	+8.2
III.....	-1.7	+11.8	+8.2	+20.3
IV.....	+11.8	+381.5	+20.3	+209.0

It will be appropriate to summarize at this point by saying that these two maps and their accompanying statistical tables provide considerable support to the view that regional growth disparities are national in their scope. Further, it is also important to point out that it is absolutely unreasonable economically to argue that, even during growth phases of the business cycle, all counties ought to experience satisfactory growth rates. In the final analysis, the hallmark of a market economy is growth and decline. Yet, recognition of this fact does not necessarily mean that we must do nothing from an economic policy standpoint.

## DESIGNING SPECIAL PROGRAMS TO ASSIST ECONOMICALLY LAGGING AREAS

I would like to shift our discussion to the issue of designing special programs to assist economically lagging areas. Over the past two decades, the Federal Government has developed a relatively large number of tools and programs to mitigate some of the adverse job aspects of economic change as well as to bring structurally lagging areas into the mainstream of our dynamically growing national economy. Whatever the form and the program goal, a critical assessment of the effectiveness of these programs would have to recognize that many have fallen short in alleviating their intended objectives. Clearly, this is not to say that they have been failures, and as a bank economist I am intimately aware of situations where local employment conditions were improved because of them.

This in itself is encouraging, but our central task today is to discuss the economic policy worthwhileness of broadening Defense Manpower Policy #4 as a tool to assist economically lagging areas, especially in terms of lowering their unemployment rates. We need not look deeply into Defense Manpower Policy #4 to know that revisions are required. The FY 1976 set-aside of \$260.5 million—or 0.39 percent—cannot be counted as any more than a token effort on the part of the Executive Branch to deal with subregional unemployment problems. The sheer insignificance of this level alone argues that it should be

expanded, but only if it can be efficiently allocated and managed.

Let me underscore at this point why changes in Federal Government procurement policy offer potentially substantial benefits to lagging communities. One of the central problems in lagging areas is the decline in private sector capital spending and job creation. The erosion of the private sector is largely attributable to the higher cost of doing business in these areas. A properly designed Federal procurement program can directly help private firms in economically deficient areas, and, therefore, contribute to the creation of private sector jobs.

Admittedly, there are trade-offs to be made in providing an expanded procurement set-aside: a certain amount of national efficiency is "traded" to achieve a certain amount of regional equity. But direct Federal procurement to private sector firms has important positive consequences that should be considered in the trade-off, but which often go unnoticed. For example, a healthy private sector invariably results in an improved municipal balance sheet and provides the wherewithal for "community dividends" (through increased taxes) that enable communities to pay for badly needed public services. At a time when many municipalities are experiencing substantial financial pressures, that is a dimension that must be taken into account.

Looking ahead, I would like to offer three criteria that I believe should be seriously considered to attain a more desirable labor market impact through a greatly expanded Federal procurement process:

"Federal procurement to assist lagging areas must achieve a greater level of sophistication in disaggregated targeting. This is far easier stated than done for it demands improved data collection on local labor markets because local labor market data is currently collected on the basis of SMSA's. For instance, we do not even have accurate employment rates for the nation's cities. The collection of regional and community data banks has lagged significantly behind the collection of appropriate statistical performance measurements for the national economy. During my years in the U.S. Department of Commerce, I was personally aware of the generally low priority that was accorded to regional economic research. Clearly, Congress should recognize that while additional research costs more money, it is certainly a worthwhile expenditure.

"At this point I would like to digress for a moment to make a strong appeal for the development of a new data collection and forecasting system for small business firms to help fulfill the statistical requirements of an expanded Federal procurement set-aside program. Undoubtedly, small business firms would be the major beneficiaries of a strengthened procurement set-aside program, for larger business firms are better able to compete in many different markets and do not face financial hardship with the weakening or the loss of a single or handful of product lines. It is thus especially appropri-

ate that this Subcommittee examine a mechanism to meet the small business data collection needs posed by a broadened procurement program.

"Federal procurement start-up must be implemented with triggers that are not only statistically reliable but that come into play with a certain amount of smoothness. In this context, I would strongly urge the Committee to spend some of its time debating the wisdom of continued reliance on the unemployment rate. Recent experience in determining the allocations under the Counter-Cyclical Public Works program certainly exposed the statistical weakness of this measure. At this writing, I can only say we are continuing to conduct a considerable amount of empirical research on the appropriate statistical formula and trigger variables. These limitations notwithstanding, one of the attractive features of this program is that it can be turned "on and off" depending on the availability of funds and local economic need.

"Finally, Federal procurement must face up to the issue of whether the policy goal of an expanded Defense Manpower Policy #4 program is to mitigate the unfavorable labor market consequences of cyclical or structural change. My own views on this matter are quite strong; namely, that properly targeted Federal procurement should be used to assist economically lagging regions overcome by structural adjustment problems. Furthermore, I believe that there should be a quid pro quo involved. Whatever the ultimate disposition of these hearings, without community self-help efforts Defense Manpower Policy #4 cannot become more than swing economic assistance. If Federal procurement policies are to be expanded—as I strongly urge—to assist areas experiencing structural unemployment, then the recipient community in which the targeted firms reside must begin to recognize that it has growth and development responsibilities to its local business and labor. So many times over the past seven years, I have witnessed community economic hardships that have resulted partly from negative community attitudes towards growth. Firms which benefit from targeted procurement policies must increasingly recognize their responsibilities to help community officials change these attitudes."

It will probably be helpful to summarize at this point by saying: (1) that regional growth disparities are a national problem; and, (2) that overhauling Defense Manpower Policy #4 must be done with a critical eye to making certain that disaggregated targeting is achieved smoothly and with the expectation of local community improvements. Recognizing these conditions, I would like to argue that a significantly expanded Federal procurement program—especially with set-asides ranging from at least 2-3 percent—can be an effective national economic policy tool to overcome a part of the economic adjustment problems in lagging areas. There are compelling reasons to support this conclusion. For the most part, serious discussions

about this issue fall under the general trade-off topic of achieving aggregate national efficiency vis-a-vis regional equity, a subject to which I have already briefly referred.

The Federal Government has long been in the business of income transfers—both through direct payments and through Federal grants—as a means of increasing balanced national income growth (efficiency) and regional equality (equity). What we are arguing today is just a variation of this widely accepted theme; namely, that Federal procurements should be made directly to firms in lagging areas to lower unemployment. There are several different community circumstances that may be directly affected by this policy.

First, there are the lagging areas with higher-than-average unemployment that have become economically stranded from the mainstream of the dynamically growing national economy through industry migrations and/or the realignment of a major government program. In the minds of many, these stranded communities are simply "down on their luck." The principal point for this Committee to keep in mind is that most of these economically stranded areas share one common dimension; namely, that there are few, if any, alternative economic growth opportunities. The root cause of the higher unemployment in these stranded communities results from a lack of labor mobility. Regrettably, this immobility is a near-permanent structure feature to national labor markets, and it is extremely doubtful that national job banks and other informational systems will promote more than just marginal changes in these labor markets. In this sense, a broadened Federal procurement policy, properly targeted, will likely ease the adjustment burden until new community planning options can be devised.

Second, there are those communities that experience high unemployment because of structural adjustment problems in only a portion of their industrial base. Although it is difficult to generalize, communities falling into this category are much larger and already integrated into the national economy. Yet scale unemployment problems can become acute in portions of the local labor market even alongside a sound and growing subregional economy. In this case, it should be clear that special external financial assistance can be very helpful in stabilizing the segment of the local labor market until such time as a new community industry-labor equilibrium can be reached.

These two real world situations must be addressed if our economy is to begin to enjoy a more equitable regional balance in national employment policies. When one argues in favor of income subsidies to achieve this goal, especially when they are made directly to the private sector, a counter-argument is frequently asserted that the Federal procurement set-asides do not really create any new jobs in the aggregate. Early on, in the use of Defense Manpower Policy No. 4, this argument was frequently underscored. Many contended that unemployment would be widely distributed among many communities and that changing procurement policies would merely shuffle employment from regions with high unemployment to ones with still higher unemployment. In my opinion, this reasoning is faulty in that it fails to take full account of the fact that labor markets are highly structured and quite inflexible. Whatever marginal adjustments are made in Federal procurement patterns, there will not likely be job losses associated with this pattern. The basis for this line of reasoning is that non-set-aside firms are most likely participating in multi-product, growing markets where there are opportunity costs in their participation in such a set-aside program, while set-aside firms (usually smaller in size)

are operating in labor markets that are institutionally limited with virtually zero opportunity costs. Realistically, I believe that we can safely conclude that this policy will not mean offsetting job gains with losses.

In closing, I would like to emphasize that a significant overhauling of Defense Manpower Policy No. 4 offers unique advantages for helping the private sector, and private sector job creation holds the key to the economic revitalization of lagging areas. There is, moreover, another reason why a high priority should be attached to a much larger procurement set-aside nationally: it provides an excellent opportunity to address regional growth disparities through the private sector and to join this policy tool with other Federal programming efforts to achieve regional balance within a national context. We have all witnessed a recent tendency to pit one section of the country against the other. As Chairman of the Council for Northeast Economic action—which is focusing on regional job creation, especially in older cities, via increased private sector capital spending—I personally consider regional economic sectionalism to be most unfortunate. National policymakers cannot hope to achieve national efficiency at the expense of any region. By expanding the amount of Federal procurement dollars spent in areas of high unemployment, regardless of region, the Administration can maximize the possibilities for growth and development in all regions of our country.

I hope today's hearings will constitute a step in that direction.

Mr. HATHAWAY. Mr. President, finally, there is one additional point I would like to address. In new section 15 (d) of the Small Business Act, it states that "if the Secretary or his designee specifically determines \* \* \*" In the version which passed the Senate, the operative phrase was "if the Secretary or head of the appropriate department \* \* \*" and so on. In drafting up the final language an effort was made to conform the conference report language with that in the DOD appropriation bill, and inadvertently, through a technical error, the words "head of the appropriate department" were omitted. They should be there and the legislative history should so indicate.

In this way it will be clear that this applies to all defense and civilian procurement agencies and entities, to the heads thereof, and to their subordinates.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I have no further need for time.

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

The PRESIDING OFFICER. Under the previous order, the Senator from Alaska (Mr. STEVENS) is recognized for not to exceed 15 minutes.

#### ORDER INDEFINITELY POSTPONING S. 1305

Mr. ROBERT C. BYRD. Mr. President, now that the conference report on H.R. 692 has been agreed to by the Senate and House, I ask unanimous consent that Calendar Order No. 114, S. 1305, be indefinitely postponed.

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

#### ORDER FOR THE RECOGNITION OF SENATOR HARRY F. BYRD, JR., AND SENATOR HANSEN ON MONDAY, AUGUST 1, 1977

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday, after the two leaders or their designees have been recognized under the standing order, Mr. HARRY F. BYRD, JR., and Mr. HANSEN be recognized each for not to exceed 15 minutes.

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

#### ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business.

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

#### MESSAGES FROM THE HOUSE

At 11:37 a.m., a message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that:

The House agrees to the amendment of the Senate to the bill (H.R. 5864) to approve with modifications certain proposed amendments to the Federal Rules of Criminal Procedure, to disapprove other such proposed amendments, and for other related purposes.

The House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 692) to amend the Small Business Act and the Small Business Investment Act of 1958 to increase loan authorization and surety bond guarantee authority, and to improve the disaster assistance, certificate of competency and Small Business set-aside programs.

The House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7558) making appropriations for Agriculture and related agencies programs for the fiscal year ending September 30, 1978, and for other purposes; the House recedes from its disagreement to the amendment of the Senate numbered 78 and concurs therein; and the House recedes from its disagreement to the amendments of the Senate numbered 2, 17, 71, 75, 91, 93, 98, and 99 and concurs therein, each with an amendment in which it requests the concurrence of the Senate.

#### ENROLLED BILL SIGNED

The Speaker has signed the following enrolled bill:

H.R. 7553. An act making appropriations for public works for water and power development and energy research for the fiscal year ending September 30, 1978, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore.

#### COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

EC-1735. A letter from the Secretary of the Treasury transmitting, pursuant to law, a report of a violation by the Finance and Analysis Branch of the Bureau of Government Financial Operations of Section 3679 of the Revised Statutes (31 U.S.C. 665) concerning an expenditure made prior to completing apportionment process with OMB; to the Committee on Appropriations.

EC-1736. A letter from the Secretary of Transportation transmitting, for the information of the Senate, a fact sheet concerning the feasibility, lifesaving capability and economics of automatic safety devices (with accompanying papers); to the Committee on Commerce, Science, and Transportation.

EC-1737. A letter from the Secretary of Agriculture transmitting, pursuant to law, a report on the enforcement of the Horse Protection Act for the period 1975-76 (with an accompanying report); to the Committee on Commerce, Science, and Transportation.

EC-1738. A letter from the Secretary of Health, Education, and Welfare transmitting a draft of proposed legislation to amend the Social Security Act to strengthen and improve the program of Federal support for foster home care of dependent children, to establish a program of Federal support to encourage adoptions of children with special needs, and for other purposes (with accompanying paper); to the Committee on Finance.

EC-1739. A letter from the Assistant Secretary for Congressional Relations of the Department of State transmitting, pursuant to law, a report on excess defense articles delivered to foreign governments in the second quarter of fiscal year 1977 (with an accompanying report); to the Committee on Foreign Relations.

EC-1740. A letter from the Deputy Administrator of the General Services Administration transmitting a draft of proposed legislation to amend chapter 53 of title 5, United States Code, to include the position of Commissioner, Automated Data and Telecommunications Service, General Services Administration, in level V of the Executive Schedule (with accompanying papers); to the Committee on Governmental Affairs.

EC-1741. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Summary of a Report: The National School Lunch Program—Is it Working?" (PAD-77-7) (with an accompanying report); to the Committee on Governmental Affairs.

EC-1742. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "The National School Lunch Program—Is it Working?" (PAD-77-8) (with an accompanying report); to the Committee on Governmental Affairs.

EC-1743. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "After Years of Effort, Accident Rates are still Unacceptably High in Mines Covered by the Federal Metal and Nonmetallic Mine Safety Act" (CED-77-103) (with an accompanying report); to the Committee on Governmental Affairs.

EC-1744. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "An Evaluation of the National Energy Plan" (EMD-77-48) (with an accompanying report); to the Committee on Governmental Affairs.

EC-1745. A letter from the Chairman of the Federal Election Commission transmitting, pursuant to law, a copy of correspondence which the Commission has sent to the Office of Management and Budget concerning revised employment ceilings for fiscal year 1977 and 1978 (with accompanying papers); to the Committee on Rules and Administration.

#### REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CANNON, from the Committee on Rules and Administration:

Without amendment:

S. Res. 232. An original resolution to pay a gratuity to Donald S. Towles.

By Mr. ABOUREZK, from the Select Committee on Indian Affairs:

Special report entitled "Allocation of Budget Totals From First Concurrent Resolution, Fiscal Year 1978" (Rept. No. 95-366).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation:

With an amendment:

S. 1750. A bill to amend the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act, as amended, to conduct studies concerning toxic and carcinogenic substances in foods, to conduct studies concerning saccharin, its impurities and toxicity and the health benefits, if any, resulting from the use of nonnutritive sweeteners including saccharin; to ban the Secretary of Health, Education, and Welfare from taking action with regard to saccharin for 18 months, and to add additional provisions to section 403 of the Federal Food, Drug, and Cosmetic Act, as amended, concerning misbranded foods (Rept. No. 95-369).

#### DEPARTMENT OF ENERGY ORGANIZATION ACT—CONFERENCE REPORT (REPT. NO. 95-367)

Mr. RIBICOFF submitted a report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 826) to establish a Department of Energy in the executive branch by the reorganization of energy functions within the Federal Government in order to secure effective management to assure a coordinated national energy policy, and for other purpose, which was ordered to be printed.

#### JUVENILE JUSTICE AMENDMENTS OF 1977—CONFERENCE REPORT (REPT. NO. 95-368)

Mr. CULVER submitted a report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6111) to amend the Juvenile Justice and Delinquency Prevention Act of 1974, and for other purposes, which was ordered to be printed.

#### EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. Williams, from the Committee on Human Resources:

Robert Nathaniel Smith, of Michigan, to be an Assistant Director of the Community Services Administration.

Robert Stern Landmann, of New Mexico,

to be an Assistant Director of the Community Services Administration.

Sar A. Levitan, of the District of Columbia, to be a member of the National Commission on Employment and Unemployment Statistics.

John B. Gabusi, of Arizona, to be an Assistant Director of the Community Services Administration.

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

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

Earle B. McLaughlin, of Vermont, to be U.S. marshal for the district of Vermont.

William B. Gray, of Vermont, to be U.S. attorney for the district of Vermont.

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

Harold L. Murphy, of Georgia, to be U.S. district judge for the northern district of Georgia.

#### 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. CURTIS:

S. 1930. A bill to amend title XX of the Social Security Act to provide for the reallocation on a pro rata basis of unused Federal funds for social services in any fiscal year to States which previously received an allotment which was insufficient to meet their needs;

S. 1931. A bill to amend title II of the Social Security Act to provide that widow's and widower's benefits shall be based upon the amount of the monthly benefit of the deceased individual in the case of a deceased individual who delayed his retirement; and

S. 1932. A bill to amend title IV of the Social Security Act to provide that payments made under the aid to families with dependent children program may be reduced in the case of a dependent child who lives in a home in which a relative not eligible for aid under such title is also residing; to the Committee on Finance.

By Mr. ANDERSON:

S. 1933. A bill for the relief of Anwar; and

S. 1934. A bill for the relief of Mrs. Harold R. Harter, Senior; to the Committee on the Judiciary.

By Mr. JACKSON (for himself, Mr. McCLURE, Mr. HART, Mr. HATFIELD, Mr. CULVER, Mr. CHURCH, Mr. DECONCINI, Mr. PACKWOOD, and Mr. CRANSTON):

S. 1935. A bill to amend Public Law 95-18, providing for emergency drought relief measures; to the Committee on Energy and Natural Resources.

By Mr. MAGNUSON (for himself and Mr. PEARSON) (by request):

S. 1936. A bill to amend the act of September 7, 1950 (relating to the construction of a public airport in or near the District of Columbia), to authorize arrests for offenses committed on lands acquired to provide access to the airport, and for other purposes; to the Committee on Commerce, Science, and Transportation.

S. 1937. A bill to amend section 1 of the act of June 5, 1920, as amended, to authorize the Secretary of Commerce to settle claims for damages of less than \$2,500 arising by reason of acts for which the National Oceanic and Atmospheric Administration shall be found to be responsible; to the Committee on Commerce, Science, and Transportation.

S. 1938. A bill to amend the National Weather Modification Policy Act of 1976 to extend the date for the submission of the report of the Secretary of Commerce on weather modification; to the Committee on Commerce, Science, and Transportation.

By Mr. GRAVEL (for himself, Mr. THURMOND, and Mr. MATSUNAGA):

S. 1939. A bill to amend the Internal Revenue Code of 1954 to provide that the U.S. Tax Court may issue a declaratory judgment with respect to the correctness of a precedential revenue ruling issued by the Secretary of the Treasury which modifies a revenue ruling issued at least 5 years earlier, and for other purposes; to the Committee on Finance.

By Mr. BENTSEN:

S. 1940. A bill to amend the Federal Meat Inspection Act to allow the interstate movement of all meat food products which are processed by federally inspected establishments and which are derived from meat which has been slaughtered or processed at certain State-inspected establishments; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. CHURCH:

S. 1941. A bill to authorize the Secretary of the Interior to initiate a rehabilitation and betterment program for the Post Falls irrigation district, Rathdrum Prairie Project, Idaho; to the Committee on Energy and Natural Resources.

By Mr. WILLIAMS:

S. 1942. A bill to encourage State and local governments to reform their real property tax systems so as to decrease the real property tax burden of low- and moderate-income individuals who have attained age 65; to the Committee on Finance.

By Mr. CURTIS:

S. 1943. A bill to provide that the Inspector General of the Department of Health, Education, and Welfare shall maintain a system of quality control with regard to payments made under the aid to families with dependent children program and the supplemental security income program; to the Committee on Finance.

S. 1944. A bill to amend title IV of the Social Security Act to authorize the Secretary of Health, Education, and Welfare to reduce Federal financial participation under the aid to families with dependent children program on account of excessive erroneous State payments; to the Committee on Finance.

S. 1945. A bill to require the Inspector General of the Department of Health, Education, and Welfare to compile data concerning cases of fraud under the aid to families with dependent children program, and the supplemental security income program; to the Committee on Finance.

S. 1946. A bill to amend part A of title IV of the Social Security Act to provide increased Federal matching funds for the investigation and prosecution of welfare fraud; to the Committee on Finance.

S. 1947. A bill to amend title IV of the Social Security Act to allow access to certain records for purposes of determining eligibility for aid under the aid to families with dependent children program and carrying out the provisions of part D of such title; to the Committee on Finance.

S. 1948. A bill to amend title IV of the Social Security Act to permit States to require, as a condition of eligibility, photo-identification cards for recipients of aid to families with dependent children and to provide 75% Federal matching funds for the

administrative costs thereof; to the Committee on Finance.

S. 1949. A bill to amend the Family Educational Rights and Privacy Act of 1974 to permit the release of information from education records to State agencies for use in establishing eligibility for aid under part A of title IV of the Social Security Act and the enforcement of child support obligations; to the Committee on Human Resources.

By Mr. MOYNIHAN:

S. 1950. A bill to protect communications among Americans from interception by foreign governments, and for other purposes; to the Committee on the Judiciary and the Committee on Foreign Relations, jointly, by unanimous consent.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JACKSON (for himself, Mr. MCCLURE, Mr. HART, Mr. HATFIELD, Mr. CULVER, Mr. CHURCH, Mr. DECONCINI, Mr. PACKWOOD, and Mr. CRANSTON):

S. 1935. A bill to amend Public Law 95-18, providing for emergency drought relief measures; to the Committee on Energy and Natural Resources.

Mr. JACKSON. Mr. President, I am pleased to join with the junior Senator from Idaho (Mr. MCCLURE) and other Western Senators in introducing legislation to amend the Drought Assistance Act of 1977—Public Law 95-18.

As my colleagues will recall, earlier this year the Senate acted with great dispatch in approving legislation to provide financial assistance to mitigate the adverse impacts of the drought which still persists in the Western States. On March 15, of this year, by a record vote of 92 to 0 the Senate approved S. 925, which provides certain temporary authorities to the Secretary of the Interior to undertake emergency drought related programs.

The hearing record and the report which accompanied S. 925 clearly indicated the many unknowns which confronted the drought program at that time. It was not known to what extent funds would be needed for specific drought-related programs. Because of those unknowns, the Senate version did not allocate the amount authorized to the various programs provided for in the measure. The final version of S. 925, which was signed into law by the President on April 7, contained House amendments which provided for an allocation of authorized funds to specific programs authorized by the bill and that is why amendatory language is now necessary.

The Bureau of Reclamation has informed me that a surplus of funds is available for the water bank program, but there is a shortage of funds for the facilities construction programs and related assistance to the States. The amendments we propose would provide that funds for which there are no demand could be used for the other programs authorized by the Public Law and would also extend the termination date of the programs, because of the time necessary for processing applications for assistance.

In that regard, I want to note that it has taken over 3½ months for the Department of the Interior and Department of Agriculture to prepare for the

receipt of loan applications by individual irrigators for assistance under the act. At this rate, by the time assistance is made available, the authorities under the act would expire and no assistance would be rendered to the victims of the drought. That is why it is necessary to extend the cutoff date.

Mr. President, I ask unanimous consent that a letter from Mr. Keith Higginson, Commissioner of the Bureau of Reclamation be placed in the RECORD at the conclusion of my remarks.

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

WASHINGTON, D.C.,  
June 30, 1977.

HON. HENRY M. JACKSON,  
U.S. Senate,  
Washington, D.C.

DEAR SENATOR JACKSON: This is in response to a telephone request from your office for a report regarding the use of funds authorized by the Emergency Drought Act of 1977, Public Law 95-18.

As you are aware, section 9 of the act authorized \$100 million to carry out the water purchase and redistribution program authorized by the act. That same section of the act designated 15 percent of the \$100 million to be available for carrying out other programs authorized by the act. We have interpreted this to mean that the section 1(a) and (c) studies authorized by the act would be performed with funds out of the 15 percent. Also, assistance to individual irrigators (section 8(a)) and Indian irrigation projects (section 1) for construction must be made from the 15 percent. A portion of the 15 percent could also be utilized in assisting in the construction activities of water user entities in regular Reclamation projects.

Section 10(c) of the act sets aside \$10 million of the authorized \$100 million for use in mitigating damage to fish and wildlife resources caused by the drought. Deducting the \$10 million and the \$15 million (15 percent) for other purposes authorized by the act leaves a residual of \$75 million available for the purchase and redistribution of water (water bank, section 2(a)).

Section 10(a) of the act extended the use of funds available under the Emergency Fund Act of June 26, 1948, to Small Reclamation Projects Act projects and to projects financed with non-Federal funds. Section 10(b) set aside 5 percent of the funds available under the 1948 act for use by State water resource agencies. Public Law 95-26 appropriated the \$100 million authorized by the Emergency Drought Act of 1977 and \$30 million to supplement the 1948 Emergency Fund Act. The \$30 million, together with \$2,356,161 already in the fund, made a total of \$32,356,161 available for use under sections 10(a) and (b) of the Emergency Drought Act of 1977 and for use on our regular Reclamation projects.

Enclosed is a tabulation of funds obligated under the various sections of the 1948 and 1977 acts, as of June 15, 1977. You will note that the \$15 million is completely obligated. Requests for funds for Indian projects alone exceeded the \$15 million. We have been advised by our regional offices that we can expect to receive additional requests in excess of \$20 million for construction of facilities which would be financed out of the funds available under the 1948 act. On this basis, we foresee insufficient fund availability under the 1948 act and in sections 1(a), 1(c), and 8(a) of the 1977 act.

If we can be of further assistance, please advise us.

Sincerely yours,  
R. KEITH HIGGINSON,  
Commissioner.



Entity, Region, Date Approved	Emergency Fund Act 1948	Sec. 10(a)(1) Sm. Recl. Projects	Sec. 10(a)(2) Non-Fed. Recl. Proj.	Sec. 10(b) State Grants	Sec. 8(a) Federal Recl. Proj.	Sec. 8(a) Indians	Sec. 8(a) Individual Irrigators	Sec. 10(c) Fish and Wildlife	Sec. 2(a) Water Bank	Sec. 1(a) and (c) Studies	Total
Tetsel Mutual Ditch Co.— Narrows Unit, Reg. LM— Colorado.			5 wells. \$50,000								50,000
Subtotal to date, 6-15-77.	\$9,175,160	\$1,283,400	\$564,000	\$501,000		\$10,000,000		\$3,004,825		\$45,000	24,573,385
Tentatively reserved funds.				\$1,117,000			\$4,000,000	\$7,995,677		\$955,000	14,067,677
Totals to date, 6-15-77.	\$9,175,160	\$1,283,400	\$564,000	\$1,618,000		10,000,000	4,000,000	7,995,677	\$3,004,825	\$1,000,000	38,641,062

Mr. McCLURE. Mr. President, the drought is still seriously affecting many of the Western States and this amendment today is to merely provide some flexibility within the Emergency Drought Act of 1977 so that moneys already appropriated can be redirected and utilized where they are most critically needed.

Under this act and the Urgent Supplemental Disaster Act of 1977, the Bureau of Reclamation was authorized and appropriated \$100 million to carry out drought activities; \$75 million for a water allocation program and the remaining amount to be divided between emergency conservation measures for irrigators, State programs, studies and fish and wildlife mitigation. Except for \$72 million of the water bank program, all money appropriated has been allocated under this act. The water bank program, unfortunately, was not implemented in time to be effective and almost \$72 million is locked into that program today. This amendment simply removes the authorizing limitations on the original \$100 million so that the unused \$72 million can be utilized by other programs under the act.

The amendment makes three minor changes in the Emergency Drought Act of 1977. It extends the dates of application for loans from September 30 to November 30, 1977, as well as extending the construction completion time to January 31, 1978. It authorizes the \$100 million to apply to all programs under the act and it strikes any limitation on funding to the States.

Some of the provisions that have been useful and should be continued include:

Loans for Federal irrigation projects under the Emergency Fund Act of 1948. These are for construction facilities for drought relief.

Loans to reclamation projects, including Indian projects and non-Federal projects, for construction and management activities to reduce losses and damages on the projects.

Loans for individual irrigators on projects for construction purposes and the water allocation program.

Fish and wildlife resources can receive up to \$10 million for mitigation.

States can receive aid for continuing drought programs under this act.

One of the most pertinent portions of the bill is the individual loan program for construction activities to mitigate effects of the drought. This was to have been a preventative program designed to lessen the severity of drought conditions affecting irrigated lands. It is deplorable

that almost \$72 million is still available because it was not implemented effectively and also that the individual loan program has never gotten off the ground. Senator JACKSON and I began in early May to direct the Bureau to carry out the intent of the act. The Secretary of Interior at the end of June admitted that the Bureau should be administering the program by granting individual loans to irrigators. To this day, I know of no individual in my State who has received any benefits under this portion of the act. Now with \$72 million available, this program can be implemented as first intended.

The Western States Regional Drought Action Task Force, chaired by Gov. Richard Lamm, Colorado, has cited the need for additional funds to assist the States in their administration of drought related programs under this act. They have been working with the Commissioner of Reclamation in exploring how these funds can be distributed among those States who have expressed a need. Because of the necessary haste involved in trying to get this money to the field, I believe it is wise to allow the Secretary to use his discretion as to the best allocation of these moneys to the States and the other programs. He has been working with the States since this appropriation first passed, but because of the limited amount of money available, \$1.6 million originally appropriated, many worthwhile State programs could not be implemented. Now, the remaining \$72 million must be available if we are going to have any further effect on implementing these established programs. I have a letter from Mr. Jack Barnett, on behalf of 21 western Governors, stating this need, which I ask unanimous consent to have printed in the RECORD.

My colleagues from the West know full well how the drought is continuing to prove devastating to many of our farmers and ranchers. The National Weather Service has just reported that the drought continues to have a firm grip on the Western United States and prospects for even temporary relief in the near future are grim.

This legislation is definitely needed to complete a job that we had set out to do earlier this year. We must redirect our efforts and hopefully in time to provide some of the necessary relief. We have already given the Bureau the authority, the money, more than ample time and patience. Now we are giving them more flexibility. It is our last chance to help those people we promised assistance to almost 5 dry months ago.

There being no objection, the letter

was ordered to be printed in the RECORD, as follows:

JULY 7, 1977.

HON. JAMES A. McCLURE,  
U.S. Senate,  
Washington, D.C.

DEAR SENATOR McCLURE: The states impacted by the drought, find that they are in need of additional funds to assist their efforts in the general administration of drought related programs, including programs authorized by the Congress. Further, there is a significant need within those states, for some monies which can be used with flexibility and discretion by state administrators in individual drought mitigation efforts.

The Regional Drought Action Task Force was created by the governors of 21 states, seriously impacted by the drought. The staff of the Task Force, and representatives of all 21 states involved, have examined the various needs of the states and have examined in detail, the availability of funds through federally authorized programs. We have learned that significantly large portions of the \$843 million proposed by the President for drought programs, cannot be effectively utilized in drought mitigation because of the time frame authorized by Congress. For example, P.L. 95-18, often referred to as the "Water Bank Bill," provides \$75 million for the purchase and sale of water rights. We have come to the conclusion that perhaps only \$3 million will be utilized for this purpose. The same Act, however, authorizes some funds to be allocated to the states to be used for general drought mitigation efforts. Only \$1.6 million was made available in Subsection 10(b) of the Act for the states to utilize at their discretion. States have already requested more than \$8 million, and the Commissioner of Reclamation is currently exploring how limited funds can be distributed among the many expressed needs. Because of the limited amount of money available, many worthwhile state programs were not identified nor funds requested for same, as states recognized the very limited financial resources available to them through this vehicle.

After reviewing, in detail, all possible sources of funds for direct state use, we have been advised by our legal counsel that P.L. 95-18 appears to be the most logical program available to the states as a source of additional funds. We have been further advised by the Commissioner of Reclamation, that solicitors for the federal government have indicated there is no flexibility within the Act to allow the Commissioner to transfer funds from the \$75 million allocation, to the state allocation.

Therefore, in behalf of the 21 state governors involved in the Regional Drought Action Task Force, I would urge that you examine the options available to the Congress to allow for the appropriation or re-allocation of funds to Subsection 10(b) of P.L. 95-18.

I can assure you that the impacts of the drought have already been felt by many citizens of the affected areas, and that

early projections of the impacts were fairly accurate and not overestimated. Your immediate help would be appreciated.

Sincerely,

JACK A. BARNETT,  
for  
RICHARD D. LAMM,  
Governor.

Following is a list of the Regional Drought Action Task Force States:

Arizona, California, Colorado, Hawaii, Idaho, Illinois, Iowa, Kansas, Montana, Minnesota, Nebraska, and Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming.

By Mr. MAGNUSON (for himself and Mr. PEARSON) (by request):

S. 1936. A bill to amend the act of September 7, 1950 (relating to the construction of a public airport in or near the District of Columbia), to authorize arrests for offenses committed on lands acquired to provide access to the airport, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. MAGNUSON. Mr. President, I introduce today, at the request of the Department of Transportation, and on behalf of myself and my colleague, Mr. PEARSON, a bill to amend the act of September 7, 1950—relating to the construction of a public airport in or near the District of Columbia—to authorize arrests for offenses committed on lands acquired to provide access to the airport, and for other purposes.

I ask unanimous consent that the text of the bill and the letter of transmittal be printed in the RECORD.

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

S. 1936

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 11 of the Act entitled "An Act to authorize the construction, protection, operation, and maintenance of a public airport in or in the vicinity of the District of Columbia," approved September 7, 1950 (64 Stat. 770, Ch. 905), is amended to read as follows:

"Sec. 11. As used in sections 4, 5, 6, 7, 8, 9, and 12, the word "airport" includes rights of way or easements for roads, trails, pipe lines, power lines, railroad spurs, and other similar facilities acquired and retained under section 3. Unless the context otherwise requires, the definitions of other words or phrases used in this Act shall be the definitions assigned to such words and phrases by the Federal Aviation Act of 1958, as amended."

THE SECRETARY OF TRANSPORTATION,  
Washington, D.C., July 1, 1977.

HON. WALTER F. MONDALE,  
President of the Senate,  
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed for introduction and referral to the appropriate committee is a draft bill

"To amend the Act of September 7, 1950 (relating to the construction of a public airport in or near the District of Columbia), to authorize arrests for offenses committed on lands acquired to provide access to the airport, and for other purposes."

The Act of September 7, 1950 (64 Stat. 770 as amended), authorized and directed the Administrator of the Federal Aviation

Agency to construct and operate a public airport within or in the vicinity of the District of Columbia. Under that authority, a site for the airport (subsequently named Dulles International Airport) was chosen at Chantilly, Virginia, and the FAA acquired lands for construction of the airport and for construction of an access highway connecting the airport terminal and United States route number 66. Concurrent jurisdiction over the lands acquired for the airport and these access road was accepted by the Federal Aviation Agency on behalf of the United States, and the airport was opened on November 17, 1962. Under the Department of Transportation Act, the functions, powers, and duties of the Administrator of the Federal Aviation Administration with respect to the administration of the airport were transferred to and vested in the Secretary of Transportation.

The Act provides that the Secretary shall have control over and responsibility for the care, operation, maintenance, improvement, and protection of the airport, together with the power to make and amend such rules and regulations as he may deem necessary for the proper exercise thereof. The Department considers the access road to be a part of the airport property and exercises the same degree of control over the care and protection of the highway as it does over the airfield itself. It maintains the highway, provides police protection along its course, and prescribes traffic and other regulations governing its use.

However, a case decided in December 1965 by the United States District Court for the Eastern District of Virginia ruled that an arrest on the Dulles access highway by an FAA airport police officer was improper. The arrest was made under section 8 of the Act. That section, in part, authorizes designated airport employees to make arrests within the limits of the airport. The Court concluded that in this case the point on the highway where the offense was committed was not "within the limits of the airport."

While we believe that the Dulles access road is within the limits of the airport, in order to forestall future questions regarding FAA's jurisdiction over this road, FAA resorted to having those law enforcement personnel assigned to Dulles deputized as Special Deputy U.S. Marshals by the U.S. Marshals Service, Department of Justice. This poses administrative problems since these individuals must be deputized on a recurring basis every six months.

We continue in the belief that Congress intended that the word "airport" in section 8 include federally-owned access roads, but due to the ruling of the Court in the above-mentioned case, we think that it is appropriate that Congress should reaffirm its original intent by amending the Act to clarify the definition of "airport" to preclude any future doubt as to its meaning. The proposed legislation would do that. It adds to section 11 of the Act a definition of the word "airport" providing that lands and interests in lands acquired and retained under section 3 of the Act for roads, pipe lines, power lines, railroad spurs and other similar facilities necessary or desirable for the construction or operation of the airport are considered to be a part of the airport.

A perfecting amendment has also been made to section 11 to replace an out-of-date reference to the Civil Aeronautics Act of 1938 with a reference to the Federal Aviation Act of 1958.

It is the judgment of the Department of Transportation, based on available information, that no significant environmental impact would result from the implementation of this legislation.

The Office of Management and Budget advises that there is no objection, from the

standpoint of the Administration's program, to the submission of this proposed legislation to the Congress.

Sincerely,

BROCK ADAMS.

Enclosure.

IMPACT OF LEGISLATION TO GRANT FAA AIRPORT POLICE OFFICERS ARREST AUTHORITY ON THE DULLES ACCESS HIGHWAY

(Dollar amounts in thousands)

Estimated savings	Fiscal year—				
	1977	1978	1979	1980	1981
Employee years.....	\$0.07	0.14	0.14	0.14	0.14
Budget authority.....	\$1.3	\$2.6	\$2.6	\$2.6	\$2.6
Outlays.....	\$1.3	2.6	2.6	2.6	2.6

<sup>1</sup> Assumes 1 of the 2 fiscal year 1977 deputization ceremonies will occur prior to enactment of this legislation.

Note: It is presently necessary to deputize Dulles airport police officers as special deputy U.S. marshals to provide them with arrest authority on the access highway. This is accomplished twice yearly, and requires payment of overtime to off-duty police officers reporting to duty for the ceremony. Savings will result from the elimination of this overtime.

By Mr. MAGNUSON (for himself and Mr. PEARSON) (by request):

S. 1937. A bill to amend section 1 of the act of June 5, 1920, as amended, to authorize the Secretary of Commerce to settle claims for damages of less than \$2,500 arising by reason of acts for which the National Oceanic and Atmospheric Administration shall be found to be responsible; to the Committee on Commerce, Science, and Transportation.

Mr. MAGNUSON. Mr. President, I introduce today, at the request of the Department of Commerce, and on behalf of myself and my colleague, Mr. PEARSON, a bill to amend section 1 of the act of June 5, 1920, as amended, to authorize the Secretary of Commerce to settle claims for damages of less than \$2,500 arising by reason of acts for which the National Oceanic and Atmospheric Administration shall be found to be responsible.

I ask unanimous consent that the text of the bill, the letter of transmittal, and the statement of purpose and need be printed in the RECORD.

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

S. 1937

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 1 of the Act of June 5, 1920, as amended (41 Stat. 929, as amended; 33 U.S.C. 853), is further amended to read as follows: "The Secretary of Commerce is authorized to consider, ascertain, adjust, and determine all claims for damages, where the amount of the claim does not exceed \$2,500, occasioned, subsequent to June 5, 1920, by acts for which the National Oceanic and Atmospheric Administration shall be found to be responsible."

#### STATEMENT OF PURPOSE AND NEED

Pursuant to Reorganization Plan No. 5 of 1950 (15 F.R. 3174, 64 Stat. 1263) and Reorganization Plan No. 2 of 1965 (30 F.R. 8819, 79 Stat. 1318), the Secretary of Commerce has the authority under 33 U.S.C. 853 to settle claims of up to \$500 arising by reason of acts for which the National Ocean Survey (formerly the Coast and Geodetic Survey) of the National Oceanic and Atmospheric Administration (NOAA) of the

Department of Commerce shall be found to be responsible. This authority does not extend to a negligent or wrongful act or omission of a Government employee acting within the scope of his employment which would already be covered under the Federal Tort Claims Act (28 U.S.C. 2671-80).

The purpose of this legislation is twofold. First, it would make clear that 33 U.S.C. 853 is applicable to all NOAA activities not merely National Ocean Survey activities. Second, it would increase the maximum dollar amount of authorized settlements from \$500 to \$2,500.

NOAA in its many diversified scientific endeavors and experiments often employs information gathering instruments that, absent any negligence, can cause damage exceeding \$500. However, the occurrence of non-negligent incidents with damages over \$500 is very infrequent. Nevertheless, when such an incident occurs, the cause of the damage is clear and the moral obligation to compensate is present. The usual administrative procedure is to settle such claims in excess of \$500 under the Federal Tort Claims Act (which has no dollar limitation) on the premise that color of negligence or omission can be found. Following this procedure is not satisfactory because an appropriate finding is difficult to reach and because such settlements establish undesirable precedents.

Some of the types of claims against NOAA that could be settled pursuant to the Secretary's increased power under this proposed legislation are those arising from: (1) weather instrument operations such as the radiosonde which is sent into the atmosphere by balloon and after reaching 5 or 6 miles bursts and returns to ground by parachute; (2) marine torts in domestic and foreign waters especially tearing up of lobster and fish nets during surveys; (3) damage to private property by triangulation and survey field parties; and (4) damage caused by breakway buoys.

Enactment of this proposal would facilitate administrative processes but would not require any increase in appropriations.

THE SECRETARY OF COMMERCE,  
Washington, D.C., July 6, 1977.

HON. WALTER F. MONDALE,  
President of the Senate,  
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed are six copies of a draft bill.

"To amend section 1 of the Act of June 5, 1920, as amended, to authorize the Secretary of Commerce to settle claims for damages of less than \$2,500 arising by reason of acts for which the National Oceanic and Atmospheric Administration shall be found to be responsible."

The Department has determined that this proposed legislation does not constitute a major proposal requiring preparation of an Economic Impact Statement under Executive Orders 11821 and 11949, and OMB Circular A-107.

We have been advised by the Office of Management and Budget that there would be no objection to the submission of our draft bill to the Congress from the standpoint of the Administration's program.

Sincerely,

JUANITA M. KREPS.

Enclosures.

By Mr. MAGNUSON (for himself and Mr. PEARSON) (by request):

S. 1938. A bill to amend the National Weather Modification Policy Act of 1976 to extend the date for the submission of the report of the Secretary of Commerce on weather modification; to the Committee on Commerce, Science, and Transportation.

Mr. MAGNUSON. Mr. President, I introduce today, at the request of the Department of Commerce, and on behalf of myself and my colleague, Mr. PEARSON, a bill to amend the National Weather Modification Policy Act of 1976 to extend the date for the submission of the report of the Secretary of Commerce on weather modification.

I ask unanimous consent that the text of the bill, the letter of transmittal, and the statement of purpose and need be printed in the RECORD.

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

S. 1938

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5(a) of the National Weather Modification Policy Act of 1976 (90 Stat. 2361; 15 U.S.C. § 330 note), is amended by striking the words "within 1 year after the date of enactment of this Act" and inserting in lieu thereof "by June 13, 1978."

THE SECRETARY OF COMMERCE,  
Washington, D.C., July 27, 1977.

HON. WALTER F. MONDALE,  
President of the Senate,  
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed are six copies of a draft bill.

"To amend the National Weather Modification Policy Act of 1976 to extend the date for the submission of the report of the Secretary of Commerce on weather modification."

together with a statement of purpose and need in support thereof.

The Department has determined that this proposed legislation does not constitute a major proposal requiring preparation of an Economic Impact Statement under Executive Orders 11821 and 11949, and OMB Circular A-107.

We have been advised by the Office of Management and Budget that there would be no objection to the submission of our draft bill to the Congress and further, that enactment would be consistent with the Administration's objectives.

Sincerely,

JUANITA M. KREPS.

Enclosures.

#### STATEMENT OF PURPOSE AND NEED

The Weather Modification Policy Act of 1976 (15 U.S.C. § 330 note) requires the Secretary of Commerce to conduct a comprehensive investigation and study of the state of scientific knowledge concerning weather modification, the present state of development of weather modification technology, problems impeding effective implementation of weather modification technology, and other related matters. Section 5(a) of the Act requires the Secretary to prepare and submit to the President and the Congress, within one year after the date of enactment (October 13, 1976), a final report of the findings, conclusions, and recommendations of the study. For the reasons set forth below, the time for submittal of the required report should be extended by eight months, from October 13, 1977 to June 13, 1978.

To carry out the requirements of the Act, the Secretary decided to establish a Weather Modification Advisory Board comprised of non-Federal members whose function would be to provide advice and recommendations to the Secretary and furnish necessary guidance for the study and report. The Secretary decided to establish such an advisory board after receiving letters from Members

of Congress, professional societies, scientists, and others concerned with the future of weather modification. Most of these letters stressed the need for establishment of an independent advisory group to help in the study and report. The actual decision to form an advisory board was predicated on section 5(b) of the Act which requires that the Secretary "solicit and consider the views of State agencies, private firms, institutions of higher learning, and other interested persons and governmental entities in the conduct of the study. . . ." The Secretary concluded that an advisory board was the best method to comply with section 5(a).

Setting up the board and selecting the best qualified representative membership while fully complying with the mandates of the Federal Advisory Committee Act (5 U.S.C. App. I) did, however, cause unavoidable delays in conducting the study. Further, during the five month administration transition period, problems arose in obtaining timely approvals for certain actions. Nevertheless, the time spent in establishing the board was not wasted. An outstanding chairperson and a well-balanced membership has been appointed. However, the time remaining till October 13, 1977, is too brief to permit adequate investigation and analysis of the extensive information associated with the study and the preparation of a definitive final report. This view is shared by many, both in and out of the Federal government.

This legislation would amend section 5(a) of the Act to provide the Secretary with an additional eight months to prepare and submit to the President and the Congress a final report on the findings, conclusions, and recommendations of the study required to be conducted by section 4 of the Act.

No additional requirement for funds beyond those requested in the President's FY 1977 Supplemental Budget Request, will be necessitated by this extension.

By Mr. GRAVEL (for himself, Mr. THURMOND, and Mr. MATSUNAGA):

S. 1939. A bill to amend the Internal Revenue Code of 1954 to provide that the U.S. Tax Court may issue a declaratory judgment with respect to the correctness of a precedential revenue ruling issued by the Secretary of the Treasury which modifies a revenue ruling issued at least 5 years earlier, and for other purposes; to the Committee on Finance.

Mr. GRAVEL. Mr. President, the legislation which I introduce today is designed to remedy a problem in the administration of our tax laws which has vexed taxpayers for many years. In the time I have spent on the Senate Finance Committee I have seen several examples on Internal Revenue Service administrative action which has caused difficult and unnecessary problems for taxpayers. I am sure that most of my colleagues are aware of the problem of which I speak, having been approached at different times by affected taxpayers. The problem to which this legislation is directed is the periodic revision by the Internal Revenue Service of long-standing interpretations of the tax law.

The Internal Revenue Service issues revenue rulings which interpret our tax laws. These rulings are intended for the guidance of taxpayers and IRS agents in the preparation and auditing of tax returns. These rulings do not have the force or authority of law. But, they do have far-ranging influence on the daily

operation of thousands of businesses in our country.

The Internal Revenue Service takes the position that revenue rulings are interpretive only and therefore subject to change at any time. The Service maintains that theoretically a ruling currently in effect reflects the law as it has always been. Of course, the concept of a ruling as correctly reflecting what the law has always been is a fiction since rulings are subject to change. Indeed, rulings are often revised as the Internal Revenue Service reinterprets the law in light of changing business climates and personnel. But, throughout this process, the revenue rulings which are current represent the Service's position as to the meaning of a particular tax law provision.

Now, since the IRS and taxpayers both rely on revenue rulings for the ordering of their affairs, a change in an existing ruling can have drastic consequences. If a taxpayer has built up a business based on existing interpretations of law and then those interpretations are revised, he may find himself suddenly out of business. Such an event has occurred recently and many of my colleagues have been approached by the affected taxpayers in the investment annuity industry. Now, I do not wish to speak here to the substance of the claim made by the investment annuity industry, but I would like to tell you something about how that industry came to seek congressional redress during the recent consideration of the Tax Reduction and Simplification Act of 1977.

In 1963 a new life insurance company was formed solely to offer investment annuities, a type of variable annuity. The company requested the IRS to rule whether the element of policyholder control of investments would cause investment income to be taxed to the policyholder or to the insurer. The company took the position that it should be taxed to the policyholder. The Service ruled that there was not sufficient investor control to require the income to be taxed to the investor and therefore the income would be taxed to the company. The decision was based on section 801(g) of the Internal Revenue Code.

The Service issued its original ruling in this area in 1965. Again in 1968 it published a ruling reaffirming the position established in 1965. The Service knew full well that investors and businessmen were basing daily decisions on these revenue rulings.

In reliance upon these rulings a significant new industry developed, the investment annuity industry. The investment annuity established itself in the market as a desirable investment on the part of many Americans. One company specializing in such annuities had over \$300 million in assets under its policies. On March 9, 1977 disaster struck. The Internal Revenue Service reversed itself on investment annuities. In revenue ruling 77-85 the IRS took the position that the income from the investment annuity was taxable to the policyholder rather than to the company.

This position is just the reverse of its original holding of 11 years standing. It

is a position which the Service rejected in 1965 when it issued its original ruling. Neither the facts nor the law had changed in the interim—the IRS had simply changed its bureaucratic mind.

The issuance of revenue ruling 77-85 completely and immediately stopped the sale of investment annuities. Agents were laid off, salesmen terminated, policyholders were left with investments of questionable value, and at least one company was faced with bankruptcy. The affected company sought to ameliorate the IRS decision first through conversations with the Service and then through action in Congress. We here in the Senate acted to give some relief to this beleaguered industry. We adopted an amendment to the Tax Reduction and Simplification Act of 1977 allowing a delay in the effective date of the ruling, but this amendment was dropped in conference. The investment annuities industry was left with no effective recourse in its disagreement with the Internal Revenue Service.

Why, you might ask, did the industry not take the IRS to court over this revenue ruling? It certainly could and I understand has now done so, but this does not solve the problem for the industry. Under the law as it now stands, even if the industry challenges the ruling it remains in effect until a court decision holds it to be invalid. It might take years for the affected taxpayer to receive redress through tax court proceedings. In the meantime the revenue ruling stands to prevent operation of the taxpayer's business. This is because an injunction against the IRS is specifically prohibited by a Federal statute, the Anti-Injunction Act.

Now, Mr. President, I am not here to champion the investment annuity industry or any other special interest. The investment annuity industry is not the only industry which has been adversely affected by a reversal of an Internal Revenue Service ruling. I was personally involved in the legislative solution to another revenue ruling reversal which affected the operators of private water companies. Some public utilities obtain a substantial portion of their capital needs through contributions in aid of construction from taxable income. Then in 1975 the IRS revoked the 1958 ruling in revenue ruling 75-557. The change in the IRS ruling increased substantially the taxes of those utilities which had treated contributions in aid of construction as nontaxable contributions to capital. These utilities had their taxes substantially increased by IRS reinterpretation of the law. But because they operated as regulated utilities, they would not be able to pass the cost of this increased tax through to their customers in a timely fashion. Since the utilities, like the investment annuities industry, could not obtain an injunction against the issuance of this new ruling, its only recourse was through the courts or the Congress. Unlike the investment annuities industry, the utilities were fortunate Congress responded to their plight and passed remedial legislation as part of the Tax Reform Act of 1976.

The two examples I have cited here are

not unique. The IRS constantly reviews revenue rulings and revises or reissues them. But, rulings of long standing are relied on by taxpayers and the Service alike, and by virtue of their age take on the color of law.

Mr. President, relief through the courts from an incorrect revenue ruling reversal is a time consuming and costly process. During the entire appeals process the challenged ruling remains in effect by virtue of the antiinjunction statutes. If the ruling reversal is a real threat to the taxpayer's business or investment, that business or investment may well have disappeared before legal redress is obtained. Victory for the taxpayer in court, if victory comes, may be a hollow and bitter experience when it comes too late to save his investment.

The legislative process provides limited redress to taxpayers. Indeed, the utilities industry found solace within the Congress and a solution to its problem. But, that is rare. If the ruling reversal affects only a small group, or a group without the financial resources necessary to wage a major legislative campaign, Congress may well turn a deaf ear to the taxpayer's problem. The bill I propose today, Mr. President, will provide taxpayers with redress through the courts while at the same time allowing him to continue in the pattern established by the Internal Revenue Service in earlier rulings until the courts have determined that the IRS reversal of position was well founded in law.

Mr. President, I would like to summarize this legislation for the Senate. The bill creates a new section of the Internal Revenue Code, section 7478. The section provides that in the case of an actual controversy involving a ruling by the IRS in which the IRS has reversed a published ruling of 5 years' standing or more, an affected taxpayer may file a suit for declaratory judgment with the Tax Court to determine whether the ruling is consistent with the Internal Revenue laws to which the ruling relates. I would emphasize, Mr. President, that this law only applies to reversals of rulings which have been IRS policy for 5 years or more. The bill also provides that when the IRS issues a ruling reversing, repealing, or revising a ruling of 5 years' standing or more, the new ruling may not be effective retroactively and may not become effective until 90 days from the day of publication. During the 90-day period any taxpayer directly affected may file a suit with the Tax Court. Filing suit in the Tax Court suspends the effective date of the ruling beyond the 90 days until a determination is made by the Tax Court and any appeal of that decision is final.

Some will argue that delaying the effective date of the challenged ruling will allow taxpayers affected by the ruling to operate under a fire sale approach, filing suit only to give themselves a few more months to market a tax shelter or avoid a tax. Mr. President, if that is necessary for justice to be done under our tax laws, so be it. However, I would point out that this legislation does not apply to the issuance of new rulings by the IRS. It does not apply to situations where the IRS has not had the opportunity to

act. Mr. President, this right of appeal with the delay of the effective date only applies where the Service, having acted in the past and established the precedent under which the taxpayer operates, then reverses its position for whatever reason. In the situation where the IRS reverses a long held position I think it only fair that the burden of proof regarding the correctness of its new position be carried by the Service before such a new position becomes effective.

And so, Mr. President, in conclusion I would like to say that I hope my colleagues here in the Senate will adopt this much needed correction in the balance between the power of the Government and the protection of our people. This bill will do a small part in helping to restore the faith of the American people in our system of raising revenues. It will, in its own small way, reconfirm that there is justice in America.

By Mr. BENTSEN:

S. 1940. A bill to amend the Federal Meat Inspection Act to allow the interstate movement of all meat food products which are processed by federally inspected establishments and which are derived from meat which has been slaughtered or processed at certain State-inspected establishments; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. BENTSEN. Mr. President, I am introducing to this body a bill which I feel is instrumental in protecting the small businessman's right to free trade. The businessman in this country has a time-honored position in our history books, yet unfortunately is often forced to bow to the intense pressure of his large competitors and close his doors. Compounding this serious problem is the ever-tightening grip of Government overregulation.

Our response to this plight should not be one which places artificial constraints in the path of big business. We also should take care not to grant unfair advantages to smaller-sized companies. However, it is the responsibility of this legislative body to assure that the small businessman is not deprived of his right to compete on equal terms under the law and thus lose his meaningful and important place in our society.

The meatpacking industry is characterized by firms that slaughter and process 5 or 10 animals a week to those that have thousands of animals pass through their plant each day. The various livestock producers, as well as the meat consumers, have needs which differ according to their size of operation. The small local meatpacking plant, which offers personal and often unique service is a necessary part of the industry. There are thousands of small plants across the United States, but in the last few years a great many have been forced to close. The problem is not poor management or lack of need for their service. Rather, the small meatpacking plants, that are usually State inspected, find that they have a limited market for their product. This limitation is not set up by competition in the field, but instead it is an artificial restriction created by law. State inspected meatpacking plants may sell

their product to a local wholesaler, a local retailer or to another State inspected plant. They cannot legally sell anything to a federally inspected plant for fear that it might become mixed with the Federal product. This restraint stands today even though those plants are certified by the U.S. Department of Agriculture as having standards at least as good as the Federal plants. The State plants thus have their markets unfairly restricted by Government regulation.

The declining number of packing plants has had, and will continue to have a significant negative effect on the cattle industry. This situation is restricting competition, reducing the ability of individuals to kill their own beef, and causing the disappearance of a vital service in small cities across the Nation. The State inspected plants are being unjustly treated and we must improve this situation. It is for this reason, Mr. President, that I am bringing this vital matter to the attention of the Senate. The Congress needs to assist small packers in reaching new markets for their product that have been unfairly denied them by the Government.

If passed, this bill would allow the State inspected meatpacking plants, that have been certified as being "at least equal to" the Federal plants, to sell their product to any federally inspected plant in their State. This will allow the smaller plants to sell partially processed meat to the big plants for further processing, and provide new outlets for meat byproducts as well as new sources of meat for the larger plants. It will increase competition throughout the industry and help put an end to the destruction of the smaller plants.

This is important, Mr. President, not only to the affected small businessmen, but to the cattle industry as a whole. By limiting the markets of the smaller, State inspected plants, we are reducing their economic efficiency and thus contributing to their demise. This in turn, increases the concentration of a few, large packing plants and results in lower competition. Many cattlemen are concerned about this situation and we in Congress should be concerned also.

Mr. President, it is a very real problem that this Nation is losing its smaller packing plants. It is a reality that Government regulation is contributing to the loss of these plants. We must act now to improve this situation. Consumer, cattleman, and packer alike will benefit from the increased competition.

By Mr. CHURCH:

S. 1941. A bill to authorize the Secretary of the Interior to initiate a rehabilitation and betterment program for the Post Falls irrigation district, Rathdrum Prairie project, Idaho; to the Committee on Energy and Natural Resources.

Mr. CHURCH. Mr. President, the Post Falls irrigation district at the Rathdrum Prairie project in Idaho services some 2,950 acres of irrigable land for its 362 farms and domestic water users. In 1976 the cash value of the croplands irrigated by this project amounted to some \$486,000 in wheat, barley, oats, hay, and pasture.

These croplands are irrigated with water pumped from the Spokane River by an irrigation system originally constructed in 1910 and badly in need of repair. For example, the pumping facilities which were installed in 1946 with used equipment, are frequently unreliable. Recently the switching mechanisms malfunctioned which curtailed delivery of water to parched croplands. Also, 2½ miles of the pipe delivering water within the system are constructed of wood. The leaking pipes directly hinder sound water conservation efforts by the district and result in poor and unreliable delivery of water to district users.

After these antiquated methods of water delivery were brought to my attention, the Commissioner of the Bureau of Reclamation informed me in February 1977 that—

Reclamation representatives recently inspected the project and agree that replacement or extensive rehabilitation of the lateral system is necessary in order to continue serving the irrigable lands. Some of the area is served from a wood-stave pipeline that was used in the original Hayden Lake operation. Also, several existing concrete pipe laterals under roads have collapsed as a result of the stress caused by heavy traffic.

Because the Post Falls project is a private development constructed by the Bureau of Reclamation under the Water Conservation and Utilization Act of 1939, specific congressional authorization is needed to rehabilitate the irrigation system. Therefore, I urge prompt consideration of this legislation which would allow the Secretary of the Interior to initiate a rehabilitation program for the Post Falls irrigation district, with the costs to be fully repaid to the Treasury.

By Mr. WILLIAMS:

S. 1942. A bill to encourage State and local governments to reform their real property tax systems so as to decrease the real property tax burden of low- and moderate-income individuals who have attained age 65; to the Committee on Finance.

PROPERTY TAX RELIEF ACT OF 1977

Mr. WILLIAMS. Mr. President, I am today introducing the Property Tax Relief Act of 1977 in order to relieve financial pressures for elderly homeowners and renters who live on modest incomes.

Over the last several years, the combined effects of recession and inflation have often left local governments with little choice but to impose heavier property tax burdens on their citizens as a means of meeting their budgetary requirements. From 1974 to 1976, property taxes climbed from \$49.3 billion to \$60.2 billion. During the last decade, property taxes have risen by an incredible 82 percent.

While all segments of our population have been hit by these tax increases, the heaviest burden have fallen on the elderly. Latest available estimates indicate that elderly citizens pay almost twice as much of their income in property taxes as do younger homeowners. In many instances, elderly homeowners have found that 40 percent or more of their incomes go for property taxes. The Senate Aging Committee has been made aware of the

plight of one individual whose property tax obligation amounted to 70 percent of the person's income which was substantially below the poverty level.

Elderly renters also suffer from rising property taxes, because as these taxes increase for landlords, they are most often passed on to tenants in the form of higher rent.

The legislation I am introducing today would bring relief to those elderly citizens who find that property taxes or rent are eating up their small incomes. My legislation would accomplish this goal by providing Federal financial assistance to those States which establish, or have already established, circuit-breaker systems of property tax relief. This Federal assistance would amount to one half of a jurisdiction's expenditures for property tax or rent relief for elderly citizens. Qualifying jurisdictions would have to meet the minimum standards for circuit-breaker systems of tax relief set forth in my bill, although they would be free to provide greater relief if they wished.

Under the circuit breaker system established by this legislation, elderly homeowners or renters would be eligible for tax relief payments once their property tax or rent obligations exceed a certain portion of their income. For homeowners earning \$3,000 a year or less, relief would be available when property taxes exceed 4 percent of income. This threshold would be increased by 1 percent for each \$1,000 increment of family income until it reaches 9 percent for households in the \$7,000 to \$8,000 range. Renters would be eligible for rent

relief when their rent rises above 25 percent of family income. Maximum tax relief payments would be \$750 for homeowners and \$500 for tenants.

As property taxes and rents continue their steady rise, the quality of life for a great many of our elderly citizens is eroding. This problem exists in large cities and small towns, and speedy action is necessary to halt this erosion. My Property Tax Relief Act would encourage the establishment of new circuit breaker systems of property tax and rent relief, as well as additional tax relief payments in those States where such systems already exist. Equally important, the legislation could be implemented without the need for complicated, cumbersome administrative procedures.

Mr. President, I believe that my legislation would enhance the ability of our elderly citizens to live out their lives in dignity and reasonable financial security, and I urge its speedy adoption. I ask unanimous consent that the text of this legislation be printed at this point in the RECORD.

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

S. 1942

*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 "Property Tax Relief Act of 1977".*

SEC. 2. DEFINITIONS.

For purposes of this Act—  
(1) The term "jurisdiction" means a State, a political subdivision of a State, and the District of Columbia.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Treasury.

(3) PERSONAL INCOME TAX.—The term "personal income tax" means a tax imposed by a jurisdiction on the income of individuals.

(4) REAL PROPERTY TAX.—The term "real property tax" means an ad valorem tax imposed by a jurisdiction on real property.

(5) QUALIFYING HEAD OF HOUSEHOLD.—The term "qualifying head of household" means an individual—

(A) who has attained age 65, and

(B) provides more than 50 percent of the support for the household which is his principal residence.

SEC. 3. REIMBURSEMENT TO JURISDICTIONS PROVIDING REAL PROPERTY TAX RELIEF TO LOW- AND MODERATE-INCOME OLDER INDIVIDUALS.

(a) ENTITLEMENT TO REIMBURSEMENT.—If the Secretary determines that a jurisdiction has established a qualifying real property tax relief program which meets the requirements of subsection (b), he shall reimburse such jurisdiction for one-half of the qualifying revenue losses attributable to such program (as determined under subsection (c)) sustained by it during each fiscal year.

(b) QUALIFYING REAL PROPERTY TAX RELIEF PROGRAM.—For purposes of this section—

(1) IN GENERAL.—The term "qualifying real property tax relief program" means a program established by law of a jurisdiction which provides for eligible households a credit against a personal income tax or real property tax imposed by the jurisdiction, or a rebate or other cash payment in lieu of such a credit.

(2) ELIGIBLE HOUSEHOLD.—The term "eligible household" means a household of a qualifying head of household if the direct tax burden or indirect tax burden, as the case may be, of such household exceeds the applicable amount determined under the following table:

If the household income is:	And the direct tax burden exceeds:	Or the indirect tax burden exceeds:
\$3,000 or less-----	4% of household income-----	25% of household income.
Over \$3,000 but not over \$4,000-----	\$120, plus 5% of household income over \$3,000.	25% of household income.
Over \$4,000 but not over \$5,000-----	\$170, plus 6% of household income over \$4,000.	25% of household income.
Over \$5,000 but not over \$6,000-----	\$230, plus 7% of household income over \$5,000.	25% of household income.
Over \$6,000 but not over \$7,000-----	\$300, plus 8% of household income over \$6,000.	25% of household income.
Over \$7,000 but not over \$8,000-----	\$380, plus 9% of household income over \$7,000.	25% of household income.

(3) HOUSEHOLD INCOME.—The term "household income" means the aggregate annual income of all individuals occupying the same household as their principal residence. For purposes of this paragraph, the term "income" means net income from whatever source derived and without regard to whether it is subject to the Federal individual income or the personal income tax of the jurisdiction in which the recipient resides.

(4) DIRECT TAX BURDEN.—The term "direct tax burden" means the amount of real property taxes imposed on the real property occupied as his principal residence by a qualifying head of household if such real property is owned, and such taxes are paid, by him or another member of the household.

(5) INDIRECT TAX BURDEN.—The term "indirect tax burden" means the amount of rent paid for occupancy of real property occupied as his principal residence by a qualifying head of household, if such rent is paid by him or another member of the household.

(c) QUALIFYING REVENUE LOSSES.—For purposes of this section, the qualifying revenue losses attributable to a qualifying real property tax relief program sustained by a

jurisdiction during a fiscal year is the sum of—

(1) the credits allowed during the fiscal year with respect to eligible households against a personal income tax or real property tax imposed by the jurisdiction, and

(2) the rebates and other cash payments made during the fiscal year with respect to eligible households under such program, but, with respect to any eligible household, only to the extent the amount of credit, rebate, or other payment does not exceed \$750, in the case of an eligible household which has a direct tax burden, or \$500 in the case of an eligible household which has an indirect tax burden.

SEC. 4. ADMINISTRATION.

(a) APPLICATION, ETC.—

(1) A jurisdiction which desires to qualify for payments under this Act shall make an application therefor at such time, in such manner and containing such information as the Secretary shall prescribe by regulations. Payments may be made to a jurisdiction only if its application is approved by the Secretary. The Secretary may not finally disapprove any application submitted under this

Act, or any modification thereof, without first affording the jurisdiction submitting the application reasonable notice and opportunity for a hearing.

(2) Whenever the Secretary, after reasonable notice and opportunity for a hearing to a jurisdiction which has had an application approved under paragraph (1), finds that such jurisdiction which has a qualifying property tax relief program, he shall notify such jurisdiction that it will not be eligible to receive payments under this Act until he is satisfied that the jurisdiction has a qualifying property tax relief program.

(b) JUDICIAL REVIEW.—

(1) If any jurisdiction is dissatisfied with the Secretary's final action with respect to the approval of its application submitted under subsection (a) (1) or with its final action under (a) (2), such jurisdiction may, within 60 days after notice of such action, file with the United States court of appeals for the circuit in which the jurisdiction is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on

which he based his action, as provided in section 2112 of title 28, United States Code.

(2) The finding of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(3) The court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1253 of title 28, United States Code.

(c) PAYMENT.—Payment of the amount to which a jurisdiction is entitled for a fiscal year shall be made at such time after the close of the fiscal year as the Secretary shall prescribe by regulations.

(d) FISCAL YEAR.—For purposes of determining eligibility for, and the amount of, payments to a jurisdiction under this Act, any reference in this Act to "fiscal year" shall be considered to be a reference to the annual accounting period of such jurisdiction.

(e) REGULATIONS AND GUIDELINES.—The Secretary shall prescribe such regulations as may be necessary to carry out this Act and such guidelines as may be necessary to enable jurisdictions to apply for and qualify for payments under this Act.

(f) This Act is not to be construed to discourage States from establishing a qualifying real property tax relief program which provides credits, rebates, or payments benefiting eligible households in excess of the qualifying limitations established under this Act.

#### SEC. 5. APPROPRIATIONS.

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

#### SEC. 6. EFFECTIVE DATE.

Payments may be made under this Act with respect to fiscal years beginning on or after January 1, 1976.

By Mr. CURTIS:

S. 1943. A bill to provide that the Inspector General of the Department of Health, Education, and Welfare shall maintain a system of quality control with regard to payments made under the aid to families with dependent children program and the supplemental security income program; to the Committee on Finance.

S. 1944. A bill to amend title IV of the Social Security Act to authorize the Secretary of Health, Education, and Welfare to reduce Federal financial participation under the aid to families with dependent children program on account of excessive erroneous State payments; to the Committee on Finance.

S. 1945. A bill to require the Inspector General of the Department of Health, Education, and Welfare to compile data concerning cases of fraud under the aid to families with dependent children program, and the supplemental security income program; to the Committee on Finance.

S. 1946. A bill to amend part A of title IV of the Social Security Act to provide increased Federal matching funds for the

investigation and prosecution of welfare fraud; to the Committee on Finance.

S. 1947. A bill to amend title IV of the Social Security Act to allow access to certain records for purposes of determining eligibility for aid under the aid to families with dependent children program and carrying out the provisions of part D of such title; to the Committee on Finance.

S. 1948. A bill to amend Title IV of the Social Security Act to permit States to require, as a condition of eligibility, photoidentification cards for recipients of aid to families with dependent children and to provide 75 percent Federal matching funds for the administrative costs thereof; to the Committee on Finance.

S. 1949. A bill to amend the Family Educational Rights and Privacy Act of 1974 to permit the release of information from education records to State agencies for use in establishing eligibility for aid under part A of title IV of the Social Security Act and the enforcement of child support obligations; to the Committee on Human Resources.

Mr. CURTIS. Mr. President, one of the most serious and compelling areas which cries out for improvement in the area of public assistance is that of quality control and fraud prevention. The ineligibility and overpayment rates in aid to families with dependent children are staggering, as are those in the related medicaid and food stamp programs. It is time that the Congress moves decisively to place the necessary mechanisms in the Social Security Act to strengthen what we do in this critical arena. Every dollar that is misspent, every dollar that is spent fraudulently, is a dollar that literally is robbed from needy persons in this country. Accordingly, I am today introducing a series of seven measures, on which I hope we will see early and swift approval by the committees as part of its consideration of welfare-related issues in its deliberations on H.R. 7200.

The seven measures, in brief, would: Place the quality control program for AFDC and SSI in the new Inspector General's Office in the Department of Health, Education, and Welfare;

Legislatively adopt tolerance levels for ineligibility and overpayments, with no Federal participation in amounts in excess of a 4 percent error rate;

Require the Inspector General to collect enumerated statistical data relative to the incidence of fraud and the various levels of administrative and legal actions relating to it;

Provide 75 percent Federal financial participation in the costs of investigation and prosecution of welfare fraud;

Authorize access to records of Federal, State, and local agencies, when necessary for the purpose of determining eligibility for AFDC and in locating absent parents, determining paternity, and establishing or enforcing child support obligations, accompanied by 75 percent Federal funding for the administrative costs of such activities;

Amend the Family Education Rights

and Privacy Act of 1974 to permit the release of information in education records without the written consent of parents to welfare and child support enforcement agencies, limited to that information essential to the establishment of AFDC eligibility or the establishment or enforcement of parental child support obligations; and

Permit States to require, as a condition of eligibility, photoidentification cards of AFDC recipients, with 75 percent Federal funding of administrative costs related thereto.

Mr. President and Members, the Subcommittee of Public Assistance, chaired by my distinguished colleague from New York, Mr. MOYNIHAN, has been receiving some most impressive and compelling testimony from a number of witnesses with regard to the need for the kind of quality control and fraud prevention steps incorporated in this legislation. I very much hope that the committee will move toward its speedy enactment.

I ask unanimous consent that the bills be printed in their entirety in the RECORD at this point.

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

#### S. 1943

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 203(a) of the Act of October 15, 1976 (Public Law 94-505), relating to the Office of Inspector General, is amended—*

(1) by striking out the word "and" at the end of paragraph (3);

(2) by striking out the period at the end of paragraph (4) and inserting in lieu thereof a semicolon and the word "and"; and

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

"(5) to maintain a quality control system to monitor case error rates in the Aid to Families with Dependent Children Program under title IV of the Social Security Act, and the Supplemental Security Income Program under title XVI of such Act."

Sec. 2. The amendment made by this Act shall be effective on January 1, 1978.

#### S. 1944

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That part A of title IV of the Social Security Act is amended by adding at the end thereof the following new section:*

"FEDERAL FINANCIAL PARTICIPATION IN RELATION TO ERRONEOUS STATE PAYMENTS

"SEC. 441. (a) The Secretary shall establish a system of quality control (as he may prescribe by regulation) within the Department of Health, Education, and Welfare, and may require that States having plans approved under this part provide for a continuing system of quality control (as prescribed by regulation). Data supplied by such State systems of quality control shall be made available to the Secretary.

"(b) There shall be excluded from Federal financial participation in payments under this part, that portion of a State's expenditures for ineligibility, represented by a case error rate in excess of 4 percent, and that portion of a State's expenditures for overpayments, represented by a case error rate in excess of 4 percent, during the six month period beginning January 1, 1978, and each six month period thereafter.

"(c) The case error rates for ineligibility and overpayments in excess of 4 percent shall be converted to dollar error rates in determining the amount to be excluded from Federal financial participation. The dollar error rates shall be applied to the Federal share of expenditures for assistance payments made during the six month period, excluding payment for emergency assistance (as defined in section 406(e)(1)), foster home care of dependent children under section 408, presumptive eligibility payments, and vendor payments as described in section 406(b)(2).

"(d) The amount to be excluded from Federal financial participation shall be based on error rates determined by the Secretary on the basis of State and Federal quality control data in a manner prescribed by the Secretary."

SEC. 2. Section 1108 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(c) In the case of Puerto Rico, the Virgin Islands and Guam, the provisions of section 411 of this Act shall also apply with respect to payments made under titles I, X, XIV, and XVI of this Act, except that the State expenditures, for ineligibility and overpayment in excess of the 4 percent level shall be excluded from Federal financial participation (under such titles and under part A of title IV) only to the extent that such excess is greater than the portion of State expenditures that is eligible for Federal financial participation but is not participated in on account of the limitations on Federal funds payable to such jurisdictions under this section."

SEC. 3. The amendments made by this Act shall be effective on January 1, 1978.

#### S. 1945

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 203 of the Act of October 15, 1976 (Public Law 94-505), relating to the Office of Inspector General, is amended by adding at the end thereof the following new subsection:*

"(e) The Inspector General shall compile statistical data relating to charges of fraud under the Aid to Families with Dependent Children Program and the Supplemental Security Income Program and shall make such data available to the Secretary and to the Congress. Such data shall be compiled so as to show, with regard to each program—

"(1) the number of alleged fraud cases, and the dollar amounts involved, which are under active investigation or awaiting investigation;

"(2) the number of cases of alleged fraud which were settled or decided by administrative action, including the type of administrative action involved, any penalties applied, and any repayments made in such cases;

"(3) the number of cases of alleged fraud which were referred for possible criminal prosecution, including the number of cases being actively prosecuted, the number awaiting prosecution, the number dismissed for insufficient evidence, and the number settled after referral for prosecution but prior to any final verdict of guilt or innocence (including any penalties applied and repayments made in such cases);

"(4) the number of such cases which were adjudicated with a final verdict of not guilty; and

"(5) the number of such cases which were adjudicated with a final verdict of guilty, including any penalties applied and repayments made in such cases."

SEC. 2. The amendment made by this Act shall be effective on January 1, 1978.

#### S. 1946

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

#### FEDERAL FINANCIAL PARTICIPATION IN THE INVESTIGATION AND PROSECUTION OF FRAUD

SECTION 1. Part A of Title IV of the Social Security Act is amended by adding at the end thereof the following new section:

#### "FEDERAL PARTICIPATION IN THE INVESTIGATION AND PROSECUTION OF FRAUD

"SEC. 411. (a) From the sums appropriated for expenditure under this title, the Secretary shall direct payment through the appropriate State agency to any State and/or political subdivision of a State an amount equal to 75 percent of the expenditures made by such State or political subdivision thereof for the investigation and prosecution of complaints of fraud.

(b) The Secretary shall prescribe the manner in which such Federal financial participation shall be claimed by such State or political subdivision."

SEC. 2. The amendments made by this Act shall become effective on January 1, 1978.

#### S. 1947

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 402(a) of the Social Security Act is amended—*

(1) by striking out the word "and" at the end of paragraph (27);

(2) by striking out the period at the end of paragraph (28) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraphs:

"(29) provide that any agent of the State, (or a political subdivision thereof) who is authorized under the State plan to make determinations with respect to the eligibility of individuals for aid or services under the plan, shall be authorized to have access to any records maintained by any State agency, or by an agency of any political subdivision of the State, which are necessary (as determined by the Secretary in regulations) for purposes of determining such eligibility, including payroll reports by employers for unemployment insurance purposes, payrolls of public agencies, State and local tax records, records of motor vehicle registrations and operator licenses, and public assistance records of agencies within the State; and

"(30) provide that the State will, in accordance with standards prescribed by the Secretary, cooperate with any other State in making available to such other State information from records which are required to be available under the provisions of paragraph (29), when such other State requires such information for purposes of determining eligibility for aid or services under a State plan approved under this part."

(b) Part A of title IV of such Act is amended by adding after section 410 the following new section:

#### "DISCLOSURE OF INFORMATION TO STATE AGENCY

"SEC. 411. (a) Notwithstanding any other provision of law, information contained in the records of any department, agency, or instrumentality of the United States shall be made available (upon request) to any agent of a State (or political subdivision thereof) who is authorized under a State plan approved under this part to make determinations with respect to the eligibility of individuals for aid or services under such State plan, if such information is necessary (as determined by the Secretary of Health, Education, and Welfare in regulations) in order to make such a determination.

"(b) The provisions of this section shall not apply with respect to any information the disclosure of which would contravene national policy or security interests of the United States, or the confidentiality of census data."

SEC. 2. Section 403(a)(3) of the Social Security Act is amended—

(1) by striking out the word "and" at the end of subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by adding after subparagraph (A) the following new subparagraph:

"(B) 75 percent of so much of such expenditures as are for the costs of making information available to other States as required by section 402(a)(30), and"

SEC. 3. (a)(1) Section 453(a) of the Social Security Act is amended by striking out all that follows the word "information" the first time it appears, and inserting in lieu thereof "with respect to any absent parent when such information is to be used for the purpose of locating such parent, establishing paternity, enforcing support obligations, or obtaining child support."

(2) Section 453(b) of such Act is amended by striking out "the most recent address and place of employment of any absent parent" and inserting in lieu thereof "information with respect to an absent parent".

(b) Section 454 of the Social Security Act is amended by redesignating paragraphs (9) through (13) as paragraphs (10) through (14) and inserting after paragraph (8) the following new paragraph:

"(9) provide that an authorized person as defined in section 453(c)(1) and (2) shall be authorized to have access to any records maintained by any State agency, or by an agency of any political subdivision of the State, which are necessary (as determined by the Secretary in regulations) for purposes of carrying out the provisions of this part, including payroll reports by employers for unemployment insurance purposes, payrolls of public agencies, State and local tax records, records of motor vehicle registrations and operator licenses, and public assistance records of other agencies within the State;"

(c) Section 454(10) of such Act, as redesignated by subsection (b) of this section, is amended—

(1) by striking out the word "and" at the end of subparagraph (C);

(2) by redesignating subparagraph (D) as subparagraph (E); and

(3) by inserting after subparagraph (C) the following new subparagraph:

"(D) in making available to such other State (in accordance with standards prescribed by the Secretary) information from records which are required to be available under the provisions of paragraph (9), when such other State requires such information for purposes of carrying out the provisions of this part; and"

SEC. 4. The amendments made by this Act shall be effective on January 1, 1978.

#### S. 1948

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

#### RECIPIENT IDENTIFICATION CARD

SEC. 1. Part A of Title IV of the Social Security Act is amended by adding at the end thereof the following new section:

#### "RECIPIENT IDENTIFICATION CARD

"SEC. 411. (a) Each State or political subdivision thereof administering programs under this title may require, as a condition of eligibility, that each household determined eligible for such programs be issued a card containing the signature and photo-

graph of the parent or caretaker of the family budget unit. Such identification card shall include, but not be limited to, the following items identifying the recipient:

- "(1) a photograph;
- "(2) name, address, and Social Security number;
- "(3) the State in which issued;
- "(4) the issuance and expiration dates;
- "(5) the programs for which the recipient is eligible; and
- "(6) other information required by the issuing agency.

"(b) From the sums appropriated for expenditure under this title, the Secretary shall direct payment through the appropriate State agency to any State and/or political subdivision of a State an amount equal to 75 per centum of the expenditures which may be made by such State or political subdivision thereof for the administrative costs of issuing photo-identification cards under the provisions of subsection (a) of this section."

Sec. 2. The amendments made by this Act shall become effective on January 1, 1978.

#### S. 1949

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 438 (b) (1) of the Family Educational Rights and Privacy Act of 1974 is amended—

- (1) by striking out the word "and" at the end of subparagraph (H);
- (2) by redesignating subparagraph (I), and all references thereto as subparagraph (J); and
- (3) by inserting after subparagraph (H) the following new subparagraph:

"(I) any State or local official who is authorized under a State plan approved under part A or part D of title IV of the Social Security Act to establish eligibility for the Aid to Families with Dependent Children Program under such title, or to seek to recover any amounts owed as child support, if the information sought is essential (as determined by the Secretary) to the establishment of such eligibility or the recovery of such child support;"

Sec. 2. The amendment made by this Act shall be effective on January 1, 1978.

#### By Mr. MOYNIHAN:

S. 1950. A bill to protect communications among Americans from interception by foreign governments, and for other purposes; to the Committee on the Judiciary and the Committee on Foreign Relations, jointly, by unanimous consent.

Mr. MOYNIHAN. Mr. President, at a press conference this morning, I announced that I would today introduce the Foreign Surveillance Prevention Act of 1977, a bill to protect communications among Americans from interception by foreign governments.

I ask unanimous consent that the text of the statement I made describing the bill and my reasons for introducing it, and the text of the bill itself, be printed in the RECORD.

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

#### S. 1950

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

SECTION 1. That this Act may be cited as the "Foreign Surveillance Prevention Act of 1977".

Sec. 2. The Congress finds that:

- (1) the widespread use of electronic surveillance and the interception of telecommunications by foreign governments pose a serious threat both to the national security

of the United States and to the rights of privacy and association guaranteed to Americans by the Constitution;

- (2) that such electronic intelligence activities by foreign governments have been, and are being, carried on under the guise of normal diplomatic relations with the United States; and

- (3) that the President of the United States, constitutionally charged with the conduct of the nation's foreign relations and with the protection of the Constitution of the United States, has the primary responsibility to protect the rights and interests of American citizens as they may be jeopardized by the electronic intelligence activities of foreign powers.

Sec. 3. Whenever the President of the United States has reason, based upon information in his possession, to believe that in any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States, any individual on whom diplomatic immunity has been conferred by the United States, is willfully engaging in electronic surveillance on behalf of a foreign power, the President shall:

- a. so inform the Chairman and Ranking Minority member, or, in his discretion, the members of, the Committee on the Judiciary of the House of Representatives, the Committee on the Judiciary of the Senate, the Select Committee on Intelligence of the Senate, and the Select Committee on Intelligence of the House of Representatives;

- b. so inform those persons, if any, reasonably believed to be particular targets of such surveillance in order that they may take such precautions as they consider advisable, unless he shall determine that to do so would seriously compromise sources or methods of intelligence gathering by the United States;

- c. so inform the Ambassador or Chargé d'Affaires or other representative of such foreign power, and shall demand that such foreign power immediately cease such surveillance, unless he shall determine that to do so would seriously compromise sources or methods of intelligence gathering by the United States; and,

- d. thirty days after such demand is made, if the electronic surveillance has not ceased, declare such individual to be persona non grata in the United States, and shall demand that he leave the United States immediately, unless the President shall determine that to do so would cause serious damage to the national security of the United States.

Sec. 4. Definitions.

As used in this Act—

- (a) "Electronic surveillance" means the interception of wire or radio communications through the use of any electronic, mechanical, or other device.

- (b) "wire or radio communication" means any communication made in whole or in part through the use of facilities for the transmission of communications by the aid of wire, radio, cable, or other like connection between the point of origin and the point of reception furnished or operated by any person engaged as a common carrier in providing or operating such facilities for the transmission of interstate or foreign communications.

- (c) "person" means any individual, partnership, association, joint stock company, trust, or corporation.

- (d) "electronic, mechanical, or other device" means any device or apparatus which can be used to intercept a wire or radio communication other than any telephone or telegraph instrument, equipment or facility, or any component thereof, furnished to the subscriber or user by a communications common carrier in the ordinary course of its business and being used by the subscriber or user in the ordinary course of its business.

- (e) "Foreign power" means—

- (i) a foreign government or any component thereof, whether or not recognized by the United States;

- (ii) a faction of a foreign nation or nations, not substantially composed of United States persons;

- (iii) an entity, which is openly acknowledged by a foreign government or governments to be directed and controlled by such foreign government or governments;

- (iv) a foreign-based political organization, not substantially composed of United States persons; or

- (v) an entity which is directed and controlled by a foreign government or governments.

- (f) "Common carrier" shall have the same meaning which is given the term by section 153(h) of Title 47 of the United States Code.

#### STATEMENT BY SENATOR DANIEL PATRICK MOYNIHAN ON INTRODUCING THE FOREIGN SURVEILLANCE PREVENTION ACT

For some years now, we have been concerned with the manner in which sophisticated electronic technology threatens the traditional right to privacy guaranteed Americans by the Constitution of the United States. Our Constitution, of course, instructs the government that certain fundamental rights cannot be infringed. Moreover, it provides that the government, in effect, must restrict the actions of one citizen which have the effect of denying another his basic rights.

As a member of the Select Committee on Intelligence, I have been drawn to the matter of how the gathering of intelligence information by our government—especially by electronic means—may infringe upon individual rights. Our Committee now has before it legislation which establishes procedures and safeguards for the American government to follow whenever it seeks to protect the country from foreign espionage. The premise of such legislation is obvious: that, in the process of protecting the nation's security, we must not at the same time abuse the rights of the citizens we seek to protect.

The record is clear on this point: intelligence agencies of this government have, in the past, acted improperly, and individual citizens have suffered thereby.

But the matter cannot rest here. For the violation of privacy by electronic means, the use of sophisticated electronics equipment to intercept telephone calls, data transmissions, and the like has become a major enterprise of the principal totalitarian government in the world, that of the Soviet Union. Through the use of machinery installed at its diplomatic missions around the United States—in New York, in Washington, D.C., in San Francisco—Soviet espionage services have eavesdropped on "hundreds of thousands, even millions" of Americans (so the Chicago Tribune reported in June of 1975) and have presumably used the information gained thereby to advance the national interests of the Soviet Union. Private communications of all sorts have been violated—and on a scale that dwarfs any previous surveillance effort by friend or foe alike.

Yet a curious—even eerie—unwillingness exists to confront not merely the dimensions of the problem, but also to imagine that we in the United States can do anything about this! I have stated that I regard it as the responsibility of the government of the United States to protect the right of privacy of all citizens, regardless of whether the threat comes from our own government or foreign governments. I believe that the Fourth Amendment to the Constitution, which protects the right to privacy, is under assault by foreign powers, and that it is time for the U.S. Government to do something about it.

Now that the question of massive Soviet eavesdropping has come to the fore once again—for the third time in the past two years—I can say that it is bewildering that the government of the United States re-

fuses to acknowledge its responsibilities in this matter. It refuses to say either to the American people—or to the Soviet Union, so far as we know—that Soviet eavesdropping is unacceptable, that it must cease, that it is a crime under American law, that it will not be permitted by us—even if the perpetrators of that crime happen to enjoy diplomatic immunity. To be sure, we cannot arrest and prosecute foreign diplomats. But we can tell them to leave the United States if they persist in ignoring our representations on this question.

It is time to end the massive pattern of avoidance, which enables us to ignore the reality of Soviet illegalities, of Soviet efforts to deprive American citizens of their fundamental rights on our own soil.

Frankly, I would not have thought it necessary to introduce legislation that would speak directly to this point. I had thought that the government would of its own initiative act to protect the Fourth Amendment rights of American citizens. I found, however, that the government took another view. Mr. Anthony Lapham, General Counsel of the Central Intelligence Agency, at a hearing of the Senate's Select Committee on Intelligence held on July 20, 1977, replied to my question on this point that, "As much as we would like to think that the Fourth Amendment applies to the Soviet Union, I do not think the Constitution supports you on that."

Fair enough, the Fourth Amendment restricts the powers of the American government only. Yet this observation should be but the beginning, and not the end, of our government's response to Soviet wiretapping. For the Fourth Amendment grows out of a conviction that the rights of man are natural rights, and are to be protected from all enemies—"foreign and domestic"—as the well-known phrase of our Constitutional oath has it.

Accordingly, as the government seemingly cannot find a Constitutionally-compelled responsibility to deal with the implications of foreign electronic surveillance of American citizens, I am offering legislation which would establish a specific legal requirement for the government to do so. The bill I shall introduce today will establish three requirements for dealing with this situation. First, the President will be obliged to inform individual citizens whenever he learns that there are reasonable grounds for believing that they are targets of foreign electronic surveillance. Second, he will be obliged to inform the Intelligence and Judiciary Committees of the House and Senate that such foreign electronic surveillance is underway. Third, he will be obliged to inform the offending foreign power that its actions are illegal under American law and that such actions should cease.

Finally, the President is enjoined to expel from the United States those foreign agents engaged in such activity and possessing diplomatic immunity, should they persist in such actions. The bill is carefully drawn and its definitions are clearly formulated, and are based largely on the law which makes wiretapping a crime when an American engages in it. The bill also contains adequate safeguards both for the sources and methods of U.S. intelligence and for the general foreign relations of the United States.

The principle here is simple: so far as electronic surveillance is concerned our law defines what Americans cannot do to each other; it is time for a law which says what foreign governments cannot do to us.

I cannot stress too strongly that modern technology has given to foreign espionage a new dimension which needs to be understood in this country. The targets of Soviet interception of telephone communications now include our businesses, our banks, our brokerage houses, as frequently as our government agencies. Soviet espionage seeks to

penetrate into other aspects of American life—commercial, intellectual, political—as much as it seeks illegal entry into the councils of governments. This is precisely why the problem is now one of interest to all Americans in their daily lives—not an abstract problem for intelligence operatives in trench coats.

The legislation I propose will bring our consideration of the threat to privacy into better balance; it will alert Americans to the scope of foreign activities directed against our country. It will provide clear and unambiguous statutory authority to aid the President of the United States in his solemn responsibility—the defense of the Constitution of the United States.

Mr. ROBERT C. BYRD subsequently said:

Mr. President, I ask unanimous consent that a bill introduced earlier by the Senator from New York (Mr. MOYNIHAN), to protect communications among Americans from interception by foreign governments, and for other purposes, be jointly referred to the Committee on Foreign Relations and Judiciary.

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

#### ADDITIONAL COSPONSORS

S. 528

At the request of Mr. WILLIAMS, the Senator from West Virginia (Mr. RANDOLPH) was added as a cosponsor of S. 528, relating to collective bargaining contracts.

S. 991

At the request of Mr. RIBICOFF, the Senator from New Jersey (Mr. CASE) was added as a cosponsor of S. 991, to establish a separate Department of Education, and for other purposes.

S. 1140

At the request of Mr. HART, the Senator from Maryland (Mr. MATHIAS) was added as a cosponsor of S. 1140, the Federal Aid in Nongame Fish and Wildlife Conservation Act.

S. 1214

At the request of Mr. ABOUREZK, the Senator from Colorado (Mr. HASKELL) was added as a cosponsor of S. 1214, the Indian Child Welfare Act.

S. 1353

At the request of Mr. THURMOND, the Senator from Michigan (Mr. RIEGLE) was added as a cosponsor of S. 1353, to amend chapter 81 of title 28, United States Code.

S. 1629

At the request of Mr. LAXALT, the Senator from Nebraska (Mr. CURTIS), the Senator from North Carolina (Mr. HELMS), the Senator from Arizona (Mr. GOLDWATER), and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors to S. 1629, a bill to preserve and protect the free choice of individual employees to form, join, or assist labor organizations, or to refrain from such activities.

S. 1636

At the request of Mr. ABOUREZK, the Senator from California (Mr. CRANSTON) was added as a cosponsor of S. 1636, to extend the authorization for the American Folklife Center in the Library of Congress.

S. 1711

At the request of Mr. LAXALT, the Senators from Nebraska (Mr. CURTIS and Mr. ZORINSKY), the Senator from Idaho (Mr. McCLURE), the Senator from Pennsylvania (Mr. SCHWEIKER), and the Senator from Wyoming (Mr. HANSEN) were added as cosponsors to S. 1711, a bill to amend title XVI of the Social Security Act to provide that an alien may not qualify for supplemental security income benefits unless he not only is a permanent resident of the United States but has also continuously resided in the United States for at least 5 years.

S. 1899

At the request of Mr. JAVITS, the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Maine (Mr. HATHAWAY), and the Senator from Connecticut (Mr. WEICKER) were added as cosponsors of S. 1899, the veterans' GI bill tuition equalizer measure.

SENATE RESOLUTION 114

At the request of Mr. ANDERSON, the Senator from Florida (Mr. CHILES) was added as a cosponsor of Senate Resolution 114, relating to telecommunications policies of the Federal Government.

SENATE RESOLUTION 219

At the request of Mr. ROTH, the Senator from Missouri (Mr. DANFORTH), the Senator from New Mexico (Mr. DOMENICI), the Senator from Oregon (Mr. HATFIELD), the Senator from Ohio (Mr. METZENBAUM), and the Senator from Rhode Island (Mr. PELL) were added as cosponsors of Senate Resolution 219, to establish in the Senate a senior citizen internship program.

SENATE JOINT RESOLUTION 29

At the request of Mr. BURDICK, the Senator from Iowa (Mr. CULVER) was added as a cosponsor of Senate Joint Resolution 29, designating National Family Week.

#### SENATE RESOLUTION 232—ORIGINAL RESOLUTION REPORTED TO PAY A GRATUITY

(Placed on the calendar.)

Mr. CANNON, from the Committee on Rules and Administration, reported the following original resolution:

S. Res 232

*Resolved.* That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Donald S. Towles, widower of Barbara D. Towles, an employee of the Senate at the time of her death, a sum equal to two months' compensation at the rate she was receiving by law at the time of her death, said sum to be considered inclusive of funeral expenses and all other allowances.

#### AMENDMENTS SUBMITTED FOR PRINTING

#### FOREIGN ASSISTANCE APPROPRIATIONS—H.R. 7797

AMENDMENT NO. 580

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

Mr. DOLE submitted an amendment intended to be proposed by him to the bill (H.R. 7797) making appropriations

for foreign assistance and related programs for the fiscal year ending September 30, 1978, and for other purposes.

#### PUBLIC FINANCING OF ELECTIONS— S. 926

AMENDMENTS NOS. 581 AND 582

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

Mr. GRIFFIN submitted two amendments intended to be proposed by him to the bill (S. 926) to provide for the public financing of primary and general elections for the U.S. Senate.

AMENDMENTS NOS. 583 THROUGH 591

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

Mr. TOWER submitted nine amendments intended to be proposed by him to the bill (S. 926), supra.

AMENDMENTS NOS. 592 THROUGH 596

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

Mr. WALLOP submitted five amendments intended to be proposed by him to the bill (S. 926), supra.

AMENDMENT NO. 597

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

Mr. LUGAR submitted an amendment intended to be proposed by him to the bill (S. 926), supra.

AMENDMENTS NOS. 598 AND 599

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

Mr. DANFORTH submitted two amendments intended to be proposed by him to the bill (S. 926), supra.

AMENDMENTS NOS. 600 THROUGH 603

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

Mr. BELLMON submitted four amendments intended to be proposed by him to the bill (S. 926), supra.

#### NOTICES OF HEARINGS

GOVERNMENTAL AFFAIRS COMMITTEE MARK UP  
ON THE NUCLEAR NON-PROLIFERATION ACT OF  
1977

Mr. RIBICOFF. Mr. President, I wish to announce that the Committee on Governmental Affairs will hold a business meeting to mark up the Nuclear Non-Proliferation Act of 1977 on Monday, August 1, 1977, beginning at 10 a.m. in room 3302 of the Dirksen Building.

NOMINATION OF SECRETARY OF ENERGY

Mr. JACKSON. Mr. President, the conference report on S. 826, the Department of Energy Organization Act, was filed on Tuesday, July 26, and there is a possibility that Congress will complete action on this major legislation before the weekend. In that event, I understand that the nomination of Dr. James R. Schlesinger to be the first Secretary of Energy will be submitted to the Senate next week.

Mr. President, there is some urgency involved in establishing the new Department and Senate action on Dr. Schlesinger's nomination would be an important part of this process. Accordingly, if the nomination of Dr. Schlesinger is received next week, the Committee on Energy and Natural Resources will hold a hearing on the nomination on Tuesday, August 2.

The hearing will be held in room 3110 of the Dirksen Senate Office Building at 9 a.m. This hearing is being scheduled in this manner with the approval of the committee's ranking minority member, Senator HANSEN, and I am grateful for his understanding and cooperation.

REORGANIZATION PLAN NO. 1

Mr. RIBICOFF. Mr. President, I wish to announce that the Governmental Affairs Committee will hold a hearing on the President's Reorganization Plan No. 1 on Monday, August 1, at 11 a.m. in room 3302, Dirksen Senate Office Building. At that time, we shall hear from the administration represented by Mr. Bert Lance, Director of the Office of Management and Budget, and Mr. Harrison Wellford, Director of the President's Reorganization Task Force.

#### ADDITIONAL STATEMENTS

##### VANDERBILT TELEVISION NEWS ARCHIVE

Mr. BAKER. Mr. President, since August 5, 1968, in the main library building on the campus of Vanderbilt University in Nashville, Tenn., videotape recorders have been taping the evening news broadcasts of the three television networks. The result is a collection of more than 5,000 hours of videotaped news, easily available to students, scholars, and the public at large.

This unique collection was the inspiration of a Nashville businessman and Vanderbilt graduate, Paul C. Simpson.

In 1968, Mr. Simpson discovered there was no institution in this country responsible for the systematic preservation of the network evenings news broadcasts, not even the networks themselves. While it was generally recognized that these news programs were a major source of national and international news for many Americans, they were being irretrievably lost almost at the very time they were broadcast. Unlike the print media, television news, the chief medium of mass communications for 20th century, was leaving no permanent record.

However, in August 1968, Paul Simpson, with the assistance of Vanderbilt University, activated the recorders that inaugurated the Vanderbilt project. Originally, his objective was to prove the feasibility of making a library collection of videotapes of the newscasts, and he contributed the money necessary to initiate the project. Almost immediately others in Nashville, Jack C. Massey and David K. "Pat" Wilson, recognized the importance of the undertaking, and for the next 2½ years made funds available for the purchase of tape and the employment of student help to tape the broadcasts. Not until 1971, through a grant from a private foundation, were there sufficient funds for the employment of a staff sizeable enough to organize the collection and render user services. At this point the project was formally designated the Vanderbilt Television News Archive.

In 1972 the archive began publication of a monthly guide to the tape collection, titled Television News Index and Abstracts, and in 1973, with a grant from

the Ford Foundation, began indexing the broadcasts taped from 1968 through 1971. The entire collection of evening newscasts has now been indexed for user research. During 1976 user services were rendered to persons in 42 States, the District of Columbia, Puerto Rico, and 6 foreign countries.

Besides the evening newscasts, the Vanderbilt Television News Archive contains about 1,500 hours of hard news specials, pertaining chiefly to the governmental process. Presidential speeches, the Watergate hearings, the impeachment deliberation, and the political conventions of 1968, 1972, and 1976 make up the largest categories of tapes in this portion of the collection.

Persons may use the Vanderbilt Television News Archive either by going to Vanderbilt or by borrowing tapes for use wherever the user resides. Approximately 460 copies of Television News Index and Abstracts are circulated each month, to make the collection accessible at many points throughout the country. Several copies of this guide go to the Library of Congress.

In borrowing tapes, users may request either full broadcasts or tapes of selected items, chosen by the user from Television News Index and Abstracts. The latter method enables users to make studies of subjects of their choice, without incurring the inconvenience and expense of working with the full newscasts. Modest fees are charged for these services.

In 1973, CBS, Inc., filed a lawsuit against Vanderbilt University, alleging copyright violation by the actions of the Television News Archive in the taping of the "CBS Evening News" with Walter Cronkite. The suit was dropped in December 1976, following enactment of the copyright revision bill which contains language I proposed when the Senate considered that legislation in 1974. That amendment permits libraries and archives, subject to certain conditions, to make off-the-air recordings of television news programs. As a result, Vanderbilt continues to tape off-the-air as it has done since 1968. While the House and Senate reports accompanying this legislation cite the Vanderbilt Television News Archive as the originator of this important enterprise, they recognize that other institutions may seek to make such recordings.

In establishing and maintaining this unique and valuable resource, Vanderbilt University and those who provided operating funds for the Television News Archive are to be highly commended for their foresight and extraordinary concern for the public interest. I was pleased to note on Thursday, June 30, 1977, that the George Washington University Library announced it had received a 3-year grant of \$455,753 from the Sarah Scaife Foundation to establish a television news center for the use and promotion of the Vanderbilt University Television News Archive Collection. The George Washington University Regional Video Center will make the Vanderbilt collection more accessible to those desiring to study contemporary news events as presented by the three major networks' evening news broadcasts and thus promote a more

thorough understanding of the major news events of our times.

I ask unanimous consent that a copy of a George Washington University press release announcing the creation of the regional video center, along with a story by Kathy Sawyer on the Vanderbilt Television News Archive in the *Tennessee* magazine on July 7, 1974, be printed in the RECORD.

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

**GWU LIBRARY RECEIVES \$455,753 GRANT FROM THE SARAH SCAFFE FOUNDATION**

WASHINGTON, D.C.—The Sarah Scaffa Foundation has presented a three-year grant of \$455,753 to The George Washington University Library to establish a television news center for use and promotion of the Vanderbilt University Television News Archive Collection. This videotape collection contains all the week-day evening news broadcasts of the three major networks beginning in 1968 and special network broadcasts such as the Watergate hearings.

Under the supervision of the GW library's audiovisual department, funds from the grant will be used to establish the university as a prototype regional video center where equipment, staff, and facilities will be available for individuals who want to use the tapes. Through GW library, users may borrow from Vanderbilt complete newscasts, or research compilations by subject matter, which can be found in indexes and abstracts that are published by the Vanderbilt Archive.

Special facilities will include a 75-seat multipurpose room equipped for large-screen video projection and video playback units for individual viewing in both open and closed environments. Under the provisions of the grant, the library will also develop a directory of video resources in the metropolitan area as a principal tool for both experienced and inexperienced video users.

"The goal of the grant would be not only to make the Vanderbilt Archive conveniently available to students, researchers, faculty, professionals, and Government staff, but to educate them about the potential of the Archive for their specific needs," says Rupert C. Woodward, university librarian. "The TV News Archive is a rich new resource for research and for study by students of the communication arts and other disciplines as the role of televised news in the creation of national consciousness and in the collective decisionmaking process is explored more extensively."

**THE BATTLE FOR WALTER CRONKITE**

(By Kathy Sawyer)

What was once a hallway connecting two wings of the Joint University Libraries (JUL) on Vanderbilt campus has become an embattled bridge between two eras, with the fatherly face of Walter Cronkite caught in the middle.

This is the site of the Vanderbilt Television News Archive, which provides the only "clipping service" on what is for most Americans the chief source of national and international news—the three commercial networks.

The Columbia Broadcasting System brought matters to a head last December when it launched a suit against Vanderbilt in the Federal District Court here. The network accuses the university of "pirating" its "Evening News With Walter Cronkite" on the grounds that the programs are created and performed in a unique way by CBS employees and are copyrighted.

Vanderbilt's response is that CBS' claim of copyright is an unconstitutional abridgement

of First Amendment rights to free speech and free press.

While a blizzard of legal papers has flown between lawyers for the two parties, a growing chorus of "interested outsiders" has been singing out in support of Vanderbilt's position. In unaccustomed harmony, representatives of the Nixon administration and journalistic defenders of a free press have taunted CBS with its own frequent public posture as a champion of citizen rights.

The other networks remain officially silent on the issue, though a number of individual network employees, including some from CBS, have expressed off-the-record sympathy for Vanderbilt's position.

The lawsuit poses a number of complex questions borne in the wake of an electronic technology which, in future-shock fashion, is outstripping society's social and legislative machinery: Is television news to be regarded in the same light as written information or as a commercial entertainment? Where do the property rights of mass communication corporations leave off and the rights of public access begin? How important are the facial twitches of Walter Cronkite? Where is the dividing line between the medium and the message?

As one industry newsletter, "The Videoplay Report," commented hopefully in May, ". . . Now the issues can be fully aired. Each side has merit. Each party is widely known and respected and fully able to state its case."

Observers expect the case eventually to reach the Supreme Court for a landmark decision with far-reaching effect on the whole concept of the electronic information medium.

Meanwhile, in the eye of the storm, the Archive staff goes about its mission. The atmosphere here is the same as that of the rest of the library—one of hushed industriousness—except for the electronic hum which sings along with the staff like a note of tension unfamiliar in this venerable bastion of the silent print technology.

In one corner of the improvised suite of offices is a room of Ampex and Sony helical scan videotape recorders, television monitors and other equipment. Here, weekdays beginning at 5:00 p.m. with Channel 2's airing of the ABC network newscast, the staff begins another cycle of taping, making written summaries called abstracts indexing and filing the day's history-as-broadcast.

Outside this room, in a central area of desks and filing cabinets, is a small table with playback apparatus equipped with earphones, where a video scholar might be seen reviewing network coverage of meat price fluctuations, the Kent State killings, terrorism at the Olympic Games, or any other news subject since mid-1963.

"One day's taping—that is, an hour and a half of news—generates about 60 man-hours of work," said James Pilkington, Archive administrator. "That's what it takes to get the written information indexed and to the printer."

The information is published monthly and provides a guide to the Archive's tape collection.

An abstractor spends about six hours watching the tapes of the previous day's newscasts and making written digests of what was covered. During this process he or she checks the quality of the tapes for flaws (the Archive makes half-inch back-up tapes just in case) and makes sure he has avoided using any "loaded" words in his summary.

On the third day of the cycle, the handwritten abstracts go to the typist who puts them in "camera-ready" form for the printer and proof reads them against the original longhand.

"We run into a few interesting problems with the abstracts," said Pilkington, a wiry man with an easy Jimmy Cagney grin. "They

(the broadcasters) say a lot of names and they don't spell them out."

To ease this problem, the staff stuck two large pieces of typing paper on the wall near the typist's desk and covered it with hard-to-spell words scrawled in longhand: Milhous, Egbal Ahmad, Nguyen Thi Binh, Man-kiewicz, Kleindienst, syphills . . .

"Some people think they are autographs, that all those people have actually been here," Pilkington chuckled.

There are also problems with deciding how to categorize news items as they break. "Until May 1973, we indexed 'Watergate' under 'Democratic Headquarters—Electronic Surveillance.' We finally realized we'd have to change that," Pilkington said.

"The job involves a lot of tedium. One day we had an elaborate discussion as to whether Doan's Pills is a backache or kidney remedy."

The Archive preserves and indexes commercial messages as they are included in the newscasts. "The Library of Congress and others advised us that we should," Pilkington said. "Everything exactly the way it is broadcast. These tapes may be the Sears and Roebuck catalogues of the future."

"I guess this is the only place you can see all those old cigarette commercials," added Ron Moulton, the Archive's television systems technician.

Since 1971, each frame (30 per second) of all videotaped material has been imprinted across the top with the network's initials, the date of the broadcast and the time (Central) at ten-second intervals. This allows immediate identification and also insures that the tape is continuous and has not been edited.

The Archive's collection currently consists of more than 3,000 hours of news programs, with at least seven and a half hours added each week. Additional material, outside the regularly scheduled newscasts, includes political conventions, the Watergate hearings, presidential speeches and other news events.

(On two occasions, the Archive taped dramatic productions for viewing by classes on campus. This was "a mistake" in judgment, Pilkington says, and will not be repeated. "We never would have done it had the productions not been two Shakespearean plays in the public main." Vanderbilt, Scarritt and Peabody students and personnel may use Archive viewing facilities free of charge.)

The tapes are available for a rental fee either in complete programs or by category (for example, a compiled tape of everything broadcast on President Nixon's trip to China). The Archive does not sell material and the terms of its contract with the user forbid duplication or rebroadcast of the material.

Rental charges are \$30 per hour of material compiled by category; \$15 per hour of duplicated material (material duplicated from master copies to be sent outside the Archive); \$5 per hour of audio-only material.

Tapes rented for use outside the Archive require deposits: \$50 per hour of one-inch tape; \$35 per hour of ¾ inch tape; \$25 per hour of half-inch tape and \$1.50 per hour of audio tape. There is a \$2.00 per hour charge for viewing at the Archive.

"The fees do not, of course, come close to the actual cost of the service," Pilkington said. "They only serve to insure serious interest on the part of the user." He said the cost of raw tape alone on any given day exceeds \$100.

Before initiating the lawsuit, CBS said it had offered Vanderbilt a royalty-free license which would allow the Archive to continue videotaping the broadcasts for use on the premises by anyone, but it would specifically forbid Vanderbilt from duplicating, editing, renting or selling them to others.

University officials maintain the offer was never made formal. In any case, Archive of-

ficials pointed out that such a limitation would virtually eliminate from use of the Archive those who lacked the funds to travel to Nashville from wherever they live.

In April, the U.S. National Archives and Records Service acknowledged the right of CBS to dictate such terms and agreed to just such an arrangement. The three month pilot project, which does not include the other networks, provides for the Department of Defense to do the recording of the CBS material, with copies available to each of the branch archives and to Presidential libraries throughout the country. CBS is to furnish printed transcripts for all newscasts but the Archive has not announced a plan to index the material.

The Vanderbilt Archive's original "pirate"—the man who started it all—holds forth in an office converted from a Men's Room in the improvised suite of offices. He is retired insurance executive Paul Simpson. Tall and affable, he has served as vice mayor and mayor of the Nashville suburb of Oak Hill, and he likes to play golf.

"I must say I was surprised by the lawsuit," he says. "I felt that what we were doing was so much in the public interest that they (the networks) would go along, since we weren't duplicating any service they offered."

The idea for the Archive project came to him in 1968 when, during a business trip to New York, he visited the networks and found, to his amazement, that no one anywhere was preserving for more than about two weeks the televised network newscasts complete in the form in which they were broadcast to some 50 million viewers.

In view of the tremendous impact of television news, Simpson saw this as an exceptional failure of the public interest.

"I think you'd have to go back to the Dark Ages to find a time when the written word was as inaccessible as television has been," he says.

Simpson enlisted the aid of his alma mater (he is a 1933 graduate of the Vanderbilt Law School) and primed the pump with \$4,000 of his own money which, he adds, "didn't last very long."

Vanderbilt viewed the undertaking as a scholarly one, a "library service," as Simpson puts it. Chancellor Alexander Heard named Robert McGaw, Secretary of the University, to head a faculty-administrative committee to guide the development of the Archive project.

McGaw's committee explained its reasoning in the initial draft of the project proposal: "America . . . is losing forever a unique record of the historical events of our time as well as a prime source for research by psychologists, sociologists, political scientists, economists and historians. It is difficult to imagine the loss that would accrue if, for example, copies of the New York Times, which are kept routinely by virtually every library in the country, were destroyed two days after publication. And just as libraries maintain newspaper and magazine collections, technology now permits the acquisition and maintenance of television news broadcasts and other programs of current and historical interest. For a history-making and history conscious nation, this oversight in the television medium is an anachronism of almost inconceivable proportions."

Unable to stimulate the networks to undertake the project and without their approval or cooperation, Vanderbilt began on its own in August 1968 with an experimental program designed to continue for three months—through the presidential election—"to prove it should be done by someone," Simpson said.

With funds provided by Simpson and Vanderbilt supplemented by private contributors, video suppliers and foundations, instead of dying after three months, the project has expanded in each of its six years.

(Total contributions for 1968-69 were \$26,862; the total for the past fiscal year was \$304,590.)

The largest contributors over the years, according to Archive figures, are the Scaife Family Charitable Trust (\$250,000), the Carthage Foundation of Pittsburgh (\$225,000), Nashville's Justin and Valere Potter Foundation (\$137,500), Nashville businessman Jack Massey and his Massey Foundation (\$124,575) and the Ford Foundation (\$100,000). The Columbus Dispatch donated \$15,000.

Incomes from services averages about 2% of costs, or about \$1 per \$50 expended.

Until 1971, Simpson said, there was just enough money to buy tape. By 1971, with an increase in financial support, the archive acquired new and better equipment and hired Pilkington as administrator.

He and Frank Grisham, director of the JUL, found themselves faced with a pioneering challenge.

"When I started, the Archive had 1500 hours of tape about which we knew nothing except what was written on the boxes," Pilkington said. Another Vandy alumnus, Pilkington had worked for more than 20 years with the Methodist Publishing House where his duties included the indexing of all the company's periodicals and the researching and writing of a book on the company's history.

With more tape piling up each day, Pilkington and Grisham set out to develop a system of classification for the videotape materials, something which had never been done on this scale.

They sought advice from the Library of Congress, the networks, film libraries and other institutions involved in similar undertakings.

"I'd sit in front of the television set at home and jot down notes. My daughter thought I was crazy," Pilkington said. "Then we visited those places and saw people sitting in front of machines very unselfconsciously writing down what they saw and it gave me the nerve to come back and do it."

The indexing system was begun in January 1972. "We knew it would be a big year, with the election, the President's trips to Moscow and China and so forth," Pilkington said. "Of course we didn't know that Watergate would break."

The index, titled "Television News Index and Abstracts," is published monthly from the written summaries described earlier. It lists under a given date each network program, the time to the nearest second, the name of the broadcaster who is speaking and a brief summary of what he said. (For example: Under NBC, Monday, Sept. 25, 1972, 5:37:10—US-Sov. Salt Agreement; (S) Cong. passes US Sov. Salt pact limiting nuclear weapons. John Chancellor.)

There is also an annual index which indicates in which month to look for a given subject. (The Ford Foundation grant is making possible the indexing of material collected prior to 1972 as well.)

"There wasn't exactly a crowd in the streets waiting for the Index," said Pilkington. "We decided instead of spending funds on an elaborate electronic retrieval system, we would publish and distribute the Index free of charge. Our mailing list has grown to about 450 copies, including libraries of most of the major schools and colleges in the country."

The mailing list also includes network officials and anchormen, several national magazines, newspapers, consumer oriented agencies such as Common Cause and Ralph Nader's group, government agencies and officials.

The Archive staff is especially proud of a request for the Index which it received from the national headquarters of the Walter Cronkite Fan Club in Skokie, Ill.

The Archive has attracted a variety of users.

In 1973 it was consulted in ten different studies of the '72 presidential election. James Keogh, author of "President Nixon and the Press" used it for his research.

The House of Representatives used it during hearings on charges of news staging by the networks.

The New York State Commission for the investigation of the Attica prison uprising contacted the Archives for help in unraveling the confusion surrounding the incident.

There have been almost 200 users in the three years of full operation, with studies ranging from the one-time viewing of a single item to those involving hundreds of hours of tape, Pilkington said.

English classes have used the material for a study of political rhetoric and a music class used it to demonstrate the use of music in the evening newscasts. Requests for various materials have been received from Australia, Canada and England.

"Most of the users are of course involved in communications, history, political science, many of them writers doing their theses," Pilkington said.

One consumer organization, the Council on Children, Media and Merchandising, was moved to submit an "amicus curiae" (friend of the court) brief in support of Vanderbilt in the CBS suit, following its own use of the Archive.

The Council's brief raises an aspect of the issue not emphasized so far in Vanderbilt's own legal response to the CBS suit—the use of the Archive as a means of monitoring television in order to "hold broadcasters publicly accountable" under the "fairness doctrine" of the Communications Act.

The Council brief states that "at present, (the Vanderbilt Archive) is the sole resource to which citizens can turn to obtain data necessary to hold the major networks accountable as trustees of the public airways."

Nixon speech-writer and media critic Patrick Buchanan made a similar point in a recent TV Guide article when he compared CBS' "attempted rape of the people's right to remember" to Orwell's nightmarish foreshadowings in his novel "1984."

Buchanan is in unaccustomed agreement with the prestigious Columbia Journalism Review, a "known liberal" publication, which in its May-June number features an editorial titled "CBS Proposes an Act of Oblivion." The editorial speculates that CBS is concerned not with damage to its pocket book but with distribution of the tapes to "potentially hostile researchers."

The Review asserts that "most donors (of scholarly papers to libraries) recognize and are willing to accept the risks that scholarly scrutiny entails. CBS might consider whether its procedural point is worth the infringement of the principle of access."

Both Buchanan, the Review and others have expressed alarm at what they see as CBS' "bookburning mentality" ((Buchanan's words) in demanding that Vanderbilt not only stop distributing duplicates and excerpts of its broadcasts but also give up all the CBS tapes it has already made.

Nashville attorney Val Sanford, who represents CBS in the suit, was quoted in this newspaper and in TV Guide as having suggested that the tapes be erased. The second article quoted "an observer" as saying "That comment cost CBS a lot of friends."

Sanford responded that, in the first place, "I'm not concerned with running a publicity campaign but with a legal case."

He went on to say he "never made that comment." He said he may have responded offhandedly to some reporter's question that erasure was one of the options under the court's discretion.

"We (CBS) did not ask that the tapes be

delivered for destruction, although we could have, under the statute."

Sanford said that CBS had simply asked that the tapes be delivered to the court for disposition.

The attorney emphasized that "what CBS is suing for is only the tapes made since April 16 of last year." It was on this date that the network began registering the "CBS Evening News With Walter Cronkite" under the statutory copyright law (as opposed to common law copyright, which the network claims for programs prior to that time.)

In order to comply with statutory copyright requirements for the newscasts in the category of "unpublished motion picture other than a photoplay", CBS began at that time to submit to the office of the Copyright Register four still photos and a synopsis from each newscast.

When Simpson began his trouble-making initiatives in 1968, spokesmen for the three networks cited cost as the primary reason for not preserving tapes of their own newscasts. (The networks routinely use two-inch videotape as compared with Vanderbilt's one or one-half inch tapes.)

Simpson agreed that this was a valid objection for the network.

However, at the beginning of this year, CBS began keeping complete tape cassettes of its newscasts, thus accomplishing one of Simpson's original objectives. The network cited technological advances as having made the step possible.

The question of public access to the network tapes remains a thorny one.

When Vanderbilt began its Archive operation, network practice was to keep the complete tapes for some brief period—at CBS it was 15 days—and then erase them for reuse. The content of the newscasts was preserved partially in other forms, such as written transcripts, audio recordings, and certain film segments.

"The only thing you wouldn't have gotten from all this was the facial expressions of Walter Cronkite," Sanford said. "That's being pretty picky."

In January 1973, CBS began making time lapse tapes (three pictures every two seconds) of its newscasts. About six months ago, the network also began making the three-quarter-inch color video tape cassettes of the entire program.

According to CBS Archivist Samuel Surratt, in an affidavit filed in the lawsuit, the network tapes are available to the public on the limited basis. It would depend on who you were, what your need to see it was and the limitations of technical facilities of CBS, whether we could or could not allow you to see it."

He said that the majority (one half to two thirds) of the viewing requests are rejected, that most of them are home viewers who call up on a whim, unaware of the problems and cost involved, and don't want to pay the fees.

CBS charges a library service fee of \$10 for viewing film. For video tapes the charge is \$100 to \$150 an hour, Surratt said.

He says the network sells its material for what it considers legitimate purposes. For example, he said, CBS has reproduced at "loser rates" material for parents who saw their sons on television in Viet Nam; or free of charge to those whose sons were killed in Viet Nam; or to public service groups in such areas as safety and health problems.

He said CBS sent at company expense to every returning Viet Nam POW a film of his arrival and that also the network made available to the Department of Defense documentaries and some segments of the evening news to reacquaint the POWs with the history of the past few years. Materials also were provided to the Kennedy and Johnson libraries, he said.

Most of those wishing to purchase material

are regular customers engaged in making documentaries or other productions, he said.

Until recently, CBS would sell a political candidate his own face or voice, plus the crowd around him, but not the other candidate. He said this restriction was recently lifted.

No use by others is allowed of material showing an anchorman or other CBS personality, he said.

Since 1969, CBS has operated a department devoted to developing uses of CBS news materials. This activity has resulted in the sale of phonograph records, sound filmstrips, and audio cassettes, including a series of Vital History Cassettes on audio tapes which are sold to schools and libraries. CBS claims Vanderbilt is operating in competition with the network's own archives.

"The issue is not access to news," CBS contended in its suit. "The issue is who shall have the right to determine the terms and conditions of and to receive the benefits from, the use of certain factual work, the creator or an appropriator. . . CBS is fighting to retain that right."

A spokesman for NBC said that his network last November or December started keeping complete two-inch tapes of the newscasts for 15 or 18 months.

He said he saw nothing wrong with Vanderbilt's taping of the shows but added "Vanderbilt doesn't have the problems we have. We've got 83 different unions to work with here."

He said the cost of the equipment and screening time, plus the extra personnel needed, made the costs prohibitive—"even for NBC, which is not known for its poverty."

He said the network has thousands of requests to view its material. "We have to take every case on its merits. A lot of students found out that NBC is a soft touch to get a thesis done—well, no more. We're out of the thesis and doctorate business. It's not the better students that bother you that way anyway."

He said that if "some nut" ever passed a law requiring the networks to maintain such a service, they'd go out of business.

A spokesman for ABC said that his network keeps the complete tapes for eight days and that they have neither the time nor facilities to maintain or achieve service. He declined to comment on the activities of the Vanderbilt archive.

Although, according to CBS, its motivation in bringing the suit is one of economic self-protection, the waters continued to be clouded by inferences as to the ideological motives of one or another of the parties.

Last week's TV Guide article, for example, lumps Vanderbilt in with the "liberal groves of academe," a generalization which is highly debatable. Some have concluded that Vanderbilt is a tool of the administration in an attempt to exert pressure on the network. Others have speculated that CBS is suing out of fear of being held accountable to the Nixon administration by means of Vanderbilt's monitoring procedures.

There are others who detect network uneasiness over the ease with which persons libeled in network broadcasts can secure proof of the libel—a very difficult procedure without such a service as Vanderbilt's.

In its lawsuit, CBS refers to Simpson's "idea that national television news broadcasts reflect a consistent liberal bias," and to reports that the "executive Branch" of the Federal Government had shown an interest in the project.

Simpson wrote a statement in 1968 in which he did voice concern that it is the responsibility of three men (one in each network), all three of whom live in New York and are subject to a "liberal" atmosphere, are charged with the decision as to "which 20 minutes (approximately) of the 90 to 180

minutes of news available" is to be included in a given newscast.

And in November 1969, Vice President Spiro Agnew used information gleaned from Archive tapes to launch an attack on national television news coverage. (The information was to the effect that the NBC network "showed virtually the same scene of violence—from three separate camera angles—without making clear it was the same scene" in coverage of the 1968 Democratic Convention.)

Regarding his statement about "liberals," Simpson says, "as I emphasized in the statement, the only way to study and determine if there is bias is to preserve the tapes. Incidentally, I wrote that during the Johnson administration."

He said the Agnew incident had nothing to do with politics. He did not provide the Vice President with the information directly, he said. As he told reporters at the time, his interest was "totally educational."

To Simpson, such questions are moot. "The fact that this even comes up at all to me indicates how we've not been able to bring ourselves to believe television news is just another form of news. You'd get no such questions if you asked for back copies of a newspaper or a book."

"So far as who uses our facilities, they've been used by Common Cause, the National Organization for Women—all sorts of people. Nobody who has ever had any connection with this archive has ever said anything but that the material should be available to anyone."

Whatever the outcome of the lawsuit, Simpson said, he takes satisfaction from his belief that "the American people will never again be satisfied with a situation where no one anywhere is preserving these tapes."

#### INITIATIVE CONSTITUTIONAL AMENDMENT

Mr. ABOUREZK. Mr. President, on July 11, Senator HATFIELD and I introduced a constitutional amendment to allow the use of the initiative process at the national level. We have since been joined in this effort by our colleague from Alaska, Senator GRAVEL.

The initiative process enables citizens to place a proposed law on the ballot by obtaining signatures of a required number of registered voters. Once the required number of signatures have been gathered, the voters will have an opportunity to either adopt or reject the proposal by a majority vote at the next general election.

This initiative process was first adopted by my home State of South Dakota in 1898. Since then, 22 other States have also granted the right of initiative to the people of those States.

The use of the initiative in these 23 States has clearly and repeatedly proven that the initiative process is a sound, democratic process. Mr. President, I ask unanimous consent that the names of the 23 States and the year of the adoption of the initiative process be printed in the RECORD.

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

#### Adoption of initiative provisions

	Year
South Dakota	1898
Utah	1900
Oregon	1902
Montana	1906
Oklahoma	1907

Maine, Missouri.....	1908
Arkansas, Colorado.....	1910
Arizona, California, Idaho.....	1911
Nebraska, Nevada, Ohio, Washington.....	1912
Michigan.....	1913
North Dakota.....	1914
Massachusetts.....	1918
Alaska.....	1959
Wyoming.....	1967
Florida.....	1968
Illinois.....	1970

#### A CLOSE LOOK AT THE "UDALL BILL"

Mr. STEVENS. Mr. President, on June 30 of this year, I introduced S. 1787, what I feel to be the most reasonable legislation to deal with Federal lands withdrawn pursuant to section 17(d) (2) of the Alaska Native Claims Settlement Act, for study as potential additions to the National Park, Wildlife Refuge, Forest, and Wild and Scenic River Systems.

In the following article from the Anchorage Times, Joe Josephson, Anchorage attorney, former State legislator, and cochairman designee of the Joint Federal-State Land Use Planning Commission for Alaska, presents an Alaskan's views on H.R. 39, another bill dealing with this issue which would establish 146 million acres, 39 percent of the State of Alaska, as parks, wildlife refuges, and wilderness areas.

Mr. Josephson, intimately familiar with the Alaska Native Claims Settlement Act from his representation of Alaskan Native Corporations in litigation, points out how H.R. 39 would exceed the provisions of section 17(d) (2) of ANSCA in three ways. First, section 17(d) (2) provides for up to 80 million acres of Alaska lands to be set aside for parks, refuges, wild and scenic rivers, and wilderness areas. H.R. 39 exceeds this figure by 65 million acres. Second, the park, refuge, and river additions would be included in the National Wilderness Preservation System, which would, allowing limited exceptions, make these lands off limits to "commercial enterprises—permanent—or temporary roads—use of motor vehicles—and landing of aircraft..." In addition, H.R. 39 would preclude the erection of any "... structure or installation..." on these lands.

Third, the Secretary of the Interior would have unilateral authority to designate lands surrounding the parks or refuges as "area of ecological concern." Furthermore, the Secretary could enter into agreements with outside agencies, Federal, State, or native, as to how resources surrounding the parks or refuges, and so forth would be utilized. Also, the guidelines, by which the Secretary is to delineate boundaries of "areas of ecological concern," allow much room for discretion on his part.

Although the federally owned land in my State belongs to all Americans, Alaskans, as Mr. Josephson notes, are also Americans and it will be our businesses and our lives that will be most directly affected by the legislation which we pass on the disposition of federally owned lands under section 17(d) (2) of the Alaska Native Claims Settlement Act.

Mr. President, I ask unanimous con-

sent that the attached article be printed in the RECORD.

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

#### A CLOSE LOOK AT THE "UDALL BILL"

(By Joe Josephson)

Strange doings in Southeastern! Rep. John Seiberling may have learned much about Alaskans during the recent public hearings on HR39, the so-called "Udall" Bill—the proposed Alaska National Interest Lands Conservation Act.

Hundreds of witnesses, each permitted to speak for two and a half minutes, addressed Mr. Seiberling's subcommittee. Mr. Seiberling told Alaskans that he sees no chance for passage of S1787, Sen. Steven's approach to the D2 lands question, and reminded witnesses that the federal land in Alaska belongs to all the American people.

The congressman's observations about S1787 are probably accurate, if biased. Yet it is important, Sen. Stevens believes, for a different perspective to be put before the Congress in legislative form. S1787 performs that service.

As for Mr. Seiberling's oft-stated comment that the federal land belongs to all Americans, the statement is a truism. Few Alaskans question the point. But Mr. Seiberling can be appropriately reminded that Alaskans are Americans, too, partners with other United States citizens in Alaska's federal land ownership here and throughout the country. But in the Alaska context, Alaskans are the resident partners, so to speak, the set of co-owners to be affected most immediately and directly, for good or ill, by the passage of D2 legislation.

HR39, the focal point of those strange proceedings in Southeastern, is a strange piece of work in itself. Section 17(d) (2) of the Alaska Native Claims Settlement Act directed the secretary of the interior to withdraw up to 80 million acres of unreserved federal land "which the Secretary deems suitable for addition to or creation as units of the National Park, Forest, Wildlife Refuge, and Wild and Scenic Rivers Systems".

Of course, both Secretary Morton's 1973 proposal and HR39 surpass 80 million acres by far. But in their defense, Mr. Morton and Mr. Udall would say that the secretary always retains plenary authority to advise the Congress as he sees fit, and the Congress has inherent power to legislate for federal land management.

H.R. 39, however, exceeds section 17(d) (2) in more ways than in the acreage proposed to be added to the four systems. It goes beyond the question of administrative tenure to the issue of management philosophy, because the proposed park, refuge and wild and scenic river additions would be included in the National Wilderness Preservation System.

Lands within the wilderness system are places where, under section four of the National Wilderness Preservation Act, and with certain limited exceptions, "there shall be no commercial enterprise and no permanent road... no temporary road, no use of motor vehicles, motorized equipment or motorboats, no landing of aircraft, no other form of mechanical transport, and no structure or installation within any such area." So there is more to H.R. 39 than the designation of new parks and refuges.

Yet, H.R. 39 is not just a few steps beyond section 17(d) (2) in the amount of acreage which it would affect, or in its infusion of wilderness designations into the matter of additions to the four conservation systems. Procedurally, it would depart from the studied and rational program for wilderness designations established under the National Wilderness Preservation Act itself. Substantively, it would impact the activities of

all federal agencies in Alaska and non-federal landowners.

Section 708 of H.R. 39 addresses land management in areas outside the proposed conservation units. In these places, the bill would allow the secretary, unilaterally, to identify areas of ecological concern. The only guidelines to be given the secretary in that respect are that an area of ecological concern should be "an area of land and waters which contains resources that are part of the total ecosystem, geological formation, or which reflects a cultural heritage directly related to the areas authorized... as a result of the four land conservation systems."

Within any area of ecological concern, he establishes the secretary could enter into agreements with the heads of other federal agencies and other parties, including the state and the native corporations. The purpose of the agreements would be to assure that resources—in the lands outside the four systems—"will be used, managed, and developed in such a manner as to be consistent with the environmental quality and (wilderness) management" of the conservation units.

Federal Officers having "direct or indirect" jurisdiction over any proposed "federal or federally assisted" undertaking in the land and waters "within, adjacent to, or related to" the existing or proposed parks, refuges, forests, wild and scenic river areas, or federal officers "having authority to license any undertaking in such lands and waters" would be required, before approving any expenditure of federal funds or issuing any license, to "afford the Secretary a reasonable opportunity to comment."

The opportunity of the secretary to comment is certainly unobjectionable. One would think in a modern government, without direction from Congress, any important question of federal policy or administration would be dealt with on an interagency or interdisciplinary basis anyway. What is objectionable is that the secretary of the interior—as opposed to the secretary of energy (in the department to be created), or the secretary of defense or other federal officials—is alone given such status in the federal decision-making process. And it is clearly to be contemplated that in striking agreements for the areas of ecological concern that the secretary himself would designate, he would insist that other federal officers grant him more than just the right of comment—perhaps even the ultimate say-so on federal expenditures or licenses in these areas.

It is in this way among others, that H.R. 39 would do more than create new parks, forests, refuges or wild and scenic river areas. In sum, it would create vast new wilderness areas and extend the powers of the secretary over federal lands outside of the parks and refuges themselves and over all federal agency activities in Alaska, including licensing activities within state and native lands.

If the Alaska statehood struggle was about curtailing the authority of the secretarial czar, H.R. 39 proposes to reverse the process. If it is sad that Ernest Gruening and Bob Bartlett are not here when we need them so badly, it is also good that they did not live to see so much of their work threatened to be undone.

H.R. 39 merits further comments here and next week other features of the bill will be reviewed.

#### H.R. 7171 AND S. 275, THE FARM BILLS OF 1977

Mr. MUSKIE. Mr. President, when the Senate debated S. 275, the farm bill for 1977, a number of Senators who thought that the commodity outlays of the Senate version were too high voted for them

anyway in the belief that reductions could be made in conference with the House. Forty-six Senators voted for my amendment opposing the most costly increase. Those who voted for a costly farm bill they did not really believe in are in for a rude shock. What has actually happened should be a lesson to anyone who believes that one House can abdicate its own budget responsibility.

I am especially disappointed that the administration has capitulated to those advocating ever higher farm income supports. Many Senators believed the President's assurances that he would veto the farm bill if it were as expensive as the Senate bill. Yet it appears that the administration has given in and now accepts spending as much as \$2 billion above the level recommended in its budget update just 3 weeks ago. One wonders what further surprises from the President are in store for those of us who believe that this administration is trying to control spending. The message is clear. The Congress must set and stick to its own spending priorities without regard to the shifting positions of the administration.

Now we are faced with the strong possibility of even higher outlays for price supports than provided in the extravagant Senate bill. House actions taken this week on H.R. 7171 will add another \$200 million to \$300 million for a new sugar entitlement program, as much as \$400 million for increased outlays for corn, and increased funding for disaster payments, grain reserves, and other costs.

What this means is that if the high outlay provisions of both Senate and House bills are accepted in conference and enacted into law, we could very likely have agricultural outlays of more than \$6 billion in fiscal 1978. This is too much when we are limiting spending for so many needed programs in other parts of the budget.

I join my colleague in the House, Mr. GIAMMO, in saying that we have gone too far. We should not ask American taxpayers to pay for agricultural subsidies for surplus commodities that we cannot sell and sometimes cannot give away. This spending cannot be justified as sound when we have made a national commitment to balance the budget very early in the next decade.

As chairman of the Senate Budget Committee I would like to comment briefly on the budget outlook for the farm bill. I do so in support of remarks made by the chairman of the House Budget Committee, Mr. GIAMMO, who has expressed deep concern about the skyrocketing costs of agriculture income support programs due to congressional action.

Only a few weeks ago, I pointed out to the Senate the possible consequences of the Senate version of the farm bill. At that time I expressed grave concern about some of the provisions of S. 275, particularly the proposed target price for the 1977 wheat crop of \$2.90 per bushel, because the best estimates showed that the Senate bill would cause spending for the agricultural function to exceed the first budget resolution target for fiscal

1978 by about \$800 million. Forty-five of my colleagues supported my effort to reduce the cost of that bill and I think they, as well as other Members of the Senate will be concerned with what I have to say.

Let me put this into the framework of the congressional budget, which already entails a deficit of over \$64 billion. The \$4.35 billion outlay target in the first budget resolution for the agriculture function is extremely generous compared to the budget proposed by President Carter on February 22, which requested \$2.3 billion for agricultural outlays. Thereafter, Congress added another \$2 billion to the administration request in the first budget resolution. This was to take care of later estimates for price supports and other agricultural needs, because we were aware of the severe problems faced by farmers in a time of mounting commodity surpluses, deteriorating prices, and increased costs of production.

Since then the Congressional Budget Office has reestimated outlays for farm price supports and has projected that they will increase by about \$400 million above the amounts assumed in the first budget resolution. If we add the increased outlays that would occur in the event the Senate bill were enacted, an increase of \$1.2 billion over the first budget resolution agriculture spending and total deficit would be needed.

Beyond fiscal 1978, the House bill is likely to be less costly than the Senate bill. The House has wisely included lower future price support levels and much needed crop limitation provisions which will permit control of the exorbitant costs of future years' farm programs. Forty-two of my colleagues supported my efforts to limit the future costs of farm programs and many more will join me if the conference report does not reduce those costs. If the fiscal 1979 and later year costs of the conference report exceed the House bill, we must make an effort to assure that the Senate and the President reject it.

I want to remind the Senate conferees that among the 51 supporters of the commodity programs in the Senate bill, there were many who expected reductions to be made in the conference in fiscal 1978 costs of farm income support programs. Where the conferees have the opportunity to make reductions, I encourage them to make them. Where the House bill leads to higher fiscal 1978 costs, I encourage the Senate conferees to hold the Senate provisions. If fiscal 1978 costs of the conference report rise above the current estimates of the Senate bill, the Senate should reject the conference report.

The farm bill must be a lesson to anyone who hesitated to take the difficult position of limiting spending in the Senate bill, hoping our colleagues in the House would be more responsible. If we are ever going to put a limit on runaway Federal programs, we must do it here in the Senate. Members of the House must do it there.

So I hope that the Senate conferees will keep a sense of national priorities in mind as they seek to hammer out a conference report that can be sustained in

the Senate. I fully recognize the problems facing our farmers, but if we spend more than can be justified for agriculture, you and I know it will be paid for by the farmers and other citizens of America through a deficit that is presently estimated at over \$64 billion. We cannot afford to push this figure any higher and we must not abdicate our solemn obligation to take a responsible course in our spending decisions.

#### WEATHER CONDITIONS AFFECTING WORLD AGRICULTURE

Mr. BROOKE. Mr. President, events of the past decade have indicated that in many regions of the world the capacity to produce food at levels necessary to meet minimum nutrition levels is lacking. This was certainly the case in the Sahelian area of Africa during the early years of the 1970's. It is the case today in Haiti, Cape Verde, Bangladesh, and other countries. Even in countries that presently can meet minimum food needs, the situation is so precarious that any change in climatic conditions results in a serious and rapid deterioration in food production capabilities.

Concern over the world's food producing capacity have led many of us in the Senate to work for greater U.S. involvement in efforts to improve agricultural practices around the world. Such efforts include the International Fund for Agricultural Development, increased emphasis on funding for food and nutrition related projects in our bilateral programs and increased support for agricultural development efforts of the various international financial institutions. In addition, efforts are underway in the Senate and elsewhere to encourage the establishment of a worldwide grain reserve system. Given the preeminence of the United States in the area of agricultural production, our country should play a major role in this effort.

As we seek to insulate the world's people from the most severe ravages of food deficits, it is necessary to maintain a constant vigil regarding weather conditions affecting world agriculture. In this regard, the Environment Data Service of the Department of Commerce publishes a weekly report entitled "Major Abnormal Weather Conditions Affecting World Agriculture," which provides both early warning and updated information on conditions that may affect agricultural productivity. I find this to be one of the more useful documents I receive each week and believe my colleagues will find it equally so. Therefore, I ask unanimous consent that the report for the week of July 14-20, 1977, be printed in the RECORD at this point.

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

#### MAJOR ABNORMAL WEATHER CONDITIONS AFFECTING WORLD AGRICULTURE VALID: JULY 14-20, 1977

1. Western United States: Showers with accumulations of up to 0.8 inch brought slight relief to the forested regions of Washington and the coastal range of Oregon. Temperatures were near normal in California

and Arizona, subnormal in the Pacific Northwest. The drought which began in California in late 1975 has since widely spread. Most regions from the Rocky Mountains to the Pacific have received less than 60% of normal precipitation for the last 2 months.

2. Southeast United States: A pattern of record breaking temperatures and very little rainfall continues to plague the deep South. From Alabama through North Carolina, soil moisture dwindles and crops are suffering. Precipitation was less than 60% of normal for May and June from Texas to Georgia and northward through the eastern Carolinas.

3. Caribbean: Although a few heavy showers fell over portions of Jamaica, Haiti, and Puerto Rico, conditions remain dry over the Islands. Drought has plagued this area for 13 months.

4. Soviet Union: The European U.S.S.R. remained abnormally wet, making the beginning harvest of winter wheat difficult. Further east, dry conditions from the Southern Urals through Kazakhstan are threatening to reduce yields of the spring wheat crop there.

5. Greece and Turkey: The drought which began in last winter continues. Although temperatures have been slightly cooler than the 100° F readings of last week, virtually no rain has fallen over the country this week.

6. African Sahel: The Sahel region of central Africa which normally acquires enough moisture during the wet, summer-monsoon season to support agriculture during the ensuing relatively dry 8 to 9 months, experienced a sharp drop in rainfall over the past 2 to 4 weeks. Spotty drought has developed in Mauritania, Senegal, Gambia, Guinea, Ivory Coast, Ghana, Togo, Benin, and Nigeria. Pastures and crops are threatened unless the monsoon reintensifies during the next few weeks.

7. Australia: There has been no significant change in Southern and Western Australia. Light rainfalls on one day in the west have had little effect upon the dry condition there.

\*Other Areas:\* Cape Verde Islands (Dry) (2); Sicily (Dry) (1); Mozambique (Dry) (2); Canada: Alberta (Dry) (1); Southern Brazil (Wet) (3); Argentina (Dry) (2); Southeast Asia (Dry) (2); United States: Iowa (Dry) (1), Indiana, Ohio (Dry) (3).

Mr. BROOKE. Mr. President, this information clearly indicates that the drought conditions throughout much of the United States have not abated to any appreciable degree. While this may not have a major impact on production levels this year for the most important crops, should the drought continue for much longer there could be an appreciable impact next year as soil conditions continue to deteriorate.

The warning signs are flashing again in the Sahel region. Rainfall has not been of sufficient intensity to tide the area over the dry season. Unless the normal monsoon intensifies in the next several weeks, a serious drought situation may engulf the Sahelian peoples once again.

In general the EDS reports convey a picture of precarious conditions in many parts of the world. They and other sources indicate that the United States will have no respite from the need to give constant attention to meeting the challenge of world hunger in the difficult months and years ahead.

\*These are selected areas of (1) less size or economic importance; or (2) areas where past dry or wet periods may be adversely influencing agriculture now, or can be expected to do so in the future; or (3) areas of potential weather-related problems.

#### PETROFOODS, PETROCHEMICALS AND THE FAMILY FARMER

Senator ABOUREZK. Mr. President, the August issue of Mother Jones magazine contains two very important articles on the state of agriculture in the United States. The first, "Eating Oil," describes new developments in petrochemical research which have introduced foods based on oil. Used now as additives, and listed as natural flavorings or yeast on labels, these petrofoods have become common ingredients in spaghetti, baby food, salad dressing, and other foods. Research is being conducted to create whole foods made from oil. All of this has been done with the approval of the Food and Drug Administration, even though other countries have banned such foods and additives as very dangerous. In fact, the article points out that the FDA has not even considered the matter very seriously. Not only does the development of such foods raise serious health questions, however. Dependence on oil for food would place the consumer at the mercy of the energy companies, who are already controlling one basic resource and have revenues and assets larger than most countries.

The second article, "The Day of the Locust," is equally if not more disturbing. The article points out that we have become increasingly reliant on pesticides. Insects, however, have become increasingly resilient against them, causing pesticide use to increase still further. The development of no-till farming, which requires a great deal more pesticide application, promises to make the problem even worse. All this is happening at the same time that new research is showing that organic farming, contrary to popular belief, can be virtually as productive as conventional farming.

I ask unanimous consent that the two articles be printed in the RECORD.

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

#### EATING OIL

(By Michael Harris)

(Editor's Note: Over the last 35 years, agriculture has undergone a revolution. Farm yields have tripled. Growing, harvesting and planting time has been cut. In 1955 a New York farmer spent about 16 minutes to produce a bushel of corn. By 1975 he could produce the corn in only three minutes.

This massive increase in production has been attributed to a series of changes in American farm life that began around the end of World War II. These changes are commonly called the "Green Revolution," a gospel for agricultural development that has spread to other nations where U.S. corporations hold land and American advisers instruct foreign governments. When the Green Revolution began, it promised abundant wealth. Not only would the American farmer enrich his family through the new techniques, but increased farm yields would assure that no one, in any nation, would ever go hungry again.

With the Green Revolution came the demise of the single-family farm. Since 1950 the number of farms operating in America has dropped by 50 percent. Those small farmers who could not afford the machines, the fertilizers, the pesticides and the fuel bills could not grow enough to compete. More than half the remaining single-family farmers

hold other, nonfarm jobs to supplement their incomes. Widespread wealth, promised by the architects of the Green Revolution, has not materialized for most farmers. In fact, farm income has actually dropped by \$5 billion since 1950.

The Green Revolution has been a boon to some, however. The oil companies discovered vast new markets in fuel and fertilizers through farm mechanization and specialized planting. Amoco has even gone so far as to create a food from oil. Petroprotein, the first engineered food to reach the American table, has entered the diet unnoticed, as Michael Harris describes in "Eating Oil," beginning on this page.

The pesticide companies, which changed the face of agriculture, have become an uncontrollable growth industry, as Daniel Zwerdling notes in "The Day of the Locust," page 35. And the hungry of the world are worse off than ever, forced, with the new techniques, to grow not their own food but luxury crops for export. Frances Moore Lappé and Joseph Collins discuss the widening influence of a few companies in their article "Still Hungry After All These Years," page 26.

The changes in agriculture over the last 35 years have vastly concentrated power over what we eat, how much it costs and where to buy it. The revolution was not our revolution. The Green Revolution is a myth.)

The Amoco Foods Company does business out of the fourth tallest building in the world. Owned by the Standard Oil of Indiana conglomerate, this soaring, 80-story structure in Chicago was built from the same Carrara marble Michelangelo used to create his Pietà. Though Amoco Foods is the newest, and still the tiniest, jewel in Standard's crown, days of greatness may lie ahead.

A tightly knit group of 16 executives, their technicians, engineers, bio-chemists and "support personnel" working at Amoco Foods stand together on the brink of a new frontier. Since 1975, the sole product of the company has been a food made from distillates of oil.

Producing food from petrochemicals is an idea hoary with age. George Orwell must have thought it possible when he included everything from petrobeeef to petrovodka in his novel 1984. What's new—and unknown to most people, including key administrators at the U.S. Food and Drug Administration—is that such a petrochemical product has already been introduced into the American food supply.

What do you get when you mix ethanol, phosphoric acid, potassium hydroxide, magnesium sulfate, calcium chloride, ferric sulfate, zinc sulfate, manganese sulfate, citric acid, potassium iodide, sodium molybdate, cupric sulfate, anhydrous ammonia, air, *Candida utilis* and water?

The answer, according to the bright people at Amoco, is "natural food," petroleum protein. The end product of this chemical conglomeration is now being sold to food processors in the United States for use in meat products, baked goods, frozen foods, infant dinners, margarine, soups, gravies, tortilla chips, pizzas and other prepared foods. You may even have some in your lunch box today.

#### IN THE AMOCO "KITCHENS"

Torutein, the marketing label for Amoco Foods' petroprotein product, is a high-protein yeast culture that is grown on hydrocarbons distilled from crude oil. It is the first and only product of its type now produced for human consumption. In 1975, the first Standard Oil of Indiana petroleum protein processing plant in Hutchinson, Minnesota, began churning out petroprotein at the rate of about 15 million pounds per year.

In appearance, Torutein looks as much like food as the process of its creation resembles agriculture. It is a uniform, light brown powder with the faint odor and bland taste of yeast. Its manufacture begins at the Stand-

ard Oil of Indiana refinery, where ethylene and the other petrochemicals left in the oil barrel after the extraction of gasoline and jet fuels are removed from the residue. By manipulating the hydrocarbon molecule, the ethylene is converted to ethanol, at which point it makes its appearance in the Amoco "food kitchen."

There, in a large stainless-steel vat, ethanol and the other "nutrient chemicals" are fed to a teeming culture of yeast cells—*Candida utilis* or p-10 torula, as they are commonly called. The single-cell microbes ingest the petroleum distillate constantly, even as they "breathe" the ammonia and sterilized air piped into the tank. All the while, they reproduce millions of mirror-image microbes that themselves eat, aspirate and reproduce in the darkness of the fermentation tank. After 24 hours of this chemical bacchanalia, the yeast is deactivated and then spray-dried, producing the powdery end product. Currently, Torutein sells to food processors for about 50 cents per pound.

The production process is the result of ten years of high priority Standard Oil of Indiana research and an investment of more than \$10 million. It is one of the premier manifestations of what the food processing industry's trade journal calls "the designed foods of tomorrow." *Food Processing* magazine predicts that we will soon see a new generation of "snazzy lab-modified proteins"—and a world that will be increasingly dependent upon petroleum protein as a part of its food supply.

"When you come right down to it, there's really not a whole lot of difference between what we do and what a farmer does," said Ralph Stow, Standard Oil's amiable public relations man. This effort to "humanize" the company's petroprotein product is apparent throughout the Amoco Foods publicity presentations.

For the past two years, Amoco Foods sales force has been putting Torutein promotional literature in the hands of mass food producers of everything from pasta to prepared meat loafs. "Stop shelling out for egg yolks," exhorts one promo packet, advising manufacturers to use petroprotein instead in cookies, cakes, doughnuts and other bakery products. "A price-stable, high-protein material that beats the fluctuating costs of agricultural ingredients," Torutein "binds fat to water to extend poultry, seafoods and meats, masks 'beany' flavor," and is "the natural food ingredient with combined advantages no other ingredient can match."

"We now have 112 food processors in the United States using our product," Amoco Foods Executive Vice President Jack Shay explained. "Gaining acceptance for a new food substance such as ours is a slow process. However, we have established a certain credibility, and we are currently marketing Torutein in Canada and have a few ad hoc salespersons in Europe. In the future, we hope to be a worldwide operation, and, eventually, we're going to have to look beyond the product as simply a food ingredient."

For the present, however, there are complications. *Business Week* recently cited official debate in Italy "over charges that oil-based protein may cause cancer in humans" and that the production process itself "may harm plant workers and poison the environment." The Italian government has suspended development of petroleum protein in that country, and the governments of Japan, Venezuela and Great Britain have held up their approval of petroprotein processing plants on similar grounds.

#### PETROFODDER AND OIL STEAKS

Torutein is by no means the first petroprotein food product developed; it is simply the first to find its way into the American diet. Interest in petroleum protein developed after the Sixth World Petroleum Conference in 1963, where executives of the British

Petroleum Company first announced they had discovered the concept of growing yeast cultures on hydrocarbons.

The first petroproteins were intended for use as livestock feed. French and Italian industrial interests designed petroprotein manufacturing plants for the purpose, and the Kyowa Hakko Company of Japan joined with British Petroleum in a cooperative venture. Soon no fewer than ten corporations announced that they were producing petroleum protein for animal food.

At the same time, American-based oil companies were quietly concentrating on developing petroleum protein for direct human consumption. Exxon, Gulf Oil and the Nestlé Company collaborated on the development of a "beef steak" made from oil-fed protein, but they soon halted experimentation when "doubts about safety appeared," according to one researcher. The Exxon-Gulf-Nestlé protein was grown on methanol—a petrochemical that is highly toxic in small doses. Minute quantities of it persistently found their way into the "steaks."

In Japan, controversy over petroprotein peaked in 1972 after an investigation showed that when the stuff was used as animal feed, it was passed on through the food chain. The Ministry of Welfare expressed "apprehension" about the effects of petroleum protein on humans. By 1973 all Japanese companies involved in petroleum protein development had announced a halt to their efforts.

In that same year, development of petroprotein for direct human consumption in the United States came a giant step closer to reality. G. Carl Holsing, Director of Toxicology of the Standard Oil Company of Indiana, addressed a letter to the Food and Drug Administration, announcing that his company had developed a pilot program for producing petroproteins as human food. He asked that the substance be approved under existing food additive regulations, on the grounds that the organism the company was raising on oil derivatives was no different from the torula yeast grown on natural foodstuffs. This sort of back-door approval provided an avenue for FDA sanction while drawing the least possible amount of public attention or controversy.

Indeed, there was none. In an eight-line letter to the manufacturer—a remarkably low-key manner, considering the significance of the decision—the FDA soon approved manufacture and distribution of petroleum protein in the United States "on the basis of existing FDA regulations." The FDA's action neatly sidestepped the safety issues and opened the door for the introduction of petrochemical food into the American food supply.

#### STRAINED OIL AND PEACHES MEET THE CLAM THING

Amoco Foods' Marketing Director Dan Murray holds forth from an office on the 20th floor of the Standard Oil of Indiana building, overlooking the misty shores of Lake Michigan. Murray is a calculating man, whose business is finding a place for Torutein in the formulations of the nation's food processors. He would not reveal the names of his customers, however, for fear of adversely affecting both his company's business and that of his clients.

"We're reluctant to identify the companies we're working with," Murray said from inside a business-blue three-piece suit. "We may spend millions of dollars developing a new market application for our product, and, if we publish the name of our customer, the competition can go right ahead and try to take that account away from us." The competition, in this case, is seen as producers of nutritional yeasts grown on natural foodstuffs.

"In addition," Murray continued, many of our customers don't want their names publicized. Frankly, they don't want to be

associated with a food product made from oil. They are afraid of getting a bad name among consumers in the marketplace."

However, Dan Murray did reveal the names of a few Torutein users, and the labels of several other brand-name products were readily identifiable on the "customer products shelf" at the rear of his office. Among the items present were boxes of Prince Macaroni, French's croutons and Milani salad dressing, produced by the Alberto-Culver Corporation. Others were Angonoa brand breadsticks, cake mixes made by health Snacks, Limited and La Choy food products.

Inspection of the supermarket shelves revealed that several varieties of Gerber baby foods carry the words "torula yeast" in their list of ingredients. This could have been natural torula yeast, but Dan Murray admitted that his company "sold some Torutein" to Gerber. He declined any further comment.

An enterprising West Coast concern called the Golden California Company has agreed to purchase large quantities of an Amoco Foods concoction consisting of Torutein and soy flour. The product, called Crunchy Yeast, is being repackaged and sold as breakfast cereal or meat extender, complete with a health-food-oriented ad campaign. Other "health food" products containing Torutein include Loma Linda Seventh Day Adventist foods and RG brand protein supplement.

It is difficult for even the most discriminating consumer to determine which processed foods contain Amoco's petroprotein product. Under FDA regulations, if the primary activity of Torutein in a formulation is as a "flavor enhancer," then its presence in the product may be indicated by the catch-all term "natural flavorings" in the list of ingredients. If Torutein functions as a protein booster, it is described by the generic term "torula yeast." The product manufacturer makes the determination.

"Most of the companies we're selling to are in the institutional food business," Murray said. "They provide food to hotels, restaurants and schools." One of Amoco Foods' biggest customers in this category is Waldman's Inc., national distributor of more than ten million pounds of portion controlled meat annually.

"We've also developed a textured soy/Torutein product we're trying to sell to schools to replace meat, and . . ." Dan Murray's vest swelled with a barely perceptible bit of pride. "I'm pleased to say that our high-protein macaroni product has been accepted by the government for use in the federally sponsored school lunch program."

Currently, Torutein is being introduced in foods at the level of only five to nine percent, but there are strong indications that this is just the beginning. More petroprotein goodies are in store for the future.

"Food analogues." That's how Dr. Robert Rosscup euphemistically describes the future's synthetic food creations. Rosscup, director of food research for Amoco Foods, is the R&D patriarch of the club. A smiling, professorial personage with bushy white hair, he presides over the Amoco Foods Division of the sprawling, well-guarded, 140-acre Standard Oil of Indiana research facility, 40 miles from Chicago among the pastoral farmlands, homesteads and dairy barns of what the insiders call "The Village" of Naperville.

The research complex is a security blueprint in mortar and brick. Beyond the gates, acre after acre of meticulously manicured lawn surrounds the cluster of laboratory and office buildings. "The biggest problem is to simulate the chewing characteristics of familiar foods," Dr. Rosscup was explaining. "There are thousands of artificial flavorings around; that's no problem. The texture is what we're working on now." According to Rosscup, meat analogues made with petroleum protein are in the not-too-distant future, to be followed closely by mushroom

analogues, seafood analogues and, later, imitations of many other protein foods.

"We're working on something we call 'The Clam Thing' right now," Amoco Vice President Shay revealed. "If an extruded, plastic-like product. It has the texture of clams, the flavor of clams, and it looks like a piece of clam, without the shell. This could put us into the snack food business. And I think there's the possibility we could be developing other seafood flavors as well."

In May of this year, the Food and Drug Administration proposed a new regulation that would allow other high-protein substances to be substituted for milk in commercial ice cream formulations. This change would be a blow to the dairy industry but a boon for the makers of Torutein. "Milk is going to become much more expensive and less available in the future," Dan Murray prophesied. "We're creating a new product to replace milk in foods. It will probably be ready for the market later this year."

"Someday, the slices of roast beef you eat," R&D Vice President Robert Flannery concluded, "that will look like, taste like, and have the texture of beef, will be made from Amoco yeast."

#### STARVED ON OIL

Petroleum protein has already been adopted as another one of the Industrial World's "final solutions" to the problems of underdeveloped nations. The United Nations' Protein Advisory Group (UNPAG), an assemblage of scientists, government officials and "industry observers" from U.N. member countries, announced its unqualified support for petroleum protein development soon after Standard Oil got the nod from the FDA.

The group even suggested that the term "single-cell protein" be adopted to "avoid unfavorable food connotations of names such as bacterial protein and petroprotein." Characteristically, the representatives who composed the advisory group touted petroprotein development as "significant in supplying foodstuffs to the starving Southern Hemisphere." Yet not one member was a representative either of a Southern Hemisphere nation or of the Third World.

"We have an important role in the future," Amoco's Dr. Rosscup stated. In reference to the populations of developing countries, he said: "Most of the diet of these people is cereals. We are now taking indigenous cereal grains, combining them with our product and manufacturing traditional dishes that are high in protein." Then he added cryptically, "It is in the long-range plans."

The U.N.'s Protein Advisory Group talks in terms of the "impact that 'single-cell protein' will have as a world source of protein." *Food Technology* magazine points to petroproteins as one way "to feed the increasing world population," and Amoco R&D Vice President Flannery boosts petroprotein as "needed in the fight against world hunger."

The Standard Oil Company of Indiana is not oblivious to the profits—and power—inherent in such predictions. And clearly, the company is looking to the future.

"We've been losing money hand over fist," admitted Jack Shay. "We're spending \$3 million this year on R&D, and we've spent tens of millions of dollars in past years on this product. Our present sales of \$7.5 million annually certainly aren't paying the bills. In the future, there will be lots of new innovations coming along."

"Some other very promising products that would have been more profitable for the company were sidetracked to make room for this one," another spokesperson agreed. "There is a vigorous effort under way to win acceptance of this product in the marketplace. Once this item is a marketing success, new applications will be found."

"Precisely what applications?" I asked Dr. Rosscup.

"Let your imagination run," he replied.

"So Torutein is just the beginning."

"Of course." The white-haired scientist pushed his chair back from his desk. His smile vanished.

"We're involved in more than this little yeast project here. This is a contribution to our overall knowledge of food science. We are really becoming experts in bio-processing," he continued. "There are a lot of waste products in the world suitable for manufacture into food resources. The knowledge we are now gaining in food science and the manufacture of food analogues is only in its early stages."

Then, just as abruptly as he had opened the door that led to the horizon of his new frontier, he closed it again. Sphinx-like, he smiled once more and declined further comment on the matter.

"I don't think some of the things Dr. Rosscup mentioned have ever been discussed in public before," another Standard Oil of Indiana executive said later. "But there's a whole new ballgame ahead. The amount of beans left in the oil jar is finite. Someday soon, the oil that's left is literally going to be too valuable to burn. And I don't know of any multi-billion-dollar corporation that wants to pick up its marbles when its raw material disappears and go out of business."

Petroprotein is headed into the human diet in the United States and the Third World at a rapid pace. Public debate on this subject has been conspicuously absent, and in that absence our own technology may ultimately succeed in defining human food, and human nature, without our consent.

More and more farmland is placed permanently under concrete, not only in the United States but in countries throughout the world where industrial-based development is literally bulldozing regional food production into oblivion. Other sources of plentiful protein—such as the oceans—are being contaminated by industrial waste and oil spills. The potential for centralizing mass food production becomes clear.

Future dependence upon petroleum protein, coupled with our reliance on large-scale agriculture, petroleum-based fertilizers and fuel, will make the power of the boards of directors of the multinational oil corporations unchallengeable.

*Caveat humanus. Let Human society beware.*

#### THE DAY OF THE LOCUST

(By Daniel Zwerdling)

This summer's harvest marks the 15th anniversary of Rachel Carson's anti-pesticide classic, *Silent Spring*. There will be no celebration. Farmers rumbling through the fields on their tractors are unleashing more than two times the amount of pesticides they used in 1962, more than in any other year in history. In growing regions across the country large numbers of farmers are approaching economic and ecological crisis as they lose control over pests. Ironically, it has been the pesticides, relentless spraying of pesticides, that has brought this day of the locust to the American farm.

In the lush Midwestern corn belt, farmers are nervously mapping the march of the western corn rootworm. Once only a minor pest in two states, the rootworms are advancing 150 miles a year, like Sherman's army, into the corn fields. Pesticides have not destroyed the rootworms, as the chemical industry promised farmers they would. The insects became immune to the chemicals instead.

In New York State, where onions are king in the vegetable fields, farmers fear the onslaught of the onion maggot. "We're down now to only one insecticide we're sure of," says Cornell University entomologist Dr. Charles Eckenrode.

Half the insecticides in the nation are sprayed on cotton. It is in the cotton fields, from Alabama to California, where the pesticide crisis is at its worst. "Many producers are now on a chemical treadmill," says Dr. Dale Bottrell, entomologist at the Council on Environmental Quality (CEQ), "a treadmill leading toward bankruptcy."

The mounting battles between farmers and insects in the fields carry an urgent message: America's "Green Revolution" is backfiring. The era of synthetic fertilizers and pesticide addition is beginning to cripple many farmers economically far more than it is enriching them. Since World War II, when the pesticide onslaught began, insect losses to crops have not decreased. They have almost doubled, says Cornell University entomologist Dr. David Pimentel.

The pesticide industry, however, is celebrating its most profitable year in history. Industry reports indicate sales should approach \$3 billion. Major manufacturers will spend twice as much on market expansion research as they did just six years ago.

And market expansion means more chemicals to be used in ever more ways. The pesticide industry is launching a campaign to convert U.S. agriculture to a system requiring up to two times the pesticides already used per acre. It is called "no-till farming": farmers junk the centuries-old ritual of plowing and cultivating the soil to control weeds and insects.

If the pesticide industry is successful in selling no-till farming to U.S. growers, the U.S. Department of Agriculture (USDA) predicts zero-tilled crops could cover about half the nation's farmland by the year 2000.

#### AMBER WAVES OF GRAIN?

Before World War II, farms in the corn belt flourished with a rich diversity of crops and livestock. Farmers planted different crops every year, rotating them, so insects and weeds attracted to one crop would disappear with the next. They enriched the land with manure from their livestock; chemical fertilizers were unnecessary.

But then, in 1945, DDT and the herbicide 2,4-D hit the market and, like the atomic bomb that exploded over Hiroshima that same year, the chemicals changed the political and economic fabric of the nation. With pesticides, farmers planted vast acreages of a single, highly profitable crop, controlling weeds and other pest infestations with the spectacular new chemicals.

With pesticides and single-crop monocultures came mechanized and energy-intensive farming, as machines and petrochemicals limited the amount of person-power needed to increase yields. Since World War II, corn yields per acre have tripled, while farmers have cut their labor by two-thirds.

But while corn yields tripled, the amount of energy used to produce one acre of corn quadrupled. The system favored large corporate farmers with lots of capital. Single-family farmers who could not afford to mechanize or pay their energy and chemical bills could not produce enough to compete and were forced to sell. Three million farms have been squeezed off the land since 1945, lost to the wonders of the Green Revolution.

In the corn belt, vast monoculture farms spread like a cancer. Eighty-five per cent of the Illinois cropland is planted with corn and soybeans. Since "monoculture creates an environment favorable to damaging pest populations," as a U.S. Department of Agriculture (USDA) report observes, it increases farmers' "vulnerability to disaster." Pesticides have become a way of life. Almost 70 per cent of the corn crop in Illinois is treated routinely with insecticides.

Dependence on pesticides has created a whole new complex of insects now plaguing crops, insects that were scarcely a problem before the pesticide war began. Western beet

cutworms, once limited mainly to Nebraska, have become an "unexpected problem," according to the National Academy of Sciences (NAS), for farmers in the corn belt. Farmers are reporting damage caused by seed-corn beetles "with increasing frequency," says the NAS, apparently "due to the development of resistance" to insecticides. While the overall use of pesticides on crops has increased 12 times since World War II to more than 600 million pounds per year, the losses due to insects on corn alone have more than tripled.

#### DEM OLE COTTON FIELDS

The seeds of the cotton disasters were planted back in the 1950s, when farmers attempted to eradicate the legendary boll weevil with the relatively new and miraculous DDT. Only ten years later, large numbers of weevils, immune to DDT sprays, began to munch their way across cotton fields.

For a few years, salvos of other pesticides seemed to work. Supertoxins, such as methyl parathion, developed from Pentagon nerve gas, were used. But, as farmers boosted their sprayings, the potent new pesticides destroyed the complex of up to 600 predator insects and parasites that keep potential cotton insects under natural control.

Disaster struck in the late 1960s, as the budworm, freed from its natural controls and resistant to almost every pesticide known, exploded with more fury than the boll weevil could ever match. "In the Texas Rio Grande Valley farmers acted like crazy men," says CEQ's Dale Bottrell, who worked in the fields. "The budworm was so resistant that farmers were spraying their fields 35 times, twice as much as usual, and I've heard of some farmers, in desperation, spraying 70 times." Cotton yields in the Rio Grande Valley dropped by 50 per cent in 1970.

Curiously, the cotton industry and some USDA officials learned little from the cotton disaster. They are pushing to launch a massive ten-year, \$1 billion insecticide war in 14 states to "eradicate" the boll weevil, a move some scientists warn is guaranteed to become an "entomological Vietnam."

California cotton farmers have never battled the boll weevil (the pest doesn't take to the western climate), but the cotton industry initiated an eradication war against the pink bollworm in 1965. "Pests we hadn't heard of in years became far more destructive than the bollworm," Berkeley entomologist Dr. Robert van den Bosch remembers, "and in 1970 cotton yields were the lowest since World War II."

"We have created monsters," one scientist observed, "out of previously unknown pests."

#### NEW VICTIMS FOR OLD POISONS

Tom Kelley's family has been farming the rolling fields in Maryland corn country since his great-grandfather built the red brick house on the hill after the Civil War. Kelley himself farms about 1,300 acres, 500 of it in corn. Some of his land presses against the backyards of \$100,000 suburban ramblers just 45 minutes from Washington, D.C. The Kelley family, like Tom Kelley now, has prospered.

Kelley is a modern farmer. Like a growing number of farmers around the U.S., he has been sold on farming the no-till way, relying on chemical substitutes for turning over the soil to control weeds and other pests.

As I watched Tom Kelley plant a field of withered weeds and stubble with corn the no-till way, the growing allure of the system became obvious. "Before this I would of had to plow my field, disc it a couple of times to break up the soil, maybe harrow it once to make the soil fine. I'd work it over four times before I could even stick in the seed," Kelley says. "Now with no-till, I go in and spray with paraquat, and three days later it's ready to plant."

The key to non-till farming, as Kelley says, is a herbicide called paraquat. The major force promoting non-till is the Chevron

Chemical Company, exclusive U.S. marketer of paraquat. A look at Chevron's sales strategy and the history of the herbicide tells the story.

Chevron introduced paraquat in the 1960s. It's so lethal—to plants and humans—that most farmers shied away from using it. "Paraquat will kill everything in sight," one farmer told me. Out in California, one of the few states where paraquat caught on, the herbicide, which resembles Coca-Cola, gained a reputation among farmworkers as a killer. "No other single pesticide," warns the State Department of Food and Agriculture, "has had a safety record this poor."

So Chevron launched an extraordinary sales campaign in which the key to selling paraquat became selling an entire agricultural system. Suddenly, paraquat's major sales obstacle—its lethality—became its major sales gimmick.

"We were perhaps the first company in the industry," Chevron's Warren Lewis boasts, "to look upon the [no-till] movement in this country as potential market for a specific product." Chevron has spent a "government-size budget advertising the concept," Lewis says. The hype has included writing articles for the farm press, financing "educational" symposiums promoting no-till under the auspices of major universities and setting up a special research team to promote "no-tillage and other uses of paraquat" on major crops, such as soybeans, cotton and sorghum. And the campaign has paid off. Since 1967, when Chevron began pushing no-till, sales of paraquat have increased more than 12 times.

One important boost for the company's market strategy has been the "fantastic" cooperation of USDA extension agents across the country, according to Lewis. "We organize special no-till demonstrations for farmers in the area and take the farmers on bus tours to visit no-till farmers around the county," one Maryland County extension agent told me—and Chevron and local agricultural pick up the tab.

Agriculture extension workers embrace no-till farming because, with its scorn for plowed and churned-up fields, the system helps prevent soil erosion and loss of moisture from the fields, two problems increasingly plaguing farmers across the country. But here's the irony: It is precisely this chemical monoculture style of farming, studies show, that creates the widespread erosion and moisture problems in the first place. The soil structure is broken down as the same crops are planted and fertilized synthetically year after year. Organic matter, which holds moisture, and minerals are leached out of the soil.

Perhaps Chevron's most effective strategy for selling paraquat is its nationwide network of about 300 farmers who promote the company's no-till system to their neighbors. In return, the farmers are paid consultant fees, and at least one farmer was given a free case of paraquat worth more than \$200. "We'll help the local Chevron field man round up 20 farmers or so," one farmer-consultant explains, "and Chevron will take us out to a good restaurant and put on a real good meal." Farmers who express interest in the no-till way, Chevron's herbicide sales manager says might get a free loan of special no-till equipment—worth up to \$5,000.

Disturbing reports from no-till regions across the country suggest it may not be long before no-till farmers find they have more headaches using paraquat than they had behind the plow. The untouched expanse of unbroken dirt and stubble on a no-till field is a pest's paradise. "There's not enough data on no-till farming to draw any conclusions yet," says Berkeley's van den Bosch, "but, based on 30 years' experience with pesticides, my gut instinct is that I wouldn't be surprised if no-till farming turns into a disaster."

Farmers like Tom Kelley don't need to read

the dry prose in a recent Scientific American to learn that the corn armyworm, once only a minor pest on conventional chemical farms, is attacking no-till fields with added ferocity. "No-till invites the armyworm right in," says Kelley. "Boy, I've seen no-till fields where the armyworms really ate it up."

So far, no-till farmers are handling the surge in weed and other pest problems with the usual cure—hefty increases in pesticides. I watched Kelley load up his spraying tank. Instead of using two pounds an acre of atrazine and a similar herbicide, he pours in three. He adds a bottle of lethal paraquat, although he used none before. "I never used toxaphene, but we've got to now to take care of armyworms," he says, pouring the chemical into the truck's metal tank. When Kelley punches in the seeds a few days after he sprays, he'll use more insecticides. "When the corn starts coming up I may have to treat problem areas with 2,4-D," he says, as he turns on the ignition. Tom Kelley is now on the no-till chemical treadmill.

#### THE REAL GREEN REVOLUTION

As farmer Tom Kelley harvests his 500 acres of no-till corn this fall, sprayed with more pesticides than ever before, Minnesota farmer Harlam Burley is reaping 1,000 acres of corn and earning one of his best net profits ever. He's growing his crops organically, not a spurt of synthetic fertilizer, herbicides or insecticides.

"I was heavily into chemical cornfarming until just three years ago," Burley says. "I thought chemicals were the holy answer. That's what I learned in school, and that's what I learned from the pesticide companies. But around 1972, I realized we weren't getting the yields we used to. We kept putting on more and more fertilizer, and the ground got dryer and tighter. I even tried dynamiting it one year." Four years ago, Burley says, "my chemical bill was over \$70,000."

Burley attended some meetings on organic agricultural techniques—and became a convert. Instead of pushing his soil with corn on corn every year, he rotates his crops—corn, soybeans, wheat, oats, alfalfa. "I haven't had any insect problems since," he says.

Burley's 1,000-acre farm, like the small but steadily growing number of organic farms across the country, is living proof of what the pesticide industry has persuaded a generation of Americans to forget: farmers used to grow the nation's food supply without pesticides only 35 years ago.

In one carefully controlled experiment at the University of Maine, professor of horticulture Dr. Franklin Eggert is comparing conventional chemically grown vegetables with organically raised vegetables, fertilized with manure tossed out by a local poultry plant. "I kept hearing rumors in the agricultural profession that organic farming methods are complete flops," says Eggert. "But you can't argue with data, and I've found virtually no difference in crop productivity between the different methods. It has some rather fantastic implications."

Another recent study shows that some commercial farmers in the fields are already living the data Eggert is plotting now. Researchers at the Center for the Biology of Natural Systems, directed by Dr. Barry Commoner, compared the performance of 14 conventional and 14 organic farms, ranging from 125 to 800 acres each, spread across the corn belt. While the yields per acre on the organic farms were slightly lower than on the conventional farms, the costs per acre on the organic operations were lower, too. The net profits per acre were virtually the same. When the researchers compared some of the social costs of the farms, the conventional chemical variety lost out. Invariably, the conventional operations soaked up at least twice as much energy as did the organic farms.

Experiments like these are igniting a serious interest in organic agriculture in even

the top government offices of Washington, D.C., where just a few years ago muttering the word "organic" was heresy. Up on Capitol Hill, the staid, industry-entrenched Agriculture Committee is undergoing an upheaval. Not long ago, five prominent Congress members—four of whom chair Agriculture subcommittees—dined for three hours with one of Europe's most prominent organic researchers. "All of us at that dinner," says Rep. Frederick Richmond (D-NY), "agreed that organic farming is something we should be pushing for—devoutly."

In the top offices of the USDA, there has been a revolution. "I'm sympathetic to organic farming," says Assistant Secretary for Conservation and Research Rupert Cutler, sitting in the same office where Earl Butz and his assistants condemned organic farming as "dangerous hogwash." For the first time a USDA official says he'll support "setting up a network of special experimental farms," to improve organic techniques.

In the meantime, American farmers can begin taking steps toward that organic vision by adopting pest control methods that researchers are now perfecting. Scientists call the methods "integrated pest management" (IPM), and under the system farmers still use pesticides but only as a last resort. IPM methods control pests with a natural balance of predator insects, specially purchased parasites and sometimes hormones that disrupt the pests' development.

A five-year, \$14 million experiment on integrated pest management—funded by EPA and the National Science Foundation, with a little help from the USDA—has shown farmers in five major crops across the country they can slash insecticide spraying up to 50 per cent, while sometimes boosting their yields. In one area in Texas, cotton growers using integrated pest management systems cut insecticide costs 60 per cent and tripled their net returns.

But so far, Berkeley entomologist van den Bosch estimates, fewer than five per cent of the nation's growers are using IPM techniques. Farmers get virtually all of their information, directly or indirectly, from the pesticide industry. "The system," says van den Bosch, "is as if all the doctors in this country were on the payrolls of the drug manufacturers, and they got paid according to how many drugs they could sell."

Historians might look upon the last 25 years of the 20th century with bitter irony: the chemical industry's salvation for the food supply, pesticides, turned out to be the weapon most responsible for destroying it.

#### ALASKAN GAS WILL REACH MARKETS ACROSS THE UNITED STATES THROUGH THE EL PASO PROJECT

Mr. STEVENS. Mr. President, as the deadline approaches for the administration's selection of a route by which Alaskan natural gas will reach consumers in the South 48 States, it is important for us to keep in mind what the real issues are.

The route which is selected must first be technically feasible; second, make Alaskan gas available to markets throughout the South 48; third, pose no unacceptable environmental risks; fourth, be financially viable; and fifth, be completed and operating in a timely manner.

Of the three competing projects, only one satisfies all five criteria. This one is the All-American trans-Alaska route proposed by the El Paso Alaska Co.

The other two routes fall short in two

or more of these criteria. The Arctic route across the North Slope and down the Mackenzie Valley is environmentally unacceptable and was flatly rejected by the Canadian National Energy Board and the Berger Commission. The Alcan proposal is subject to lengthy delays in Canada as environmental questions and native claims issues are resolved. Neither of these projects is financially viable and either would require Federal Government backstopping or an "all events tariff" or both to raise sufficient capital.

Only the El Paso proposal qualifies under all five points. The Council on Environmental Quality, in its July 1, 1977, report to the President, determined that "It is possible that the Alaska LNG corridor and technology can be environmentally acceptable" if sufficient analyses are conducted and mitigating measures are imposed. And the Federal Power Commission, in its May 1, 1977, recommendation, found that—

A United States pipeline can be built in Alaska and a tanker system can deliver gas to the contiguous United States at an economical price.

This last point is very important and poorly understood. A letter from John C. Bennett, vice president of El Paso Alaska Co., elaborates on this. Bennett quotes from Judge Litt's initial decision of February 1, 1977:

No challenge has been made to the technical feasibility of El Paso's displacement proposal.

Other sources testify to the economic and regulatory feasibility of the displacement scheme for distributing the benefits of Alaskan gas throughout the South 48 States.

I emphasize this point because the choice is not between two Canadian routes which will deliver natural gas to the energy-starved Midwest and an LNG tanker proposal which will cause a natural gas glut on the west coast. Rather, the choice is between the El Paso proposal which, through displacement, will make Alaskan gas available all across the United States and two Canadian routes which, because they pass through Canada, will most likely be delayed for many more years.

Mr. President, I ask unanimous consent that Mr. Bennett's letter be printed in the RECORD.

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

EL PASO ALASKA Co.,  
Washington, D.C., May 19, 1977.

HON. TED STEVENS,  
U.S. Senate,  
Washington, D.C.

DEAR SENATOR STEVENS: As the nation approaches the decision on how best to move Alaskan natural gas to U.S. markets, a question frequently arises which is as easily answered as it is important: How will the El Paso "All-American" project deliver gas to the Midwest and Northeast?

Although no one will ever accuse the Federal Power Commission (including Judge Litt and the Commission staff) of bias in favor of El Paso, the ability of El Paso to deliver the gas to all U.S. markets has been repeatedly supported throughout the two years of hearings. To quote from Judge Litt's decision:

"No challenge has been made to the technical feasibility of El Paso's displacement

proposal . . . Consultants for Arctic Gas have studied the feasibility . . . (and confirmed) the viability of the general concept."

To quote the Federal Power Commission staff counsel on April 6th:

"We've studied El Paso's displacement, we've listened to the testimony of their witnesses, we've listened to the testimony of Arctic Gas' experts analyze the El Paso displacement, the El Paso displacement was thoroughly analyzed . . . while they came to a slightly different manner of doing it, they agreed it has been and could be done. As a matter of fact, they agreed it could be done for approximately the cost overall that El Paso thinks it can be done for."

"So I think El Paso's displacement on the merits is not really in dispute."

Also on April 6th, Commissioner Holloman referred to the "Commission's experience in this past winter emergency and our demonstrated capability to move gas eastward from the West Coast through Texas . . ." He further observed, "Well, there's obviously going to be a great deal of excess capacity as the years go on."

The enclosed explanation of how El Paso can move Alaska's natural gas to Middle West, East, and Northeast succinctly describes the plan, which in fact did—on a few days notice—transfer California's gas to Atlantic Coast markets last winter.

Another pertinent fact is that all proposals—including the two trans-Canadian projects—will deliver Alaska's gas to markets east of Chicago only through existing facilities and exchanges. No new pipeline construction is proposed east of Chicago by any applicant.

Why, one may ask, does El Paso "protest so much" on this subject? Again, the answer is as simple as it is factual: proponents of trans-Canadian projects have repeatedly created the completely erroneous impression that El Paso, if it can move the gas East of California, will encounter all sorts of complex difficulties. The following is a direct quote from the Northwest Pipeline Corporation (proponent of Alcan):

"The LNG system is dependent upon a complicated nationwide displacement 'theory' for transferring the gas from the West Coast to the rest of the United States."

Again, a quote from an elected official who supports Arctic Gas:

"The entire El Paso project rests upon the concept of displacement, one which is without doubt physically possible given sufficient pipeline investment, but one which will surely create a legal and contractual nightmare." (emphasis added)

The falsity of that prediction was amply demonstrated last winter, when a "complicated theory" became a functioning system almost overnight and without any time for preparatory planning!

Once Americans throughout our nation realize that all three proposals can deliver gas to all domestic markets, they can focus on the very real differences among those projects—which one will deliver the gas at the earliest date, with greatest economic benefit to the United States, with complete U.S. control of what consumers pay for the gas, with minimal environmental damage, without governmental financing, and with minimal risk of schedule and cost overruns. On all these counts, El Paso is superior to the trans-Canadian proposals. More important, all of these factors are of great importance to all Americans, whether living in Maine or California.

If you have any questions at all concerning El Paso's project, we stand ready to respond immediately.

Thank you for your continued interest in which proposal best serves the nation's interest.

Sincerely yours,

JOHN C. BENNETT.

## U.S. DELIVERIES OF GAS

In recent years, the U.S. natural gas industry has not been able to find new supplies of gas in quantities sufficient to offset the decline in reserves. This fact has resulted in increasing idle or unused capacity in the existing 1.1 million mile pipeline system crisscrossing the nation.

By 1980, pipelines extending northward from major natural gas production areas in Texas and Louisiana will have over 10 billion cubic feet/day of spare capacity. At the request of the Natural Gas Supply Committee, a study was prepared by the Energy Division of Foster Associates, Inc. to appraise the impact of declining gas supply on interstate pipeline transportation costs. This study reported that if the idle capacity is not filled, natural gas consumers will have to pay between 19 cents and 44 cents more per MCF of gas in order to amortize those facilities. El Paso's TransAlaska Gas Project will utilize this idle capacity to deliver Prudhoe Bay natural gas, either directly or through exchange of gas supplies, to markets throughout the nation.

After landing on the West Coast, Alaskan natural gas will be connected to existing major transmission systems in California and then delivered directly to markets in that state. How then will Alaskan gas be delivered to markets in the Northwest, Middle West, and Eastern U.S.? The procedure is really quite simple. It is also inexpensive and efficient, and will cause an absolute minimum of environmental damage.

Approximately three billion cubic feet of natural gas are presently shipped each day from Texas and New Mexico to California. To the extent that this lower 48 supply can be replaced by volumes of gas delivered from Alaska, an equivalent amount of gas need not move from Texas to California. Instead, this gas can be put into existing pipeline systems for movement to other markets throughout the United States. This process is called displacement. As lower 48 supplies diminish, Alaskan gas will physically move from California to other markets by reversing the flow in the pipeline systems which currently serve California.

At most, the El Paso Trans-Alaska Gas Project will require construction of a few hundred miles of new interconnecting pipelines in California and Texas to facilitate this delivery system. In contrast, both of the trans-Canadian projects propose to build thousands of miles of new pipeline in the South 48, compounding the problem of pipeline under-utilization.

## ONE SMALL ACT, FOR PEACE

Mr. ZORINSKY. Mr. President, earlier this year, our colleagues, Senator EDWARD KENNEDY and Senator DANIEL MOYNIHAN together with the Speaker of the House, THOMAS O'NEILL and New York Governor Hugh Carey began a process designed to bring peace to a troubled area of the world. By urging other Irish Americans not to support the Irish Republican Army, these four distinguished men have taken a step in helping to end the violence that has plagued Northern Ireland for too many years.

I commend my colleagues for their action and ask unanimous consent that an editorial supporting their action from the Lincoln Evening Journal, Lincoln, Neb., be printed in the RECORD.

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

[From the Lincoln Evening Journal,  
Mar. 22, 1977]

## ONE SMALL ACT, FOR PEACE

The nation's four most celebrated politicians of Irish origin made a helpful contribution to the cause of peace the other day.

Speaker of the House Thomas O'Neill, Sens. Edward Kennedy and Daniel Moynihan and New York Gov. Hugh Carey jointly appealed to fellow Irish-Americans not to give money or other assistance to the violence-driven Irish Republican Army.

Only dream-clouded romantics can endorse the IRA's continued program of terrorism as the lever to bring Ulster under authority of the Dublin government. The IRA's most recent assassination bent is directed at Protestant industrial executives, not the British army.

Garret FitzGerald, Ireland's foreign minister, believes American popular opinion has significantly shifted away from thinking kindly of the IRA. For that, Dr. FitzGerald is most appreciative.

The actions of the four American political figures, supplementing Washington's posture against violence, should further shrink any flow of aid to the IRA from these shores.

## BENJAMIN L. HOOKS

Mr. BAKER. Mr. President, this month Benjamin L. Hooks completes 5 years of service on the Federal Communications Commission and, after submitting his resignation to President Carter, prepares to become executive director of the National Association for the Advancement of Colored People.

Commissioner Hooks has compiled a distinguished record on the FCC as I predicted he would, when I recommended his appointment to President Nixon. As the first black to serve as an FCC Commissioner, he brought a valuable insight to Commission proceedings and enabled those industries regulated by the FCC to more fully understand their responsibility to serve the "public interest".

I regret that Commissioner Hooks is leaving the FCC but at the same time, I know his talents will continue to be dedicated to the service of his fellowman, a cause that has occupied him throughout his lifetime. Broadcasting magazine discussed Commissioner Hooks' record in a recent article which I ask unanimous consent be printed in the RECORD.

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

## HIGH MARKS FOR HOOKS HERITAGE

As FCC Commissioner Benjamin L. Hooks last week was closing out the final days of five years of service on the FCC and was preparing to answer "the call" (as he put it) to head the National Association for the Advancement of Colored People, post mortems on his commission service were being heard. Interestingly, few referred to him as "the first black commissioner." A black described him as "a commissioner who happened to be black." And National Association of Broadcasters President Vincent Wasilewski said the commissioner—who departs officially on Wednesday (July 27)—had served "with great honor and integrity."

Or: Five years after the first black had been named to the FCC, the sky hadn't fallen.

None of this is meant to suggest that the service of Ben Hooks, as a black, made no difference. It did. Blacks, for example, felt a window had been opened to them. "We didn't have access before," Flurlia Marshall, head of the National Black Media Coalition, said the other day. "It was a big step in the right direction having our own person there. We could always call on Ben to discuss things. We're very proud of his service."

At least as important was the sensitizing effect of Commissioner Hooks. He made it a point to visit as many meetings of industry groups—broadcasters, cable television operators, telephone companies, and others regulated by the commission—to let them see and talk to a black who was an FCC commissioner. "The only blacks too many whites see," he said the other day, "are in a subordinate position, cooks and waiters."

What's more, Mr. Wasilewski credits him with opening eyes to minority problems. "He sensitized the commission and the industry," he said. Or, as Chairman Richard E. Wiley put it. "He heightened the awareness of all of us."

But was he, as the first black commissioner, a "one-issue commissioner," as some observers described him over the years? Was he under pressure from blacks and citizen groups generally that were seeking to make broadcasting more responsive to their needs?

If the "one-issue" charge was meant to suggest that he usually saw issues in terms of their relation to minority groups and the poor, it is probably on the mark, for he regarded minorities and the poor as his constituency. But the focus of his concern was wide. It encompassed more than equal-employment-opportunity matters. For instance, he favored retention of the equal-time law and the fairness doctrine because he saw them as two of the few keys available to the disadvantaged in gaining access to the broadcast media. And he opposed efforts to introduce AT&T to competition, not because of sympathy for Ma Bell but because of concern over the possible impact on telephone company customers who are poor—really poor. ("I became concerned that people on welfare paying \$3.35 a month for telephone service didn't have to end up paying \$6 or \$7," he said the other day. To some, he added, such concerns sounded "crazy.")

As for pressure, it was present. But, in Commissioner Hooks's view, it was proper. He is familiar with the background of his appointment; he knows the efforts William Wright, then head of Black Efforts for Soul in Television, the predecessor organization to NBMC, and other blacks made in the late 1960's and early 70's to secure the appointment of a black FCC commissioner. They badgered former Senator John O. Pastore (D-R.I.), then chairman of the Senate Communications Subcommittee, and Senator Howard Baker (R-Tenn.), the subcommittee's ranking minority member, on the issue, and even took their case to the Nixon White House. Several blacks ultimately emerged as candidates for the Democratic seat that became vacant in 1972; Benjamin L. Hooks of Memphis was Senator Baker's choice.

"It's obvious Bill Wright and the others didn't want a black man to come here and declare, 'Now I'm not going to pay any attention to black and white,'" Commissioner Hooks said last week. "There's a large white population here that seems to think that if you consider the black issue, you've been unfair. But that is not the case. Black people, women, Hispanic-Americans—they have special problems, and I don't feel it is unfair to fight to remedy those problems without being unfair to anyone else. There's no way I planned to come here and forget I was black." But, he added, "without pressure, nothing gets done."

The pressure is, as he says, "both unspoken and spoken. There is the feeling in talking to black people that they want something done. They may not know what they want done, but they want something changed. We all know what the problems are, and that's what they're referring to. The direct pressure comes from groups like the National Black Media Coalition, Citizens Communications Center, the United Church of Christ—they look to me to be sensitive to their needs."

Probably the heaviest pressure came in connection with the commission's rulemaking involving broadcasters' EEO practices. Citizen groups, furious over proposals contained in the notice of inquiry and proposed rulemaking, urged Commissioner Hooks to dissent to the notice with a statement denouncing it as inadequate. A principal concern of the groups was the proposal to exempt stations with up to 10 employees—instead of five, as was then the case—from a requirement that they file EEO programs with the commission. But the commissioner, who saw some value in the notice—its call for goals and timetables, for instance—refused. He concurred and issued a statement expressing objection to the filing exemption provision. The final order in the proceeding, issued last year (BROADCASTING, June 28, 1976), followed the proposal in the notice, a fact that did not enhance the commissioner's popularity with the groups. However, the statement he issued, concurring in part and dissenting in part, is being used by citizen groups in their court appeal. Today, citizen group representatives seem to focus their continuing resentment on Chairman Wiley.

That Pluria Marshall, Vincent Waslewski and Richard E. Wiley could agree on the value of Commissioner Hooks's service speaks eloquently about the character and personality of the man. When President Nixon appointed him, Mr. Hooks was, at 47, a fully formed man—Baptist minister, lawyer, businessman, and a man active in the civil rights movement all of his life. Those activities, plus service as the first black judge in a court of public record in the South, had combined to sharpen what those who have watched him speak of, with admiration, as the natural skill of a politician. (Indeed, one of his unrealized ambitions was to become a member of the Tennessee state legislature.)

He was, according to a colleague, willing to search for an accommodation to gain a result. And although he wrote a large number of vigorously stated dissenting and concurring opinions, he was not out to produce an issue. Nor did he believe in making personal attacks; Commissioners, a colleague said, "didn't tense up" when equal employment opportunity questions were discussed. "He was reasonable. He didn't give in on issues, but he looked for a responsible middle ground."

(Commissioner Hooks remembers the days when, as a Shelby county, Tenn., judge, he occasionally served with the 20 other judges of the county to perform quasi-legislative functions. "You could raise a lot of sand in those meetings," he recalled. "But if you did, you couldn't get a second to go to the rest room.")

Because he had the respect and even affection of all of his colleagues (the natural gregariousness of the true politician is part of his charm, one observer notes) and because on matters on which he was particularly interested he was as informed and as tough a debater as anyone on the commission, he was regarded as more effective in reaching his goals than was, say, former Commissioner Nicholas Johnson, who in his days on the commission gained nationwide publicity as a spokesman for consumer interests. His attacks on colleagues who disagreed virtually guaranteed the defeat of any proposal he advanced.

Commissioner Hooks has no illusions about his impact. The commission's "progress" over

the past five years is not what he would have liked—is not what it would have been "if I'd been a one-man commission." But he makes no apologies.

He notes the sanctions the commission has imposed on stations as a result of petitions to deny filed by citizen groups, usually groups complaining about EEO matters—renewal applications set for hearings in some cases, renewed on a short-term basis in others and, in many, granted subject to EEO reporting requirements.

And, he says, "considering where we started from, I think broadcasters have been as responsive [to the demands of minorities] as any industry, if not more so, because the regulatory agency involved has indicated it wants to follow the laws of the land."

Commissioner Hooks is not the sole architect of such changes. EEO rules were on the commission books when he arrived. And, as Chairman Wiley says, each commissioner has his "own commitment" regarding EEO matters. But it is not too much to say that Commissioner Hooks contributed to the climate in which such developments occurred. On EEO and other citizen group matters, other commissioners knew they would, to use a phrase often employed by him, have Commissioner Hooks "to deal with."

And there have been changes within the commission itself. Where the commission had only two black lawyers in 1972, it has since hired 35 to 40 black, Hispanic American and woman lawyers (and many more have been approached), though not all remained on the staff. And in commissioners' offices, black faces among professional assistants and secretaries are less of a rarity than they were a few years ago.

If it is hard to measure precisely the extent of Commissioner Hook's impact on commission policies dealing with EEO matters—both in the industry and within the commission—his contribution to the cause of minority ownership of broadcast properties is more a matter of record. A concurring opinion he wrote, in January 1972, in a comparative hearing case which argued that applicants including minority ownership should be granted a preference, in order to assure diversity of ownership, became part of the holding of the court that reversed the commission's decision.

And in May he managed to persuade the commission to ignore what appeared to some to be hard precedent and renew the license of WLTH(AM) Gary, Ind., in a hearing on misrepresentation and other issues, and to permit its sale to a black group, Inter-Urban Broadcasting Co. Normally, renewal cases are decided on their merits. But the commission's action provided Gary with its first black-owned broadcast station (BROADCASTING, May 23).

In his new job, Commissioner Hooks will be dealing with the whole range of issues affecting blacks. But he will make use of what he has learned in the last five years to advance the causes in which NAACP is interested. An early order of business will be the establishment of a communications department, which will be patterned after the United Church of Christ's Office of Communication, and whose function will be, Commissioner Hooks said, "to see how we can make television more responsive to the people, black and white." The department will train viewers in monitoring programming and in dealing with local broadcasters. The department will probably become involved in the House Communications Subcommittee's current rewrite of the Communications Act, as well. Retention of the equal-time law and the fairness doctrine are among the matters the NAACP would be interested in, Commissioner Hooks indicated.

Nor do the plans for the communications department represent the only transfer of experience. Commissioner Hooks has learned the mechanics of a good public relations

operation—of learning about media deadlines and planning events accordingly, of making sure copies of speeches are prepared and distributed in advance, of developing contacts within the news media—and will apply them. And he has learned, too, of course, about the public interest standard of the Communications Act and of broadcasters' obligation to ascertain and meet community needs. That knowledge will also be applied.

So in becoming executive director of the NAACP, it seems that Commissioner Hooks will not be walking out of the lives of the nation's broadcasters. And in discussing matters as head of the NAACP, he will probably use rhetoric somewhat sharper than that he employed as a commissioner. He will not, he notes, be under the kind of First Amendment constraint he felt as a member of the FCC. And he will, he says, be "on the cutting edge" of change. In his new job, as at the commission, he intends to make a difference.

#### RAILROAD ABANDONMENTS

Mr. ANDERSON. Mr. President, rural America faces an increasing array of serious problems which cry for sensible solutions. The resourceful people who live on our farms and in our rural communities work tirelessly to solve these problems, few of which are of their own making. In many cases Government help is needed to supplement the efforts of local people. Thus we have enacted farm price support programs, rural development programs, soil conservation programs and economic development programs.

But there is one area in which Government is as much a part of the problem as it is a provider of a solution. I refer to the problem of railroad abandonment.

Each year the railroads petition the Interstate Commerce Commission, ICC, asking permission to abandon a railroad branch line in rural areas. And each year the ICC sees fit to approve an overwhelming majority of the railroads' requests. From 1971 through 1976 the ICC has approved more than 850 abandonment requests involving more than 10,000 miles of track. During the same period they have denied less than 30 petitions and have apparently saved less than 400 miles of track. In my own State of Minnesota 24 of the 29 abandonment applications filed with the ICC since 1970 have been approved.

These figures indicate one thing. The process used by the ICC for determining the merits of an abandonment petition was fast becoming a joke. The success rate in these matters enjoyed by the railroads was awesome. No wonder reasonable people in urban areas were asking why even bother to make the parties to these abandonment disputes go through the charade of hearings and decisions when odds are that the railroads will win anyway?

Congress responded to this problem last year by enacting the Railroad Revitalization and Regulatory Reform Act of 1976. This new law will provide Federal help for States willing to commit their resources to cover operating deficits of financially shaky branch lines.

Unfortunately, it will take many months before this law is ready to accomplish its purpose. In the meantime,

the railroads are indicating that they will seek abandonment permissions in record numbers, and at the same time there are still many abandonment petitions still pending before the ICC.

There is a need, Mr. President, to freeze this disturbing and confusing situation for a time to give the new law a chance to work. S. 1836, of which I am a proud cosponsor, addresses this problem quite directly. It shuts down the ICC's railroad abandonment process for 18 months, and forbids the ICC to authorize the abandonment of any line when the abandonment petition has been opposed by parties with a legitimate interest in the continued operation of the line.

If we permit the ICC to grant abandonment requests in contested cases during the next 18 months, many more miles of rural branch lines will be torn up and the line never reopened no matter how successful the new Federal rail assistance program might be.

In addition, the bill continues for 18 months the policy of giving to the States the 100 percent Federal share of rail service assistance, which on July 1 of this year was reduced to 90 percent. Most States are not equipped yet to pick up even 10 percent of what it takes to keep a line operating. This bill gives the States some needed breathing room.

The Railroad Revitalization Act has forced the railroads to reveal their abandonment plans for the next 5 years. The results have been extremely alarming. We are looking at the abandonment of perhaps as much as 200,000 miles of track or 10 percent of America's class I railroad tracks within a few years. This is nearly 20 times as much track as the ICC permitted to be abandoned since 1970.

If even a small percentage of these lines are actually torn up during this period, rural America will be facing a disaster of unprecedented proportions.

The railroad was once the lifeline for every town and village in America. But today that lifeline has eroded. There are many factors to explain this phenomenon but the results are clear. Trucks are being used in increasing numbers to bring agricultural commodities from the elevator to the market.

Trucks are a fast and flexible means of transportation. But they are more expensive. They use more energy, and they must use rural roads and bridges not designed to carry large numbers of heavy trucks.

We must preserve as many rural rail lines as possible. We must insure that rural America will be able to rely on a rail network adequate to get goods to market.

A map is needed which charts the most efficient rural transportation system that can be devised. Once we know what rail lines must be saved, and what lines need upgrading, Congress can do what is necessary to instruct the regulatory agencies to act accordingly.

I am also pleased to join in sponsoring Senator Huddleston's bill, S. 1835, which instructs the Secretary of Agriculture to develop a report identifying a

rail network essential to agriculture. The report would identify all the locations in each State that should receive rail service. The report would then be circulated and the public would have the opportunity to respond at hearings around the Nation. This kind of effort is essential if we are to forestall a transportation disaster in rural America.

Rural Minnesota has been crippled by the rash of railroad abandonments during the past decade. However, past abandonments are nothing compared to the 826 miles of track that the railroads want to abandon in Minnesota within the next 3 years, and the additional 238 miles of track being considered as part of a future abandonment program.

Communities in rural Minnesota, along with rural communities in many other States, are facing the abandonment of hundreds and hundreds of miles of vital tracks and rail service. They need the support of Congress. They need rail transportation.

S. 1835 and S. 1836 are absolutely vital to any effort by Congress to forestall these wholesale railroad abandonments. I urge their prompt and favorable consideration.

A rail line once abandoned, in virtually every instance, is gone forever.

#### HARD ENERGY VERSUS SOFT ENERGY

Mr. GARN. Mr. President, as a sort of summary of the criticisms I have recently provided of Amory Lovins' influential article on energy futures, which appeared in last October's *Foreign Affairs*, Dr. Ralph Lapp has enumerated the major fallacies contained in the original article. Dr. Lapp is an energy consultant and senior member of Quadri-Science, Inc. I believe the Senate should take heed of these criticisms, and therefore 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:

#### MAJOR SHORTCOMINGS OF "ENERGY STRATEGY: THE ROAD NOT TAKEN?"

(By Dr. Ralph Lapp)

In analyzing Amory Lovins' article, which has gained some currency in environmentalist and other circles as a major statement of an alternative energy strategy, I have identified at least 27 major errors or shortcomings (several are cited below), which tend to invalidate the thesis he puts forth for a "soft" energy path. I have also found at least two consistent, unjustified practices, which are employed throughout the article.

First, a number of debatable statements are presented as matters of fact with no documentation whatsoever. For example, continued use of coal is asserted to make an environmental catastrophe inevitable in the near future (through the greenhouse effect—carbon dioxide releases raising the earth's temperature and ultimately melting the icecaps); but yet Lovins advocates widespread use of coal in homes, businesses and industry.

Second, Lovins fails to discuss in any systematic way the environmental, economic, social, political, or lifestyle impact and consequences of a radical conversion to a soft energy path, while dwelling at length on the difficulties he perceives with current energy strategies.

Instead of arbitrarily drawn hard or soft paths, what we need is a prudent path, one that recognizes the reality of the massive energy system already in place and one that can satisfy energy demands without inflicting mortal harm on the economy.

#### MAJOR SHORTCOMINGS

By overstating electricity growth rates by almost 25 percent, Lovins overestimates energy use in the year 2000 on the "hard" path by 25 quads (quadrillion Btu) and therefore substantially overestimates the consequent requirements for gas and oil (where most of this reduction would be felt). Furthermore, the assertion that U.S. energy consumption in 2025 can be limited to 65 quads—the same amount of energy used by 200 million Americans in 1969—fails to explain how a viable economy can be maintained for the 300 million Americans expected in 2025.

The belief that a wide variety of new energy sources can be developed and well in place to play major roles by 2000 is unsupported by past experience, which shows that new energy sources (or other technological innovations) generally take 30 years or more to see even limited commercial use. For example, it has taken 60-70 years for oil and natural gas to rise from one quad to 500 quads of total energy generation, worldwide. This fact alone should induce realism about the contribution of new energy sources.

Lovins overstates the number of nuclear power plants likely to be in operation by 2000 by relying on outdated projections which were made before the 1973 oil embargo. Furthermore, virtually all of these plants will use cooling towers and, therefore, will not release significant amounts of heated water, as he asserts.

While emphasizing the energy losses associated with the production of electricity, Lovins ignores such advantages of electricity as instantaneous availability for use, convenience, versatility, portability, and feasibility for production by solid fuels. He overlooks the fact that electric energy is the prime factor in increased economic productivity.

The assertion that the U.S. should reduce its per capita energy use to about the same level as that of the average Swede overlooks some basic differences between the two countries. For example, in the agricultural sector, the land under production in the U.S. for exports is about the same size as all the land in Sweden. Similarly, the U.S. uses much more energy in manufacturing, in part because a substantial portion of production is targeted for export. In addition, American homes are larger, appliance use is greater, and lifestyles in general are quite a bit different. Also, suburban living results in more energy use for travel—Lovins does not treat the problem of redeploying metropolitan populations to change this situation.

Sources quoted by Lovins in his support often contradict his own assertions. For example, many of his statements on conservation potential are much more optimistic than those of the Annual Review of Energy, one of his sources.

Although Lovins asserts that industrial cogeneration is a major area for improved energy use the fact is that industrial plants generate only about 5 percent of total U.S. electricity. Thus, if industry use of cogeneration were even to triple, the effect on overall electric demand patterns would be relatively small.

Although Lovins asserts that nuclear temperatures of millions of degrees occur in nuclear plants, the fact is that the highest temperature experienced, in the center of a fuel pellet, is about 4,000°F, which reduces to about 600°F at the pellet surface.

Lovins overlooks the fact that solar heating and cooling are so expensive at present as to be unaffordable for most homeowners.

Nor does he explain what energy source is to serve as the supplementary supply required during sunless periods.

In calling for mass-produced diesel generators, Lovins fails to discuss the community environmental problems that would result from the noise, fumes and siting of many diesels, the economic problems associated with the very high operating cost of such diesels (much higher than the cost of electricity from a central station power plant using nuclear power), and the resource problems stemming from encouraging the use of oil. Nor does he cite the record of actual experience with community reliance on local power plants, which has been one of much higher cost than that experienced by centralized power plants.

Assertions as to the "fine prospects" for community-scale solar collectors go undocumented and appear to be contradicted by the uneconomically high costs of such systems at present and for the near future. While the prospects may indeed appear promising, it would hardly be prudent to plan a radical turnabout in national energy policy based on expectations that have yet to be realized.

Serious analysis of Lovins' assertion that solar heating through use of "passive collectors," such as large south windows or glass-covered black south walls, would save as much energy as we would expect to recover from the Alaskan North Slope reveals that his estimate of possible energy savings is 20 times too high.

The suggestion that U.S. farmlands and woodlands be reoriented to emphasize growing crops for use as biomass fuels ignores the impact this would have on U.S. ability to continue serving as the world's breadbasket through extensive food exports—an especially serious consideration given forecasts of widespread famine throughout the world in the next decade.

Energy storage is dismissed as much less of a problem in a soft energy economy than in a hard one without any substantive justification beyond invoking hydro dams as one example—and despite the fact that dam sites are limited and subject to stiff environmental opposition.

In view of the energy consuming devices, population patterns and energy distribution systems (electric power grids, oil and gas pipelines, gasoline stations, etc.) that now exist, it is simply unreasonable to project the possibility of a revolutionary change to total dependence on "soft" energy technologies within 50 years. Certainly, Lovins has presented no basis for projecting such a change in his thesis.

Lovins seems to base the ability of coal to serve as a transitional technology, pending a full-scale conversion to the "soft" path, on widespread local use of fluidized bed boilers and furnaces. However, this technology remains to be commercially proven, let alone utilized to any significant extent, for industrialized furnaces or large plants. And once perfected, fluidized bed technology will most likely follow the pattern of acceptance set by virtually all other new technologies—it will take decades before it is in widespread use, if only because of the large physical plant powered by other means already in existence. As to the assumption that most homes will use fluidized bed, coal-burning furnaces (which have yet to be demonstrated), Lovins omits any discussion whatever of the environmental and practical implications of transporting and distributing large amounts of coal to residential neighborhoods and disposing of the waste materials thereby produced.

In extolling the virtues of soft technologies for rural villages and poor communities without electricity, Lovins puts his finger on the major candidates for this sort of approach areas. Even then, though, he fails to discuss the capital requirements that these capital-poor areas would have to meet.

In asserting that the elimination of commercial nuclear power would eliminate the threat of nuclear weapons proliferation, Mr. Lovins overlooks the availability of small research reactors, which are much better suited to the production of weapons-grade plutonium than light-water power reactors. Indeed, the reactors best suited to producing high-grade plutonium are generally *not* those used to generate electric power. So a ban on power reactors would have little impact on weapons proliferation for those bent on acquiring their own nuclear capability.

Never concretely described by Lovins is how the small-scale, community energy systems would actually function. For example, how would peak demands be met, as opposed to baseload demands? What effect would outages caused by storms, hurricanes, or other emergencies have on the reliability of the energy system? The central station electric power system which Lovins seems to loathe has established an excellent record of reliability in such situations and he provides no evidence whatever that the alternate he proposes would do the same. Nor does he discuss the impacts of the greatly increased management and maintenance responsibilities imposed on homeowners and individuals under his dispersed energy system.

And, although Lovins questions the continued necessity for energy consumption and GNP to march in lockstep, he offers no explanation of how his proposal for flattening out energy growth will be achieved without flattening out the economy as well.

#### PASSIVE TAX EXPENDITURES IN STATE INCOME TAXES

Mr. HART. Mr. President, on March 4 I offered S. 921, the Tax Expenditure and Review Act of 1977. That bill would provide a pilot program for the review of six specific tax expenditure provisions contained in the Internal Revenue Code. The bill reflects an effort to establish a workable process through which the Congress can systematically review new and existing tax expenditures.

Mr. William Hildred, an independent economic consultant at Policy Research Associates in Littleton, Colo., suggested in a recent article in Tax Notes that the tax expenditure concept can have a real impact on State income tax systems that are based on the Federal tax code.

Colorado's income tax system is one which is based in part on the Federal income tax. Mr. Hildred points out that in Colorado, as in many other parts of the country, economic incentives resulting from congressional action are in fact well beyond the level determined by Congress to be necessary for economic efficiency.

As we consider issues relating to tax reform, articles such as the one by William Hildred can provide some real insight into the changes needed to provide a tax system which is simple, efficient, and equitable. I ask unanimous consent that Mr. Hildred's article be printed in the RECORD.

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

#### PASSIVE TAX EXPENDITURES IN STATE INCOME TAXES

(By William M. Hildred)

Tax expenditures are statutory exceptions to the general structure of the income tax. These exceptions are enacted to provide financial assistance to selected groups of

taxpayers, not through direct appropriations, but through the indirect route of reducing tax liabilities. Because their purpose is to provide financial assistance, these provisions are not merely vague analogs to direct appropriations, but are deliberately chosen substitutes for appropriations.

The aid tendered may relate to some condition of the taxpayer such as age or blindness. In these instances the taxpayer's economic behavior in response to receiving aid is not a factor in determining how much is received. In other cases, the aid may be conditioned on the taxpayer's performance of particular economic actions, such as investing new capital equipment or supporting a dependent in college.

The latter kinds of tax preferences are unarguably subsidies, and the record of Congressional debate and intent usually makes it clear that the subsidy effects are the justification for the special provisions' enactment. In many other instances in which subsidization was not enunciated as the original justification for a special tax treatment, experience with the administration of the law has clarified the existence of subsidy effects and subsequently motivated beneficiaries to defend the provisions on subsidy grounds.<sup>1</sup>

In sum, there is substance to the tax expenditure concept, and clear thinking about the phenomena it describes is absolutely necessary for a rational reordering of the federal income tax. Opponents of the concept may hope to score debating points by asserting that the concept assumes that every dollar of income belongs to government unless government chooses not to take it. But this is verbal overkill; no such premise is inherent in the tax expenditure concept.

#### PASSIVE TAX EXPENDITURES

Foremost among the largely unnoted impacts of tax expenditures is the undermining of state income tax systems. The habit of state legislatures of tying state income taxes to the federal tax system results in definitions of taxable income, exclusions, deductions, and the like, that are often identical at the two levels of government. The consequences include (1) progressive erosion of states' income tax bases with each new Congressional exception to the federal tax rules, and (2) increases in the revenue losses associated with each federal tax subsidy, beyond that which Congress determines to be necessary for economic efficiency.

The latter form of economic waste may not seem large in any single state, but the nationwide effect is certainly significant. More important—especially for states struggling to raise revenue to meet rising demands for public services—is the disappearance of chunks of a state's income tax base whenever Congress enacts new tax incentives. One might suppose that a state legislature would examine the need for a particular subsidy to its residents, establish the adequacy of federal assistance in the matter, and decide if and how much the state should add to or subtract from the federal subsidy. Such a procedure would go far to maintain a state's control over its own revenue system.

Unfortunately, there is little evidence that many state officials are aware of the loss of control due to piggybacking their income tax systems on the federal system. To illustrate, in 1976 there were 76 tax expenditures affecting Colorado's income tax. Only three of

<sup>1</sup> A third group of unusual tax provisions that does not readily display subsidy-like characteristics but which nevertheless confers financial advantage on certain groups of taxpayers is the focus of much dispute. Most of these provisions bear on the calculation of net income. Relative to the total number of special tax treatments, the group is rather small, and is far outnumbered by specific subsidy provisions.

them had been enacted by Colorado lawmakers. The other 73 were rooted in federal decisions.

The financial losses to states are quite large. The order-of-magnitude impact of the 73 federal tax expenditures on Colorado tax revenues exceeded \$200 million in 1976, a year in which the income tax yielded revenues of \$338 million. In that year also, much political heat was generated over the possibility of a \$20 million shortfall from the official projections of state revenues. Finally, general revenue sharing funds accounted for an inflow of \$23 million to the state—a fraction of the loss attributable to Congressional tax expenditure decisions. Obviously, the tax expenditures passively included in the Colorado income tax are a major drain on the fiscal system of the state. Given that the drain is strictly a matter of federal initiative, unless offset by remedial state action, a clear challenge exists to advocates of decentralization and local control.

#### ASSERTING STATE POWERS

Political and economic rationality would be well served if each state having an income tax were to ignore major portions of the federal tax code and accept responsibility for a clear delineation of the state income tax base. The tax subsidies enacted by Congress might then be examined in terms of the state's needs and interests; if more aid to state taxpayers were warranted, the legislature could act to provide the right amount. Some tax subsidies, perhaps most of them, would be seen as either unjustified or adequately provided for by existing federal funding.

#### LOBBY ACTIVITY LIKELY

Each legislature that attempted to establish this kind of control over its revenues would doubtless be besieged by representatives of the same lobbying interests that invariably importune Congress. At the least, these advocates might be held to a high standard of proof that the federal level of aid is deficient, and that the perpetuation of aid via a particular state's tax forgiveness is the only conceivable remedy. Of course, the latter proposition is often not sustainable. In no case, except possibly the charitable contribution for churches, is a tax concession the only conceivable means of providing a subsidy. Almost any activity that can be subsidized through the tax system can also be the object of a direct appropriation, renewable annually upon the presentation of data on the effectiveness of the subsidy and the relative need for its continuance.

Recognition of the existence and magnitude of passive tax expenditures at the state level enlarges the agenda for tax reform, and suggests new prospects for action. State leaders might well take the initiative and institute reforms that would establish state control over the state income tax base and insulate it from possible future erosion from federal actions. They might also counter the concentrated lobbying that overwhelms the analytical resources and will to reform in individual states by joining with other advocates of federal tax reform to achieve the changes in federal law that would obviate the need for state-by-state reforms. Finally, this new evidence of the inequity and wastefulness of tax expenditures might be used to advantage by tax reform leaders in Congress and the Administration.

The table below presents my estimates of the fiscal 1976 magnitudes of federal tax expenditures and the passive tax expenditures which are thereby produced in the Colorado individual income tax. The procedures that I used to develop the Colorado estimates are based on those which underlie the federal estimates. Details are available on request.

#### CONCLUSION

As the table demonstrates, passive tax expenditures at the state level can involve substantial amounts of revenue. Analysis and review of passive tax expenditures is therefore important, both to enhance state revenues and to maintain state-level fiscal control.

#### COLORADO INCOME TAX EXPENDITURES, FISCAL YEAR 1976, COMPARED WITH FEDERAL TAX EXPENDITURES

[In millions of dollars]

Budget function and tax provision	Federal tax expenditure	Colorado passive tax expenditure	Budget function and tax provision	Federal tax expenditure	Colorado passive tax expenditure
National defense:			Exclusion of premiums on accident and accidental death insurance	50	.1
Exclusion of certain military benefits and allowances	650	1.9	Exclusion of privately financed supplementary unemployment benefits	5	(?)
Exclusion of military disability pensions	85	.2	Exclusion of employer-provided meals and lodging	190	.5
International affairs:			Exclusion of capital gain on house sale by persons aged 65 or over	10	(?)
Exclusion of gross-up on dividends of LDC corporations	55	(?)	Excess of percentage standard deduction over minimum standard deduction	2,090	6.5
Exclusion of certain income earned abroad by U.S. citizens	100	.3	Additional exemption for blind	15	(?)
DISC income deferral	1,288	(?)	Additional exemption for those aged 65 or over	1,250	3.1
Special tax rate for Western Hemisphere trade corporations	50	(?)	Retirement income credit	70	.2
Deferral of income of controlled foreign corporations	552	.1	Earned income credit	1,455	3.6
Agriculture:			Veterans' benefits and services:		
Expensing of certain capital outlays	650	2.0	Exclusion of veterans' disability compensation	550	1.6
Capital gain treatment of certain income	552		Exclusion of veterans' pensions	35	.1
Natural resources, environment, energy:			Exclusion of GI bill benefits	250	.6
Expensing of exploration and development costs	1,365	.2	General government: Credits and deductions for political contributions	50	.1
Excess of percentage over cost depletion	1,285	.7	Revenue sharing and general purpose fiscal assistance:		
Capital gain treatment of royalties on coal and iron ore	20	(?)	Exclusion of interest on State and local debt	4,765	1.9
Capital gain treatment for cutting timber	215	.1	Exclusion of income earned in U.S. possessions	355	(?)
5-yr amortization of pollution control facilities	20	(?)	Deductibility of nonbusiness State and local taxes other than on owner-occupied homes and gasoline	9,950	23.3
Commerce and transportation:			Business investment:		
Deferral of tax on shipping companies	40	(?)	Accelerated depreciation on rental housing	540	.9
5-yr amortization of railroad rolling stock	55	(?)	Accelerated depreciation on commercial buildings other than rental housing	490	.4
Bad debt reserves of financial institutions in excess of actual	980	(?)	Expensing of H. & D. expenditures	660	(?)
Deductibility of nonbusiness State gasoline taxes	850	(?)	Capital gains provisions for corporations other than farming and timber	755	(?)
Community and regional development:			Investment credit	8,807	3.3
5-yr amortization for housing rehabilitation	95	.1	ADR method of accelerated depreciation	1,590	.3
Credit for purchasing new home	625	1.5	Personal investment:		
Education, manpower and social services:			Dividend exclusion	360	.9
5-yr amortization for employer-provided child care facilities	5	(?)	Capital gains, other than farming and timber	4,165	14.1
Exclusion of scholarships and fellowships	190	.5	Exclusion of interest on life insurance savings	4,550	
Parental personal exemption for student age 19 or over	690	1.9	Deferral of capital gains on home sale	1,820	4.4
Deductibility of contributions to educational institutions	590	1.1	Deductibility of mortgage interest on owner-occupied homes	315	.8
Deductibility of child and dependent care expenses	260	.7	Deductibility of property taxes on owner-occupied homes	6,500	17.6
Credit for employing public assistance recipients under WIN program	6	(?)	Deductibility of property taxes on owner-occupied homes	5,270	13.2
Health:			Deductibility of casualty losses	300	.8
Exclusion of employer contributions to medical insurance premiums and medical care	3,745	10.2	Other:		
Deductibility of medical expenses	2,630	7.1	Exemption of credit unions	125	(?)
Income security:			Deductibility of charitable contributions, other than to educational institutions	5,125	10.1
Exclusion of social security benefits for the aged	2,940	7.4	Deductibility of interest on consumer credit	3,450	9.0
Exclusion of social security disability insurance benefits	280	.7	Maximum tax on earned income	385	.8
Exclusion of social security benefits for dependents and survivors	480	1.2			
Exclusion of railroad retirement system benefits	180	.4			
Exclusion of sick pay	285	.8			
Exclusion of unemployment insurance benefits	3,830	10.8			
Exclusion of workmen's compensation benefits	620	1.7			
Exclusion of public assistance benefits	90	.2			
Net exclusion of pension contributions and earnings employer plans	5,740	15.4			
Net exclusion of pension contributions and earnings, self-employed and others	710	1.5			
Exclusion of premiums on group term life insurance	805	2.2			

<sup>1</sup> Not computed as a separate item, estimates of corporate tax expenditures were necessarily computed in aggregate procedure.

<sup>2</sup> Less than \$100,000.

Note: Colorado tax expenditure estimates from Hildred, W. "Passive Tax Expenditures," unpublished Ph. D. thesis, Colorado State University, 1976, ch. 3.

Source: Federal tax expenditures from "Estimates of Federal Tax Expenditures" (prepared for the Committee on Ways and Means and the Committee on Finance by the Staffs of the Treasury Department and Joint Committee on Internal Revenue Taxation) July 8, 1975, Washington, U.S. Government Printing Office, 1975, pp 8-9.

#### UNIONIZATION OF THE MILITARY

Mr. THURMOND. Mr. President, there appeared recently in the July 17, 1977, edition of the Chicago Tribune a timely article entitled "The U.S. Army (AFL-CIO?)."

The article points out that it is imperative that the Congress act quickly to stop the threat of military unionization. I recommend this article to my colleagues here in the Senate.

Mr. President, 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:

THE U.S. ARMY (AFL-CIO?)

There is a sense of unreality as we listen to the debate over whether the Constitution permits the armed forces to be unionized. The framers of the Constitution could never in their wildest dreams have imagined a unionized army or navy.

But experience has taught us that what may seem unreal at one moment can become very real the next, and military unions already exist in six northern European countries. In Sweden there is full collective bargaining including the right to strike [maybe Sweden can afford this; it has managed to keep out of every war since 1814]. The Dutch draftees' union has fought for such "reforms" as the elimination of inspections and of compulsory saluting.

And so we're glad to see that the Senate is taking seriously the efforts of the American Federation of Government Employees, an affiliate of the AFL-CIO, to organize the Army, Navy, and Air Force. The union says that the government has become "insensitive" to the needs of servicemen.

It's a little hard to imagine a drill sergeant or boatswain's mate whining about insensitivity; but insensitivity is a fashionable charge these days and maybe it's the sergeants and the bos'ns who are being insensitive to the needs of the raw recruits. It may also be that some insensitive recruiting officers give an unduly glowing account of life in uniform; but if this were a serious problem there would be a greater clamor than there is to get out of uniform. Instead, the volunteer services are holding their own tolerably well. And the old disciplines have been crumbling—faster, we sometimes think, than they should.

The union bases its campaign on the Constitutional right of free association; its opponents cite the Constitutional provision empowering Congress "to make rules for the government of the land and naval forces," and the Supreme Court has generally agreed that the armed services are a "specialized society separate from the civilian society."

Before some legal eagle points out that the air force is omitted from the provision just quoted, Congress should recognize that this is a matter it is going to have to cope with anyway, Constitution or no. One bill, sponsored by Sen. Thurmond of South Carolina and 39 other senators, would prohibit labor unions from soliciting or enrolling servicemen. Another, backed by Sen. Stennis of Mississippi, long chairman of the Armed Services Committee, would include a provision prohibiting servicemen from belonging to a union.

The Thurmond bill has almost enough backers already to carry the Senate; it is preferable, in our opinion, because it would achieve its purpose without inviting confusion over what organizations a serviceman may or may not join.

The pressure to unionize, after all, is coming primarily from the union, not from the servicemen. It is one more thrust in organized labor's effort to overcome its inertia in the private sector by signing up government workers.

We're solemnly assured that there is no intent to shut down the government by a strike or to change the law against strikes by federal employees. But we've heard similar assurances in the state and local arenas, and the number of strikes seems to grow with unionization. Some postal unions have even defied the federal law by striking.

So the real question has little to do with servicemen's needs or rights; it is whether

a union—especially a national and politically active union—can be allowed to intervene between the generals and the troops, or can be given what might prove a decisive voice in whether our troops obey orders, whether a naval vessel sails as scheduled, or whether a missile is launched. We count on Congress to make it clear, in one form or another, that the answer is no.

THE VOLUNTARY STANDARDS AND CERTIFICATION ACT

Mr. ABUREZK. Mr. President, March 1, of this year, I introduced S. 825, the Voluntary Standards and Certification Act. The bill would bring some accountability to the process of setting standards for an extensive variety of products. The process of setting standards has been the private preserve of a few large organizations whose power has been assured by the lack of knowledge in either society or government about the pervasiveness and importance of standards.

The legislation I introduced has had a great impact already. The major organizations that rule the standards process have mounted a massive lobbying campaign that has small businesses and individuals writing to Congress on the basis of propaganda and misinformation about the bill and its effects.

I would like to take this opportunity to clear up this situation and to express my unequivocal belief that vast power in the hands of a few giant private bureaucracies is like too much power in the hands of industry or government—it destroys the free market place and undermines democracy.

How much power do these nonprofit standards developers and testing laboratories have? Mr. Charles C. Horton, publisher of Supply House Times, has expressed it so eloquently that I will simply use his words. Mr. Horton stated his general political philosophy as follows:

My economic and social views are conservative to the point of being reactionary. The welfare state is odious to me. I am a zealous believer in free enterprise and the free, competitive market. I abhor big government and hate to see any extension of its control of the economy unless absolutely necessary.

Therefore, it is against my bias, against my philosophy, against all my impulses to support such a bill as you are now considering. The fact that I do support it and urge its early passage is an indication of how serious is the need for it.

He speaks specifically to the question of power:

While paying no taxes themselves, being not-for-profit corporations, these purely private bodies have arrogated to themselves the power to tax entire industries. In effect, they sell an annual license to manufacturers to participate in those industries. They have acquired a power over the economy exceeding that of any duly elected senator, governor or even the President of the United States. They can literally deny a product access to the market—and have. They can literally put a company out of business—and have. They can and have restricted participation in an industry to a favored "in group." They can and have shut out progress and needed innovation that would have benefited the public through a better product or a lower price, or both.

That private standards developers and testing laboratories have power is unquestionable. They now occupy a position that often gives them the power to decide who will or will not do business in this country.

They argue, of course, that they are nonprofit organizations carrying out a public service, akin to the Red Cross. But the lobbying now taking place indicates that very big financial interests are at stake. Letters of opposition have poured in from almost every major corporation, each of which happens to be a member of ANSI. Hiding under their not-for-profit robe and waving their public service flag, ANSI and others have tried to make S. 825 look like a lion chasing a mouse, when actually it is a pussycat with a muted meow.

As the questions and answers which follow will demonstrate, S. 825 creates a partnership between Government, industry, and other affected interests. It attacks the bad, but it also preserves the good. It is not heavy-handed regulation, forcing industry/standards developers into difficult positions. The only mandatory aspect of the proposed legislation is the provision requiring the FTC to write rules regarding on aspects of the system which have resulted in restraint of trade and consumer deception.

Standards developers argue that S. 825 will change the way of doing things. Yes, it will. Passage of S. 825 will mean that standards groups must really represent the public's needs, rather than cloaking private purposes in public service rhetoric.

Mr. President, I ask unanimous consent that the questions and answers may be printed in the RECORD.

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

QUESTIONS AND ANSWERS RELATING TO ISSUES RAISED ON S. 825, THE VOLUNTARY STANDARDS AND CERTIFICATION ACT OF 1977

Q-1. Does S. 825 propose an expensive and unwarranted extension of Federal Government regulation of the present voluntary standards system?

A-1. No. In terms of cost it has been estimated that the private sector spends about 1 billion dollars annually on standards activities, and the Federal Government about a half billion dollars. (There are no figures available for State and local governments, but these expenditures are also considerable.) S. 825 should reduce this cost considerably by requiring Federal departments, agencies and instrumentalities to use standards promulgated by private standard developers. And, by gaining the cooperation of State and local governments in the use of national standards, deviating only where necessary, the cost of standards development should be reduced even more. Moreover, by eliminating unnecessary duplication, the cost of both producer and consumer goods should be reduced. By eliminating intentional and unintentional restraint of trade activity in standards development, product testing and certification, S. 825 should have the effect of introducing new and different products into the marketplace and speeding delivery of these products to consumers. Thus, the savings resulting from enactment of S. 825 should far exceed its appropriations. While the laboratory accreditation program (Title III) will have to be funded initially, it should pay for itself in the end.

Q-2. Would S. 825 create additional bureaucratic redtape and delays?

A-2. S. 825 is directed at standards developers, testers and certifiers. Thus, it will not create any redtape or delays for industry in general. It will require some paperwork on the part of testing laboratories that seek accreditation. However, in that S. 825 provides for a single accreditation program for Government, the amount of existing paperwork will be reduced considerably. S. 825 should streamline the writing of standards and the testing and certification of products.

At present there are over 400 organizations writing standards. Many of them write duplicate standards with some minor deviation, not because it is necessary, but to promote their own existence. Many of these standards are further duplicated by the Federal Government and some 1,300 local code authorities.

Obviously no one would be so credulous as to believe all federal regulation is bad. But the private sector runs up the red herring of "bureaucracy and delays" and "unnecessary regulation" whenever it appears their power to promote their own interests will be curbed. This fact is presently coming through very clearly in the airline deregulation debate. Here industry claims regulation is great because they have been able to use it to protect a shared monopoly.

Most of the letters we have received in opposition to S. 825 come from people who haven't read the bill; they simply swallowed whole the propaganda of the major lobby against the bill, and ANSI, a giant standards development organization. The attached letter from the Flair Corporation is typical. Does it represent Flair's understanding of the bill or what ANSI said in its INFOPAC?

In 1960 the Kelly Report said of the voluntary standards system that "there are so many groups issuing and promulgating standards that one can conclude that, in reality, the United States has no standards program."

The Standard Research Institute noted in a 1971 report that standardization activities in the United States have "the aspect of a jungle enshrouded in a light mist." ASTM (itself a standards group, in its 1975 appraisal of the "Voluntary Standards System of the United States of America," concluded that "the present practices are so confusing, duplicative, and time-consuming that they discourage requests for approval" of standards. ASTM favored a solution establishing a central accreditation board.

A letter from Creative Products and Marketing Inc. of Bellevue, Washington to Senator Magnuson describes some of the consequences of the present system. The letter states, in part, "there are three codes, we must have all seven or our stoves tested by all three at a tremendous expense. Please see if anything can be done to stop these codes. As you can see, it is apparently their aim to keep the contractor employed as well as the officers of the conferences. The average cost of testing for each is over One Thousand dollars. We are trying to keep our stoves at an affordable price to the consumer, but we must make a profit as well."

Q-3. Are the Findings in section 3 of S. 825 unsupported by available evidence?

A-3. No. On the contrary, there is overwhelming evidence to support the Findings of Fact and the need for each title of S. 825. This evidence can be found in reports and studies dating back to the early 1930's which made findings similar to those in S. 825. See for example, "Report of the Policy Committee on Standards," Charles E. Wilson, (DOC) dated June 6, 1945; "Report to the Secretary of Commerce on the Role of Department of Commerce in Science and Technology," National Academy of Sciences, March 2, 1960; "Report of the National Commission on

Product Safety on Industry Safety Standards and the Federal Antitrust Laws"; The Federal Trade Commission's Preliminary Staff Study (Precis) and final study, "Self Regulation—Product Standardization, Certification and Seals of Approval," 1972; Report by the Long Range Planning Service, Stanford Research Institute, on "Industrial Standards," 1971; the Library of Congress Report on "Voluntary Industrial Standards," 1974; "Industrywide Voluntary Product Standards," David Hemenway, 1975; "The Effect upon Small Business of Voluntary Industrial Standards," a report by the Select Committee on Small Business, House of Representatives, 90th Congress, 2nd Session; and Voluntary Industrial Standards hearings before the Senate Antitrust and Monopoly Subcommittee, March, 1975 and March and August, 1976.

Q-4. Would S. 825 destroy the present organization and operations of the voluntary standards system?

A-4. No. (The following answer addresses Title I. See answers on Titles II, III and IV, *infra*.) S. 825 would not attack or change the basic way standards-development organizations operate. For example, it does not change the committee, subcommittee or task force approach. Nor would it change the use of the consensus principle. The heart of Title I is found in section 102 which requires standards developers to give adequate notice of their activities, to balance the membership of their committees, to maintain written records of standards development proceedings, to provide an independent appeals body, to review and update standards and to give preference to performance standards. Finally it requires that testing laboratories and certification agencies conduct their activities in a nondiscriminatory fashion.

S. 825 would simply give standards organizations some necessary fine tuning. It is interesting to note that ANSI stated in its filing with the subcommittee in the last Congress that "ANSI's study and evaluation of the provisions for due process and the requirements for certification of standards-developers contained in Title I of the bill has not identified requirements far different from or more stringent than those already imposed under ANSI voluntary procedures."

Almost without exception standards developers argue that they already meet the requirements of section 102. If that is the case, they have nothing to fear from Title I because the remaining provisions of that title are to ensure that section 102 is carried out and followed by private standards developers and government.

Q-5. Would S. 825 take the decision as to what standards to use completely out of the hands of state and local governments?

A-5. No. There is no provision in S. 825 which preempts state and local governments' authority in the standards area. The extent to which state and local governments would make use of standards listed by the Institute would be their decision. The legislation hopes that they would use these standards as much as possible to eliminate unnecessary duplication and reduce the cost of products to the buyer. To encourage their use of such standards the legislation seeks their involvement and cooperation through section 102 (b) (1) (c) and section 402(c) (2).

For example, if the FTC found a standard to be restrictive and ordered the standards developer either to develop an acceptable standard or to cease publishing the standard, a state or local government could continue to use the restrictive standard if it chose. That there is no preemption in the proposed legislation led Mr. Gilbert L. Thompson, Chief Electrical Inspector of Baltimore County, Maryland, to comment in his testimony on S. 825, "I like the idea that it is not manda-

tory, and that we are not forced against our will to accept standards and regulations, but I also like the idea that it will provide the leadership and the information designed to be for the common good."

Q-6. Would S. 825 displace ANSI in the managing and coordinating of standards and in U.S. participation in international standards activities?

A-6. No. However, in that the Institute of Standards and Accreditation would accredit national standards developers, and list national standards, it does pose a threat to ANSI's status as the clearinghouse for national standards. But that threat does not come from any mandatory provisions of S. 825, it comes from the possibility that a standards developer may well say that since "I'm accredited and my standards listed by the Institute, ANSI's approval is unnecessary."

At the same time, there is no provision in the legislation which would require standards developers to gain accreditation from, or list their standards with, the Institute. There is an incentive for them to seek accreditation, since they cannot receive financial assistance unless they are accredited. Thus, if standards developers wanted to operate without government accreditation and listing, they could do so by not accepting financial assistance and by not actively seeking to have their standards listed.

It should also be pointed out that there isn't anything in the legislation which would prohibit ANSI from continuing to manage and coordinate standards. Thus, whether ANSI would continue this function if S. 825 was enacted would ultimately depend upon standards developers and industry in general.

Title II would require the Secretary of Commerce to identify international standards activities which may substantially affect the commerce and trade of the United States. It also states that the Secretary shall provide for appropriate participation through private not-for-profit organizations or governmental bodies. Governmental bodies are to be used only where arrangements cannot be made with a private standards developer. Thus, there is still a big role for ANSI in the international arena. Again, the legislation would not mandate ANSI to do, or prohibit it from doing, anything.

Q-7. Would S. 825 put ANSI out of business?

A-7. No. Actually, ANSI is more of a standards developer than it is a manager and coordinator of standards activities. ANSI develops standards by three methods, commonly known as the "Accredited Organization Method," the "American National Standards Committee Method," and the "Canvass Method." If S. 825 was enacted, ANSI's standards-development activities should increase. (See also A-6 and A-10.)

Q-8. Would S. 825 replace a free, flexible, diverse and heterogeneous system with a system that would stifle and suppress standards development activity?

A-8. No. Title I sets forth a code of conduct that standards developers would have to follow, and would give the FTC the authority to see that this code of conduct is complied with. In the main, section 102 identifies those aspects of standards development which are most likely to result in or be used to restrain trade. (See also A-4, A-15, A-16, A-20, A-24 and A-25.)

Q-9. Would S. 825 give the FTC the power to decide the content of standards and to overturn duly constituted consensus standards?

A-9. In certain circumstances. The legislation gives FTC the power to take remedial action where it finds a restrictive or a deceptive standard. However, before FTC can proceed to make even a preliminary determination it *must* consult with the Institute on

technical matters. For example, if the commission, following the procedures of section 105(b) and section 107(c) (1)-(4), determined that a design requirement was restrictive, it would not decide what the design requirement should be; it would simply direct the standards developer in question to develop an acceptable standard. If the commission had reason to believe that the standards developer could not or would not develop an acceptable standard, it would ask the Institute for an evaluation of an acceptable standard, and still allow the organization in question to develop the new standard. If the standards developer still could not or would not develop an acceptable standard then there would not be a standard, unless the Commission and the Institute decided that it would be in the public interest to have a national standard, which the institute would develop in accordance with section 102(b) (1) (C). In short, if a new standard is developed, it will represent a "duly constituted consensus standard."

The above procedure must be viewed in conjunction with section 106(b), which would require a petitioning party to exhaust reasonable rights of appeal provided by the standards developer before seeking Commission review. Thus, the proposed legislation seeks to have disputes resolved from within and to keep government's involvement to a minimum. If the process works as envisioned, very few complaints will warrant Commission review.

Given the fact that standards developers would be operating in accordance with FTC guidelines and may have their standards listed by the Institute, the stature of their standards will be elevated by S. 825. The Commission certainly could not attack such standards frivolously.

One interesting thing about those who object to FTC having the power to order the modification of a standard, is their argument that individuals who complain about restrictive standards already have recourse in the courts. Obviously, a court will have to look at the content of a standard to determine if it is restrictive. Do judges and law clerks have more expertise in this area than the Commission? Hardly.

Q-10. Would S. 825 effectively cripple and eventually destroy the large standards-developer organizations?

A-10. No. S. 825 might even have the opposite effect of forcing smaller standards developers, who maintain one or two standards, under the umbrella of the larger organizations. ANSI would be an obvious beneficiary.

Q-11. Would S. 825 replace national consensus judgments with the judgments of government officials?

A-11. No. (See A-8 and A-9)

Q-12. Would S. 825 take away the right of various interest to communicate on a national consensus basis?

A-12. No. There is nothing in S. 825 which makes that the present standards system illegal or prevents associated activities. It merely sets a code of conduct which the system must meet.

Q-13. Do the three cases cited in the March 1, CONGRESSIONAL RECORD justify enactment of S. 825?

A-13. Taken alone, they do not justify S. 825—certainly not all four titles. However, the subcommittee has received many complaints over the last two years and continues to receive them daily; obviously, the subcommittee does not have the staff or funds to conduct a full investigation of each complaint, but those investigated coupled with studies that address changes in market structure and consumer expectations, indicated the need for reforms embodied in S. 825.

Q-14. Do the FTC and the Department of Justice already have sufficient authority to

deal with the kinds of problems identified by S. 825?

A-14. Obviously, the FTC and DOJ have little to do with the kinds of problems addressed by titles II, III and IV of S. 825. Thus, we are left with title I. Certainly, the activities of the subject organizations are covered by the Sherman Act; however, that Act has been ineffective, as noted by the FTC staff in their 1972 Task Force Report on the system. There has been little activity by the Commission in the standards area, although it has done a great deal of studying. Why?

First, the Sherman Act is not definite and specific enough to deal with the commercial tool called "voluntary standards." Second, standards tend to be expressed in rather technical terms, and the courts are ill-equipped to deal with them. Third, their anticompetitive impact, in the main, falls upon small businesses who can least afford the expense of an antitrust action. Fourth, standards developers often perform government functions and wear quasi-governmental vesture. Thus, the courts have been reluctant to apply the Sherman Act to their activities.

As the FTC staff stated in its 1972 study: "The cases discussed demonstrated rather clearly that continued reliance on Section 1 of the Sherman Act alone will not correct the failings of current standards programs."

The courts' attitude is expressed in the opinion of a United States District Court, wherein it stated "Because of the heavy reliance of Federal, State and municipal governments upon ASTM for specifications, the society may be regarded as an essential arm or branch of government, and its acts may be entitled to immunity from the antitrust laws accorded governmental acts." ASTM has seized the opportunity; it proudly advertises that it is the place to do standards work without fear of the antitrust laws. In its pamphlet entitled "Questions Most Frequently Asked about ASTM," question No. 21 reads: "Are ASTM committees vulnerable to antitrust prosecution?" ASTM replies: "In the opinion of the Federal Court, ASTM is the place to write standards without fear of antitrust suits."

FTC: The Commission already possesses the power to write trade regulations. Whether it is authorized to write them relative to not-for-profit organization is in some dispute. While I believe the Commission would be victorious in the courts on this issue, I think the uncertainty accounts for the Commission's timid involvement in standardization activities.

In public, standards developers argue that the Commission already has the power to deal with restraint of trade and consumer deception in this area; privately, they argue that it does not. When the Commission enjoined ASTM as a party defendant in a plastic flammability case, ASTM's managing director wrote the Commission that "If the commission insists upon retaining ASTM as a respondent in the proceeding, ASTM will not only decline to cooperate voluntarily with the commission, but will further, inasmuch as ASTM is a non-profit corporation, move actively to dispute the Commission's jurisdiction to proceed against ASTM." The Commission dropped ASTM as a respondent.

Q-15. Would S. 825 complicate US participation in international standards activities?

A-15. The United States does not have a formal policy on international standards. It should. The United States has a clear interest in international standards activity which may affect its balance of trade and balance of payments. Title II establishes a partnership between government and the private section intended to meet this need. (See also A-16 and A-17)

Q-16. Would S. 825 impair the effectiveness

of the presentation of the United States' position overseas?

A-16. At present, the United States takes no formal position on international standards activities. ANSI cannot represent the United States' interest in international standards activities or state its position, because ANSI has not been delegated such authority. ANSI represents only its membership in international standards activities.

And since Title II requires the Commerce Secretary to use private standards developers to represent the United States' interest in international standards, if ANSI and its associates have been effective in the past they certainly should be effective once they begin operating with official authority.

Q-17. Is the voluntary system adequate to represent the United States' interest in international standards activities?

A-17. No. First, the United States cannot be effective in international standards activities until it establishes a consistent policy for both domestic and international standards. Second, the United States is at a disadvantage in international standards because many foreign national standards bodies receive government support and send large official delegations. (See also A-16)

Q-18. Would S. 825 establish a mandatory laboratory accreditation system?

A-18. No. The program that would be created by Title III of S. 825 is completely voluntary. There is no language in the bill that requires laboratories to participate in the program. Section 311(a) allows testing laboratories to terminate their participation in the government program at any time.

Q-19. Would the accreditation program called for in S. 825 be onerous and expensive?

A-19. Many small laboratories have endorsed this program, including Approved Engineering Test Laboratories of Encino, California; MET Electrical Testing Company of Baltimore, Maryland; and Detroit Testing Laboratory of Oak Park, Michigan. The program has also been endorsed by manufacturers, including the Watts Regulator Company of Lawrence, Massachusetts and the American Cyanamid Company of Wayne, New Jersey. (See also A-1, A-2 and A-20.)

Q-20. Is the present Department of Commerce accreditation program considered the best approach?

A-20. There are five major differences between the program in Title III of S. 825 and the current DOC program. (1) The DOC program can be terminated at any time by the Secretary; (2) the review procedures in the DOC program call for considerably more evidence than those in S. 825, and the legislation allows the secretary to amend these; (3) the DOC program takes a product-by-product approach and S. 825 takes a class-of-technology approach, with the option that the product-by-product in question cannot be placed in an existing class of technology; (4) the requirements of each Federal accrediting agency are generally ideosyncratic; the cost of meeting these different requirements is passed on to the purchaser of the laboratory's service. S. 825 requires all Federal agencies to use a single program. DOC cannot require this. In the private sector, there is no accreditation program and I doubt if one could be established to give small labs wide acceptance; (5) the legislation provides funds to get the accreditation program into full operation.

Q-21. Does the present system provide small businesses with the knowledge and results of national and international standardization without the cost of actual participation?

A-21. Many of the standards adopted by Occupational Safety and Health Administration and Consumer Product Safety Com-

mission as mandatory standards are developed by private standards developers. In the case of OSHA, the vast majority are ANSI standards. National Institute of Occupational Safety and Health testified before the subcommittee on April 25, 1977, that "One of the problems associated with this [ANSI Z87 standard] and similar standards is restrictive design requirements." NIOSH went on to describe how a small manufacturer presented to it a pair of spectacles that incorporated several innovative features, but could not be certified because they did not comply with the design requirements of the OSHA-adopted standard. NIOSH went on to note that "many of the ANSI standards we have discussed here today appear to be written by persons who primarily represent the business interests of their own company or industry."

If small businesses had adequate and effective representation on these standards committees, they could protect their products from being written out of the marketplace. The subcommittee has had many cases similar to the spectacles case.

It should be remembered that the giants of the corporate economy did not bring us every major advancement in technology. The polaroid film process, the self-winding watch and the stainless steel razor blade come to mind immediately.

Q-22. Are small business interests fairly represented in the standards process?

A-22. The subcommittee's investigation found no formal procedures which required that small businesses be consulted regarding the burdens of standards upon them. Since the subcommittee began its investigation in 1974, ANSI has made overtures to the National Small Business Association. How serious ANSI is remains to be seen. However, at present ANSI has no small business representatives on its board of directors.

A-24. No. The requirements of section 102 (b) and (c) apply only to independent, third-party laboratories. Section 104(c) specifically exempts a "self-testing laboratory" or a "self-certification program" from those requirements. (See also A-19)

Q-25. Will the consuming public ultimately bear the added cost of Federal accreditation, record keeping, complaint adjudication and redress of grievance through the judicial system?

A-25. Yes. The consuming public ultimately bears the cost, whether it is private activity or government activity. There will be costs associated with this program, but the consumer benefits, in terms of products reaching the marketplace at a faster pace, reduction in product cost due to additional competition, and savings resulting from the overall program will outweigh these. The savings resulting from S. 825 should far exceed its appropriations. Moreover, the laboratory accreditation program should pay for itself in a few years. (See also A-1, A-2, and A-21).

In terms of cost resulting from complaint adjudication and redress of grievance through the judicial system, if the incidents brought to the subcommittee's attention are a few isolated cases, as standards developers argue, the FTC and the courts should not be stamped with standards complaints.

Q-26. Are the present certification and testing program in the United States free from political influence and pressure, and would S. 825 change this?

A-26. The present system has lacked essential pressures that would ensure that our antitrust and consumer protection policies are adhered to. Only recently did the FTC question the common practice of federal, state and local authorities writing the names of one or two laboratories into procurement specifications and local codes or ordinances. (See also A-14).

On the other hand the present system has been substantially shaped by political or monetary pressures from the business community. A small company sends a product to a testing laboratory . . . It is placed at

the end of the queue and continues to move backwards. A multimillion-dollar company's product immediately goes to the front of the line and a responsive and helpful bureaucracy.

S. 825 will correct this and other complex practices that restrain trade. It will take some of the political and monetary advantage of bigness out of the testing and certification of products.

Q-27. Would the National Standards Management Board completely control and regulate all standards organizations?

A-27. No. First, only national standards-development organizations may seek accreditation and only standards developed for national application will be listed. The National Standards Management Board has one function: to write rules, procedures, policies, and criteria for the purposes of accrediting standards. Its direct effect on standards developers begins and ends there. The Institute operates under the rules, procedures, policies and criteria established by the board, which would be comprised of the affected interests. It will take the cooperation of these interests to make national standards work. It is whistling in the dark to think that the private sector alone, government alone, or state and local governments alone can make national standards a reality. (See also A-6)

Q-28. Does Title IV permit the government to regulate and control standards organizations' income?

A-28. No. There are no provisions in S. 825 which attempt to regulate the sale of standards, the price charged, or any other method standards developers employ to raise income. The legislation does nothing that would reduce standards' groups income, and states in section 407(b) that in providing information on national and international standards activities the Library of Standards should not attempt to compete with private standards developers in the sale of standards documents. To the extent that it does compete it must pay royalties. In short, the library would reimburse these organizations where its actions diminish their revenues.

Q-29. Does Title IV, regulate and control all standards organizations and the standards they develop?

A-29. No. This conclusion seems to stem from the language of section 403(b)(1)(A) which speaks of clearly-defined objectives and priorities for standards development, and section 406(b) which states that the secretary shall conduct research and analysis to determine the economic impact of standardization and other matters.

First, under S. 825 federal agencies must use private standards; thus, it is important that there be a central location (the Institute) where they can get the necessary standards information quickly, and be confident that it is accurate and up-to-date.

The Institute will list only one national standard; thus, it is important that it be in a position to inform a standard developer on areas where standards have been adopted already. However, there is nothing in the bill which would prevent any organization from developing a duplicate standard; it simply could not be listed as a national standard by the Institute. An organization such as ANSI could list it as a standard.

The National Standard Management Board, comprised of all affected interest, would serve as forum to consider important areas that deserve standardization attention—for example, the nuclear area. If the board felt that a certain area deserved attention, it could, through the Institute, request a standards developer to undertake the task. The standards developer could agree or refuse; there is nothing in Title IV which gives the board or the Institute the power to force a standards developer to write a standard.

One could interpret section 406(c) as giving the secretary some leverage in this regard. However, this section does not address this situation. Where a standards developer

declines to develop a needed standard or will not do so on a timely basis, section 406(b)(7) provides the solution. The bill would require the Institute to develop the standard under its voluntary product standards program. (A similar program already exists in NBS).

Fourth, as noted earlier, the bill dominates agency standards—writing, and it requires the Institute to develop standards where the private sector fails to do so. Thus, the bill provides that the Institute have a research and analysis program.

There may be instances where manufacturers will come to the Institute seeking the development of a standard. The bill requires the Institute to determine if it would be in the public interest to develop such a standard.

Finally, there is nothing in Title IV which would require or permit the board or the Institute to get into the day-to-day operations of standards developers.

Q-30. Does Title IV mandate that certain organizations write standards in specific area?

A-30. Since the Institute would only be able to list one national standard, it will have to select from among standards in the same area. To that extent it could be argued that the Institute would determine what organizations could write certain standards.

It does not have the power to forbid other organizations from writing standards in the same area. (See also A-6, A-27 and A-29).

#### THE RETIREMENT OF THOMAS R. WARING, JR.

Mr. THURMOND. Mr. President, several weeks ago, I spoke to this body about the retirement of Thomas R. Waring, Jr., former editor of the News & Courier and the Charleston Evening Post of Charleston, S.C. At that time, I had inserted in the CONGRESSIONAL RECORD a number of tributes to Tom Waring that appeared in the two Charleston newspapers. Now a new honor has come to this distinguished journalist, in the form of a laudatory editorial in the State newspaper of Columbia, S.C. The editorial casts additional light on Tom Waring's work, both in presenting further details of his career and in demonstrating the professional esteem which he enjoys. For this reason, and in further recognition of Tom Waring's achievement, I ask unanimous consent that this tribute, too, be printed in the RECORD.

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

##### EDITOR WARING RETIRES

Beginning this month—and in the years to come—the daily newspapers of Charleston will be short a major ingredient which made them well known and respected not only in the state but in the South and the nation.

We refer to the absence of Thomas R. Waring, Jr., who retired June 30 as editor of *The Charleston Evening Post*, ending a newspaper career which began 50 years ago on the Charleston paper's morning companion, *The News and Courier*.

It was during his 23-stint as editor of *The News and Courier* that Mr. Waring attracted attention for his forthright editorials. They included opposition to school desegregation and an early and perceptive evaluation of Fidel Castro as a Communist when other Americans were accepting the Cuban as an agrarian reformer.

But the Waring editorials, like the man himself, were never strident nor vituperative. They were well reasoned, well phrased, and among his Lowcountry readers, well received.

An apt tribute to Mr. Waring came in late 1960 from the late James F. Byrnes. In the course of recommending Mr. Waring for an honorary degree from the Charlestonian's alma mater, the University of the South at Sewanee, Mr. Byrnes had this to say:

"His editorial page is brilliant, independent and courageous. Because he never hesitates to express his views upon the most controversial subjects, it is inevitable that some should disagree with his views, but no one will question the fact that he does disturb thought."

Tom Waring followed the journalistic tradition of his father, who was editor of *The Evening Post*, and his uncle, W. W. Ball, of *News and Courier* fame. But Mr. Waring, Jr. made his own reputation on merit and performance. We wish him well as he carries that reputation into a well-deserved retirement.

#### SOVIET BACKFIRE BOMBER A NAVAL THREAT

Mr. HART. Mr. President, a most interesting article was published in the March issue of the Naval Institute Proceedings, "Backfire: Long Shadow on the Sea-Lanes," by Mr. William D. O'Neil. Although the Soviet Backfire bomber has been discussed extensively in relation to its possible strategic role, it has received comparatively little attention in one of the prime roles for which it was procured, that of naval attack aircraft.

As Mr. O'Neil points out, the Backfire is a highly capable naval attack aircraft. Its supersonic speed and its long range will greatly increase the capability of Soviet naval aviation. Armed with modern air-launched antiship missiles, the Backfire could pose a very serious threat to our shipping, particularly our merchant shipping, the escorts for which have been designed primarily as anti-submarine ships.

Mr. O'Neil is a well recognized advocate for long-range, multi-mission, land-based naval aircraft for the United States—the so-called Big Momma—and his discussion of the role which such aircraft could play in defending convoys from the Backfire is interesting. However, I must suggest that he seems to dismiss too quickly a small aircraft platform carrying VSTOL aircraft as an answer to the problem. He discusses only the existing Harrier VSTOL aircraft, and fails to note that we will have the AV-8B Advanced Harrier by the early 1980's. The Advanced Harrier, although still subsonic, will have a range/payload capability which could enable it to function effectively as an air defense aircraft against the Backfire. It will have a 600-mile radius of action carrying a 4,000-pound payload; with the much lighter payload that an interception mission would require, the range would be greater. In addition, a VSTOL platform would have, with helicopters, a better antisubmarine capability than do existing frigates and destroyers. The problem of the range of detection of surface radars can be solved in several innovative manners, which are now under study.

While Mr. O'Neil's article focuses on the Backfire, it makes one subsidiary point which is of great significance. This is that low-performance aircraft with high-performance sensors and weapons can do the job which previously required

high-performance aircraft. The use of a large land-based aircraft as a Backfire interceptor illustrates this fundamental transformation in the aircraft-weaponry relationship. This transformation has major implications in terms of the performance requirements for combat aircraft.

I hope my colleagues will read this article. It discusses a problem of which we must be aware, in our naval force planning. The Backfire is clearly an important element in the Soviet naval challenge.

Mr. President, 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:

BACKFIRE: LONG SHADOW ON THE SEA-LANES  
(By William D. O'Neil)

If the past few years have witnessed an alarming growth in the Soviet naval threat, there has at least been a concurrent growth in public awareness that there is such a threat. The quality of this awareness often leaves something to be desired, however. A great many people seem to see the Soviet threat in terms of a fleet of cruisers steaming forth to engage our own in a missile duel, sinking aircraft carriers right and left as they chance to pass by them. Of course there are also many people, better informed (or perhaps simply less romantic), who understand clearly enough that the Soviet force of 250 general purpose (attack and guided-missile) submarines is a far more serious threat in purely military terms.

But surprisingly few people realize that there is a third prong to the Soviet naval Trident. It is every bit as sharp, if not yet quite so long as that of the submarine threat. As Admiral James L. Holloway III said, in addressing the 1976 annual meeting of the Naval Institute: "... our deployed fleets must have the defensive strength to defend themselves against attacks of land-based air, because we are seeing more and more the development of long-range aircraft with antiship missiles as a threat which can develop rapidly and can expand to almost any spot on the globe."

Perhaps the principal reason for the lack of widespread awareness of the Soviet land-based naval air threat is that its principal offensive capabilities are of quite recent origin. While Soviet Naval Aviation (*Aviatsiya Voennno-morskogo Flota*) has had a substantial force of missile-armed bombers for more than a decade, these were largely Tu-16 Badgers whose restricted radius of about 1,700 nautical miles without refueling did not suit them very well to offensive action against most major sea-lanes.<sup>1</sup>

This concentration on relatively short-range strike capability can only have been a matter of policy, for Soviet Long-Range Aviation force as a strategic aircraft with ample range to reach vital Atlantic and Pacific sea-lanes from Soviet homeland bases; the remarkable Tupolev Tu-20 (Tu-95 is the design bureau's designator) Bear. The Bear first joined the Soviet Long-Range Aviation force as a strategic bomber in 1956 and remains the backbone of Long-Range Aviation's intercontinental strike force. It has been officially estimated by DoD that the Bear has an unrefueled operational radius of 3,900 miles with a 25,000-pound payload. One version, the Bear B, carries an AS-3 Kangaroo nuclear missile for strategic strike.

<sup>1</sup> Radius as used here refers to one half the range of the aircraft, that is, the distance it can fly to an objective and then get to its point of origin with a minimum of fuel remaining.

When deliveries of the Bear to Soviet Naval Aviation began in the early 1960's, it presumably would not have been very difficult to have armed it with the AS-2 Klipper missile employed by the Badger C for antishipping strikes. But, according to published sources, Soviet Naval Aviation has employed the Bear only in the reconnaissance and surveillance role, providing targeting and mid-course guidance for missiles launched from other platforms.

Well into the 1970s, Soviet Naval Aviation remained a predominantly defensive force with a very impressive capability to strike surface forces approaching within 1,700 nautical miles of its bases. But it had only limited capability outside that range. Then, late in 1974, a new aircraft began appearing on Soviet airfields: the Backfire.

The Backfire, a Tupolev design with a variable-sweep "swing wing," had been under development since the mid-1960s. According to published reports, the initial production version, Backfire B, is a highly capable aircraft, with a speed of Mach 2 at high altitude. Table 1 provides descriptive data drawn from unofficial sources.

There has been a great deal of public discussion, sometimes heated, concerning official estimates of Backfire performance. This has apparently been engendered by the possibility that the aircraft, in addition to its unquestioned Eurasian-periphery and naval strike roles, might also be intended for strategic missions against the United States. One source, a column in *Aviation Week and Space Technology*, claims that there is a major divergence of official views on unrefueled combat radius, citing CIA/McDonnell Douglas estimates as low as 1,750 nautical miles and DoD estimates near 3,000 nautical miles.<sup>2</sup> There have been heated official condemnations of this column (although no explicit comment on the range estimates). It is possible that the seeming inconsistency actually is due to differing assumptions about flight conditions, with flight at low altitudes or supersonic speeds having an adverse effect on combat radius. Publicly released statements of various officials, including those in the CIA and the Department of Defense, about Backfire coverage in attacks on the United States imply an unrefueled high-altitude subsonic combat radius of approximately 2,500 nautical miles. Unofficial sources credit the aircraft with a 6,000 kilometer, or 3,240 nautical mile radius.<sup>3</sup>

In the past, the Soviet pattern in introducing new bombers had always been to fill the needs of its Long-Range Aviation force first, and only then to start furnishing aircraft for naval aviation. The Backfire is a significant exception, entering service with both air arms simultaneously. In May 1976, officials of the CIA testified before a congressional committee that a total of 80 Backfires had been produced to that date (including prototype and training aircraft) and that production was continuing at a rate of two and a half aircraft per month. It was estimated that a total of about 400 Backfires would eventually be produced. While these would be divided between long-range and naval aviation, all might be committed to naval missions under certain circumstances, since shipping attack is a collateral mission for Long-Range Aviation.

It is difficult to interpret this Soviet decision to supply the naval aviation force with the newest and most capable of long-range

<sup>2</sup> "Washington Roundup," *Aviation Week and Space Technology*, 13 September 1976, p. 13.

<sup>3</sup> Georg Panyalev, "Backfire—Soviet Counter to the American B-1," *International Defense Review*, October 1975, p. 639; William Green, *The Observer's Book of Aircraft* (London and New York: Frederick and Warne and Co., 1976) p. 200.

bombers as representing anything other than a determination to interdict the West's vital sea-lanes in event of war. Backfire's performance and equipment both argue a long-range offensive role. Homeland defense would not have demanded such a large, sophisticated, and expensive aircraft.

According to unofficial sources, Backfire carries a pair of either of two air-to-surface missiles, the AS-4 Kitchen or the AS-6 Kerry. Both have Mach 2.5 to 3.5 speeds and 150 nautical mile "operational ranges," although absolute maximum ranges appear to be substantially greater. The AS-6 is described as having an active radar homing system for terminal guidance, and thus presumably can be used as an antiship weapon with a nuclear or conventional warhead. It is also reported that the Backfire carries extensive passive and active electronic countermeasure systems to aid in defense penetration.

To see what the Backfire really means strategically, one must look at the map. Figures 1 and 2 show possible Backfire tracks superimposed upon charts of the North Pacific and North Atlantic Oceans. The tracks are marked off to indicate combat radius requirements. As discussed earlier, it appears that Backfire's unrefueled high-altitude subsonic radius must be 2,500 nautical miles or more. Actual range performance will depend upon a variety of factors, including flight profile, use of afterburners, reserves policy, weapon load and external fuel, use of in-flight refueling, and pilot skill.

Looking at the charts, we see that it is impossible for ships to transit from the United States to either Northwestern Europe or to Japan without coming within reach of the Backfire. The great-circle routes lie almost wholly within potential Backfire coverage.

It is all too easy to envision what this might mean in, say, a war between the NATO nations and those of the Warsaw Pact. On the fifth day of the war—we shall imagine—a convoy bearing urgently-needed supplies and combat equipment is halfway from Hampton Roads to Le Havre. Under the protection of a heavy escort of submarines, frigates, and patrol aircraft, it has beaten off submarine attacks with relatively little loss. The Soviet high command is determined to prevent the arrival of these reinforcements.

Every few hours, the convoy's position on Moscow's maps is updated on the basis of satellite reports. As the convoy reaches a point midway between the Azores and Ireland, a force of 40 Backfires is launched from bases near Murmansk. The aircraft do not attempt to fly in close formation, relying on their inertial and satellite navigation systems to bring them together at the rendezvous point.

TABLE 1.—Backfire Characteristics

Maximum Gross Take-off Weight.	276,000 to 287,000 pounds.
Operating Weight.	Empty 115,000 to 121,000 pounds.
Maximum Span (20° sweep).	113 to 115 feet.
Maximum Span (55° sweep).	90 to 92 feet.
Length	138 to 139 feet.
Maximum Speed at Sea Level.	Mach 0.9 (600 knots).
Maximum Speed at High Altitude.	Mach 2.0 (1150 knots).
Cruising Speed at High Altitude.	Mach 0.82 to 0.85.
Service Ceiling	59,000 feet.
Maximum subsonic High Altitude Radius.	(See text.)
Armament: Two AS-4 or AS-6 cruise missiles, carried externally.	

Sources: Georg Panyalev, "Backfire—Soviet Counter to the American B-1," *International Defense Review*, October 1975, p. 639; William Green, *The Observer's Book of Aircraft* (London and New York: Frederick and Warne and Co., 1976), p. 200.

The bomber stream is escorted out past the Norwegian coast by Mikoyan MIG-23 Flogger fighters. Once well out over the Norwegian Sea, the fighters depart and the bombers turn south, to pass midway between Scotland and Iceland. The Backfires fly in a loose stream at their optimum cruise speed of just under 500 knots, climbing as they burn down their fuel loads. As they near the gap between Iceland and the Faeroes, they dip down to 8,000 feet to avoid any possibility of radar detection. Once clear, they climb again to their optimum cruising altitude, a little below 30,000 feet.

Moscow transmits a revised aircraft rally point, based on latest satellite and submarine reports. Some aircraft fail to appear, for one reason or another, but 36 Backfires meet and form up for the run-in and attack. Following their leader, still keeping radio silence, they select full afterburner on their twin NK-144 turbofans, climb to 45,000 feet, and accelerate to 1,000 knots or more. A few minutes later, the leader breaks radio silence. The convoy is in sight on the radar; he orders his formation to turn 20° to port in order to intercept.

At virtually the same moment, the SPS-49 air-search radar of one of the screening *Oliver Hazard Perry*-class frigates (FFG-7) registers the massive raid at a range from the convoy center of 250 nautical miles. With the radar operator calling jamming strobes all over the scope, and no IFF (identification, friend or foe), no one has any doubt about the raid's identity or intent. But what can be done about it?

Within six minutes, the Backfires have identified their targets and have set their missiles. The range has closed to 150 nautical miles, and the missiles are released. The Backfires turn to return home, with a few of their number remaining within radar range long enough for damage assessment.

Some of the missiles fail to perform as intended, but more than 60 (each plane carries two) approach the convoy in a space of minutes. The guided-missile frigates among the escort belch Standard SM-1 missiles until their foredecks are burnt black, but they can get only a fraction of the AS-6s. More than 30 survive to plunge into convoy ships. Several ships are sunk, and several more have much of their vital cargo destroyed.

The Backfire force does not get home unscathed, of course. Alerted by reports from the convoy, NATO interceptors based in Iceland and Scotland await the bombers along their return route. With support from long-range Soviet interceptors, heavy use of their own electronic countermeasures, and a high-speed dash to minimize exposure time, the bombers break through, but only after three are lost. It is not a cheap victory for the Soviets, but it is a victory all the same. (Had the bombers thought it safer, they could have gone back between Iceland and Greenland, refueling if needed over the Norwegian Sea.)

The details of this scenario are, of course, purely imaginary. There seems little, however, to prevent the Soviets from translating it into practice, at least in broad outline. Is there anything the United States and its allies can do to protect our vital sea-lanes against this threat?

In trying to answer the question, let us concentrate on convoys and non-carrier naval forces. The general principles of carrier force defense against air attack are well known, and details of effectiveness against Backfire cannot usefully be discussed in an unclassified article.

One suggestion would be to route shipping well south, turning northward only when in range of land-based fighter protection. The delays incurred through circuitous routing would be costly but probably tolerable—if the scheme worked. Unfortunately, it seems questionable whether the land-based fighters can really provide protection without an inordinate commitment of resources.

If the fighters are to be kept on strip alert, the problem is one of providing adequate warning time. In order to protect the convoy, the fighters must engage the Backfires before they reach the 150-mile missile-release line. Even if the convoy hugs the coast quite closely and the protecting fighters leap-frog from airfield to airfield, in order always to be at the closest one, they can scarcely have less than 150 nautical miles to fly to make the intercept. Allowing for engine start, take-off, climb, and flyout, it would seem that even the fastest of fighters would need some 10 to 12 minutes' warning.

In 12 minutes, a Backfire can fly something over 200 miles, so detection will have to be made 350 miles out from the convoy. This would seem to imply a need for an airborne early warning radar aircraft—such as the Grumman E-2C Hawkeye or the Boeing E-3A AWACS (airborne warning and control system)—or a number of picket ships. If the convoy is more than 50 miles or so from the fighter strip, the warning time requirements will be increased proportionately, with resulting extension of the area which must be kept under surveillance.

If adequate warning could not be provided, then it would be necessary to have the fighters serving as combat air patrol (CAP) over the convoy. But to do any serious damage to a large Backfire raid would require perhaps six rather sophisticated missile-armed interceptors (although this might be scaled down to four or so in the case of the Grumman F-14 Tomcat with its multiple-engagement capabilities). And to keep this number of fighters on continuous CAP would require commitment of the better part of an air wing.

In either case, we seem to be dealing in assets NATO can ill afford to spare from other requirements, particularly when account is taken of the possibility that several convoys might require protection simultaneously. Of course, a carrier might provide quite effective escort against Backfire attack. But here again, we are using an asset which will be urgently needed elsewhere. There is also the consideration of the risk involved to the carrier. One great advantage which carrier escort would have over land-based fighter cover, however, would be the removal of the restriction to close in-shore tracks, with their exposure to submarine attack and mines.

At this point, some readers will object that the potential of land-based fighter cover is being slighted. It is not really necessary to make the intercept before the Backfires launch their missiles, it can be argued. Even the prospect of substantial casualties after launch would be enough to deter attack.

Leaving aside inherently metaphysical calculations of what sorts of losses Soviet Naval Aviation might consider acceptable, this objection can be met on purely physical grounds. For, after the Backfires have made their missile launch, they will turn away, involving the interceptors in a tail-chase. To catch a Mach 2 aircraft before your own fuel runs out—especially after you have been flying in maximum afterburner for eight to ten minutes just to get to the starting line—requires performance of a very high order. Such aircraft do exist—the MIG-25 Foxbat and Lockheed YF-12A are two—but not in NATO squadrons.

If the cost of defending convoys individually seems excessive, the NATO nations

might try another approach: cut 'em off at the pass. It has already been observed that passage of the Iceland-Scotland gap involves serious dangers to a Backfire raiding force (at least as long as NATO manages to hang onto Iceland). If suitable warning could be provided, interceptors based in Iceland and Scotland could take a serious toll of any bomber force, both outbound and inbound.

A suitable means to provide the warning appears to exist—Congress and the European NATO nations willing. It is the E-3A, the airborne warning and control system (AWACS), a Boeing 707-320B airframe fitted with an enormous, powerful Westinghouse radar and ranks of intercept-control consoles.

There do not seem to be any public discussions of radar coverage by the AWACS, but the fiscal year 1977 posture statement of General David C. Jones, the Air Force Chief of Staff, provides a radar scope photo taken onboard a high-flying AWACS prototype, not far from Norfolk, Virginia. The hundreds of radar returns displayed run from the southern tip of South Carolina to upstate New York, a span of 700 nautical miles. Thus, it appears safe to conclude that a single AWACS orbit could give coverage over the entire 500-mile gap between Scotland and Iceland.

But if blocked between Iceland and Scotland, the Backfires have the option of transiting the Denmark Straits, between Iceland and Greenland. Flying this longer route, they would not be able to close off access to Europe by the more southerly sea-lanes—unless they were refueled in flight. But General Brown's posture statement indicates that Soviet Naval Aviation possesses a force of about 100 Badger tankers and that, "The introduction of BACKFIRE into naval aviation creates a potential requirement for a new tanker to support extended range missions." Depending on the capabilities of these tankers, it would seem that air refueling might extend the Backfire's radius by as much as 1,000 nautical miles—ample to permit full interdiction of the European sea-lanes via the Denmark Straits. In order to close off this route, it would be necessary to maintain a second AWACS orbit. Thus, the forces required to block Backfire entry into the North Atlantic begin to seem rather substantial: a squadron, say, of high-performance, long-range interceptors (the F-14 would appear ideal) each in Iceland and Northern Scotland plus however many E-3As are needed to keep two airborne on station. (Commercial 707s fly about one-third of the time, but the E-3A's complex avionics would probably have a deleterious effect on its flight availability.)

An alternative approach would be to try to counter the Backfire with carriers. Probably one carrier each in the Iceland-Faeroes gap and the Denmark Straits would be sufficient. The survivability of carriers in such positions seems questionable, however. The Soviets would be able to throw everything but the kitchen sink at them, and the Soviet submarines would descend in force.

In short, the options in the Atlantic appear to be:

Tie up a lot of very valuable assets trying to defend convoys (and naval forces) one by one.

Tie up a lot of valuable assets trying to keep the Backfires out of the Atlantic altogether.

In the Pacific, the options look even less attractive. The Soviets base at Petropavlovsk offers almost unrestricted access to the open sea. There are no nasty allied bases sitting astride the flight tracks. With in-flight refueling there is virtually no point in the North Pacific which Backfires cannot reach. The southerly route from San Francisco to Japan stretches 7,500 nautical miles, and even that offers little security against air-refueled Backfires. When or if the convoy does finally reach the questionable shelter of the Ryukyu Islands, south of Japan, one

finds that airfields for protecting fighters are rather far between.

Trying to blockade Petropavlovsk with carriers seems to be a very questionable proposition at best. At least three or four carriers would be needed—assuming they stay beyond range of tactical strikes from Petropavlovsk—and, again, they would be very much exposed to attack.

For the moment, the Soviets probably do not have enough Backfires to deploy a significant force to the Pacific. As their inventory builds, however, it will become increasingly difficult to envision wartime resupply of Japan without direct carrier protection.

If experience is any guide, there will be no shortage of explanations that the Backfire is really not a threat, nor of simple schemes to meet the complex problems it poses. It is easily predictable that the most prevalent of the easy solutions will be that convoys and other forces carry their own air defenses, in the form of V/STOL (vertical or short takeoff and landing) aircraft.

Unfortunately, the only existing Western V/STOL which resembles a fighter in any way is the Hawker Siddeley/McDonnell Douglas AV-8 Harrier. The Harrier is a remarkable aircraft with many wonderful abilities, of which long-range air intercept is definitely not one. Quite aside from being strictly subsonic, the Harrier has no air intercept (AI) radar and hence no ability to carry any armament effective beyond visual range. Even if an AI radar and suitable missiles could be carried without hopeless compromise to the Harrier's performance (the aircraft is scarcely larger than the McDonnell Douglas A-4 Skyhawk) one would still face the same dilemma we encountered earlier; either one must have airborne early warning aircraft to give adequate warning for the fighters to scramble, or one must have a substantial combat air patrol.

There is no V/STOL early warning aircraft. One could probably be developed—given the better part of 15 years and a billion dollars—but there is no reason to suppose that it could be any smaller than the DC-3 size Grumman E-2C which now graces carrier decks. Several of these, plus perhaps a dozen Harriers would call for a good-size ship to carry them.

Given the Harrier's rather restricted flight duration, it would probably take something like six aircraft on board ship for each combat air patrol station. With six stations, this would mean some three dozen aircraft altogether—again, requiring quite a good-sized ship. And, again, the Harrier in its present form is not suitable for such missions in any case.

It would probably be possible to develop a V/STOL fighter with good intercept performance (given, again, 15 years and a billion dollars). But if the idea is to achieve deck-launched intercepts on the basis of shipboard radar warning, then the performance requirements are breathtaking.

Perhaps a more attractive alternative, if one is willing to wait for new developments, would be a long-range, surface-to-air missile system. There certainly should be no particular problem in designing a ramjet missile which can get out 150 nautical miles in less than five minutes. The Talos, introduced in the 1950s, offers nearly that level of performance. Targeting, command-control, and guidance would present formidable challenges, particularly in light of the need for high firepower and the likelihood of electronic countermeasures opposition.

One possible shorter-term developmental approach would be a long-endurance aircraft combining the warning and missile platform functions. In this concept, bomber or transport type airframes would be outfitted with an existing type of airborne early warning radar (such as the APS-88 of the

E-1B or the APS-125 of the E-2C), one or more AWG-9 fire control systems, and a number of AIM-54 Phoenix missiles. (The AWG-9/Phoenix is the air-to-air weapon system of the F-14.)

The long-range and multiple target capability of the AWG-9/Phoenix system would permit even a subsonic aircraft to make a number of intercepts before the Backfires could launch. Use of a large aircraft with long range and high endurance, such as the Lockheed P-3 Orion now used for antisubmarine patrols, would permit escort of convoys far at sea without tying up a carrier. Such a warning/missile aircraft might also have value in interception of Backfires on the way to and from their strikes, particularly in the Pacific. By sticking to existing types of airframes and systems, one would tend to reduce development cost and time. The aircraft would be expensive, however, and long transits to mid-ocean stations would eat into productivity.

It is clear that Admiral Holloway's concerns about the land-based air threat are amply supported by the cold facts. The heavy investments the Soviets are making in offensive, long-range antiship aircraft speak eloquently on their intentions. The United States and its allies are faced with a number of complex choices in deciding how to meet this threat. These choices must be analyzed and resolved, quickly and objectively, if we are to continue to have confidence in our ability to use the seas for essential defense purposes.

#### COURANT PAYS TRIBUTE TO RABBI FELDMAN

Mr. RIBICOFF. Mr. President, Dr. Abraham J. Feldman, who was the rabbi of the temple I attend, Temple Beth Israel in West Hartford, Conn., was a much respected and loved man known throughout the Nation for his intelligence, humanitarianism, and devotion to his faith. His death on Thursday, July 21, 1977, at the age of 84 was an occasion of deep sorrow and great loss for all who knew him.

As I noted in the Senate on July 22, Rabbi Feldman, a devout Jew, spent his life reminding all of us of the values, hopes, and aspirations that unite mankind, regardless of race, color, or creed.

In an editorial in its edition of July 23, 1977, the Hartford Courant paid tribute to Rabbi Feldman. Mr. President, I ask unanimous consent that the editorial be printed in the RECORD.

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

#### RABBI FELDMAN REMEMBERED

Abraham J. Feldman called himself the "counsel for the defense." His clients were the thousands of congregants he served during a distinguished 52-year career at Temple Beth Israel in West Hartford. God was his judge and jury.

His death is not only a loss to the religious and civic organizations of Connecticut, but also the end of one of the most historic ministries in the Reform Jewish movement. The career of Rabbi Feldman stood out as a symbol of strength in the tumultuous affairs of the most liberal branch of Judaism.

A Russian immigrant from a strict Orthodox background, Rabbi Feldman embraced the philosophy of the German rationalists who modified traditional Judaism. His career was a fascinating mixture of new and old, liberal and traditional. In a famous convention sermon to his rabbinic colleagues in

1934, he warned against letting the Reform movement stray too far from tradition, at the risk of "dejudalization" of its members. He was also a firm and enthusiastic Zionist, even through the years when the bulk of the Reform movement opposed the notion of a Jewish state.

But Rabbi Feldman also embraced the Reform zeal to end traditions that no longer seemed important in a modern, Western world. He had little sympathy for Jews who wished to wear the traditional skull caps in his synagogue; they were virtually forbidden at Beth Israel until he retired in 1968.

His long career was a triumph of religious cooperation for a Jew in a Christian world. Still spry and alert at age 82, Rabbi Feldman was chosen to help plan the opening religious ceremony at the Hartford Civic Center in 1975. He outlived his two close friends in the Hartford Christian community, Roman Catholic Archbishop Henry O'Brien and Episcopal Bishop Walter Gray.

Brushing aside the many awards and honors he received, Rabbi Feldman said his proudest moment came in 1972 when his grandson was graduated from the Hebrew Union College in Cincinnati and became a rabbi. It was the same college from which Rabbi Feldman had been graduated 54 years earlier.

Rabbi Ralph D. Mecklenburger said his grandfather's career was an important element in his decision to become a rabbi. It was the kind of career that was an inspiration to us all.

#### RICHARD E. JOHNSON

Mr. WILLIAMS. Mr. President, I join my colleagues on the Committee on Human Resources in expressing my gratitude, admiration, and appreciation for Dick Johnson's outstanding work during his tenure as counsel to our Subcommittee on Employment, Poverty, and Migratory Labor.

In his more than 8 years as a member of the committee staff, Dick has been a mainstay, and Senators of both the majority and minority have confidently relied upon his perceptive advice. The quality of his work and the tireless dedication with which he pursued it has been exemplary.

My vantage as chairman of the committee affords me a broad and clear view of the work of our excellent staff. Dick Johnson's contributions reflect the highest standards of excellence and perseverance.

The legislation for which he has been largely responsible includes some of the most important in recent years—the landmark Comprehensive Employment and Training Act of 1973, the Emergency Jobs and Unemployment Assistance Act of 1974, the Emergency Jobs Program Extension Act of 1976, the Legal Services Corporation Act, and the amendments in 1969, 1972, and 1974 to the Economic Opportunity Act.

It is fitting that one of his most comprehensive timely, and gratifying projects—the Youth Employment and Demonstration Projects Act of 1977—has come to fruition with final congressional passage simultaneously with the culmination of Dick's work for the Senate. This momentous legislation has received overwhelming bipartisan support in Congress, standing in tribute to the precision and sensitivity with which it was developed by Dick Johnson.

We shall miss having his able assistance readily available, but we know that, in his new work at the Department of Labor, we shall continue to have the benefit of his counsel on those policies and programs for which we share a common commitment.

I know that all Senators share my wish that Dick continue to find success and satisfaction in his work on behalf of those Americans whose aspirations and opportunities would be less, but for Dick Johnson's efforts.

#### NEW APPROACHES TO NAVAL PROBLEMS

Mr. HART. Mr. President, I call to the attention of the Senate an article from the May issue of *Shipmate*, the publication of the Naval Academy Alumni Association, by Norman Polmar, entitled "Seeking Some Alternatives."

As Mr. Polmar points out, the Navy has seen its size shrink as its responsibilities have become more difficult. If the Navy is to grow in capability within acceptable budget constraints, we must find new and more cost effective ways to perform naval missions. One way may be to assign to the Merchant Marine certain tasks for which the Navy now procures its own ships.

This article discusses several ways in which the Merchant Marine could serve the needs of the Navy and the Marine Corps, such as providing oilers and tugs, augmenting amphibious lift capability, and even providing "convertible" warships. The Senate Armed Services Committee made note of these possibilities in its report, where it stated that—

The committee requests that the Navy make every effort to avoid future requests for fleet oilers and fleet tugs by contracting for these capabilities from the Merchant Marine. The committee is concerned that the Navy make better use of Merchant Marine assets in all possible applications so as to reduce the need for naval ship construction funding of auxiliaries.

Mr. President, better Navy-Merchant Marine cooperation offers the possibility of improved naval capability at lower cost to the taxpayer. I hope my colleagues will join with me in encouraging the Navy to explore this possibility more thoroughly. I ask unanimous consent that the article, "Seeking Some Alternatives" by Norman Polmar be printed in the RECORD.

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

#### SEEKING SOME ALTERNATIVES (By Norman Polmar)

An ironic situation has developed with respect to U.S. naval forces. During the past decade the size of the U.S. Fleet has declined considerably, from a peak of 976 ships to some 475 today; but, in many respects there has been an increase in Navy operational requirements. For example, the "blue water" operations and capabilities of the Soviet Navy have increased while the tumultuous situations in Africa and the Middle East, coupled with increasing U.S. dependence upon Middle East oil, necessitate more U.S. Navy deployments into the Indian Ocean. Also in this period, most NATO navies have declined in size and the number of over-

seas bases available to U.S. forces has decreased.

At the same time, U.S. personnel, ship construction, and operating costs continue to rise. Several similar problems plague the U.S. Merchant Marine. The number of ships remains steady as productivity increases, with American ships carrying a smaller percentage of the increasing world trade. And, the development of specialized container ships for the liner trade limits flexibility in servicing Third World ports.

There does not appear to be a single solution for these inter-related problems. Rather a combination of both innovative and traditional approaches must be employed if the United States is to continue to exploit the seas for their political, economic, and military benefits.

In seeking solutions to these problems, the Transportation Institute, a non-profit organization devoted to research and education in a broad range of U.S.-flag merchant marine issues, asked if there is an increasing role for the Merchant Marine in the national security role. For example, could increased cooperation and coordination of the Navy and the Merchant Marine result in a greater effectiveness of both fleets? How could such coordination be undertaken? Could the Merchant Marine be employed in a peacetime auxiliary role to permit the Navy to concentrate resources on primary combat functions?

The Transportation Institute sought answers to these and other questions from the Santa Fe Corporation, an analytical research firm engaged primarily in maritime and defense studies. Santa Fe addressed the issues in both a historical and analytical context.

#### HISTORICAL PERSPECTIVE

The concept of cooperation and coordination of a nation's maritime assets is not new. In our own history, 200 years ago merchant ships were employed as warships and privateers; their crews were recruited from merchant seamen and officers, and fishermen. One merchant skipper achieved signal fame and became known as the father of the American Navy. He was John Paul Jones, and his flagship, the *Bonhomme Richard*, was a former French merchant ship.

In later wars the Navy would again call on merchant ships and merchant sailors to serve in a variety of roles. For example, during both World Wars hundreds of merchant ships were converted into naval auxiliaries, such as ammunition ships and fleet oilers, while others served as amphibious ships, command ships, minelayers, auxiliary cruisers, and even aircraft carriers. Also during the wars, even fishing trawlers were modified for use as minesweepers and patrol craft.

With time, the ability to employ merchant ships in military roles has become increasingly difficult. Whereas the coastal sailing ship of 1777 could quickly have a few gun ports cut into her sides and be fitted with a few smoothbore cannon, rapid adaptation of modern merchant ships for even auxiliary roles appears difficult if not impossible. The lack of trained crewmen, the need for secure communications, the desirability of carrying both munitions and fuels in the same replenishment ship, the small size of merchant ship crews, the large number of container ships which cannot handle break-bulk cargo, and many other factors tend to inhibit conversion of merchant ships to military roles.

But at the same time, certain technological developments appear to offer potential opportunities to employ modern merchant ships in national security roles. At the same time, certain "straight" auxiliary missions remain, such as fuel transfer and towing, which appear to be within the capabilities of available commercial ships. While a Navy-built, Navy-manned ship probably is "best" even for those tasks, some reduction in capability may be warranted in return for more hulls

being available, or obtaining a slightly lesser capability at a significant savings in acquisition or operating costs.

#### THE ISSUES

In analyzing the potential impact of the merchant marine on contemporary national security requirements, the Santa Fe Corporation examined a large number of related issues. During the course of the study, these were refined and consolidated into nine areas of potential benefit:

*Performing peacetime Navy auxiliary functions with the merchant marine.* Indications are that an enhanced defense posture and reduced costs could accrue from the greater use of merchant ships to perform certain basic functions currently performed by Navy ships, especially fuel and logistic supply, cargo transport, missile range and space support, research, surveying, and tug services.

For examples, after a suitable transition period the Navy would not operate "straight" oilers, but would contract with merchant ship owners who, in turn, would become specialized in serving this naval market. This would be similar to the manner in which the Navy now contracts for laboratory services even though it operates several laboratories.

The contract for these ships would be written to provide certain levels of ship availability in certain areas. Secure communications could be insured by assigning a small Navy communications detachment or providing security clearances to the necessary merchant seamen and officers. The feasibility of such operations was demonstrated in 1972 when the commercial tanker ERNA ELIZABETH was employed for a sustained period to support naval operations.

The merchant marine concept of operations would maximize ship use. First and foremost, while Navy oilers are alongside a pier for long periods because of personnel considerations, the commercial ships are always at sea when they are not loading or in the shipyard; relief crews need not be rotated to shore duty, and can even be shifted at overseas ports. Crew members who feel they need rest simply refrain from signing on, but the ship returns to sea. The Navy contract for these ships would provide for services; the commercial firm would work the problems of crewing, maintenance, keeping the agreed upon number of ships "on the line," etc.

Related factors are the saving of naval personnel and the related necessity for alternate shore billets, and the reduction of non-combatant ships in the shipbuilding programs. The latter is a real and psychological problem in an era when the Navy cannot obtain the numbers of warships considered necessary by its leadership.

Beyond the use of oilers and tugs of commercial construction for naval support roles, the development of container technology opens new opportunities for the use of merchant ships in performing Navy auxiliary functions.

Employing container concepts for specialized military support in peace and in war.

A merchant ship with specialized containers on board could perform a number of naval auxiliary functions such as missile range and space tracking support, surveying, ocean research, salvage, weapons and sensor test and evaluation. After the ship performs a specialized mission, it could put into port and with the exchange of specialized containers, be rapidly outfitted to undertake another mission of an entirely different nature.

The containers, upon removal from the ship, could be put into storage or used ashore until they are again required at sea. The ship could continuously undertake such specialized operations or, when not required by the Navy, could return to commercial container runs.

The Merchant Marine could provide this

multi-mission service under contract to the Navy and to other federal agencies such as NASA and NOAA. Modifications to the merchant ships for multi-mission service would be minimal. The key element would be development of a family of specialized mission containers, all conforming to the standard cargo container dimensions (8 x 8 x 40 feet) or multiples thereof. In addition to the mission-oriented containers, certain support containers to provide auxiliary power, control centers, berthing, mess facilities, administrative offices, and workshops could be provided (some of which already exist).

Modifying merchant ships for military sealift during wartime.

Examination of the various modern merchant ships now in U.S.-flag service suggests a number of military sealift applications to which they could be readily adopted. In some cases no modifications would be required, as in employing Roll-on/Roll-off (Ro/Ro) ships for the sealift of military trucks, tanks, and other wheeled or tracked vehicles. The question in the case of Ro/Ro ships is not necessarily one of modification, but rather one of matching the U.S.-flag ship inventory with anticipated military requirements. If the number of available Ro/Ro ships is less than that needed for projected military demands, the solution would be in taking the steps necessary to increase the U.S. inventory.

Some options in this area are subsidies for commercial purchase vice building for government (Military Sealift Command) ownership and operation, or providing incentives to commercial operators to run more of these ships.

The modification or incorporation at construction of certain defense features could enhance the military sealift capabilities of these ships. Such features include Ro/Ro ship exhaust systems that could handle tanks and other military vehicles, special power outlets, strong points, space for containerized communications equipment (and possibly point-defense weapons), and fittings to install equipment for a self-unloading capability in less-developed ports.

Converting merchant ships for combat roles.

While the previous issue addressed employing merchant ships for auxiliary roles, there appears to be a continuing potential for their use in combat roles. The development of advanced-technology merchant ships such as container carriers, LASH (Lichter Aboard Ship), and SEABEE (Sea Barge) greatly facilitate the conversion of ships to the aircraft carrier and amphibious roles.

For example, the container ship has a configuration with broad flat areas, suitable for container "stacks", above which light-weight aircraft decks could be installed with specialized containers to provide maintenance shops, berthing, messing, auxiliary power generators, weapons storage, communication spaces, and navigation aids. This concept will be demonstrated in the Navy's ARAPAHO project, hopefully with at-sea trials this year or next.

Similarly, LASH and SEABEE ships—again using specialized containers—could be employed in the amphibious assault role. Containerized troop spaces, ARAPAHO-type helicopter facilities, and the carrying of landing craft (including air cushion) in the docking wells could result in highly effective amphibious assault ships with minimal modifications to the ships themselves.

Employing merchant ships to enhance American political presence.

Traditionally warships have performed in the "political presence" role for nations, demonstrating their interests in an area and the ability to provide military force in the region. Similarly, modern, advanced-technology merchant ships can demonstrate a nation's interests in trading with a region and American maritime capabilities.

In this context, the Third World nations

of Asia, Africa, and South America are seeking to increase their trade, striving to earn foreign capital, export raw materials and some manufactured products, and import finished products and equipment which they cannot themselves produce. At the same time, the U.S. Merchant Marine has been severely restricted in its non-liner operations to the Third World because of the limited economic benefits for advanced-technology ships in those runs. Concurrently, reductions in the active U.S. Navy have resulted in fewer warships for port calls in the Third World. The net result is a significant decrease in American presence in several important regions.

Accordingly, a suitable program should be developed for U.S.-flag merchant ships to trade with selected foreign nations even if the economic benefits are less than desired. This program should be coordinated with the Navy, State, and Commerce departments, and other government agencies and commercial interests as appropriate. Subsidies may have to be considered, or specific exemptions to the anti-trust laws to encourage these operations. Of course, once such operations are initiated on a regular or periodic basis, there is an incentive for traders to use the ships.

Coordinating national maritime research activities.

Maritime research and development efforts in the United States are conducted by a large number of government agencies, commercial firms, and private research institutions. Within the Department of Defense these include the Office of Naval Research, the Naval Sea Systems Command, the Oceanographer of the Navy, the Army Corps of Engineers, Office of Defense Research & Engineering, and at times the Advanced Research Projects Agency. The Commerce, Interior, and Transportation departments, National Science Foundation, and a few other agencies have maritime research efforts underway.

A lack of formal coordination and, to some extent, focus in the overall national maritime research efforts has resulted in overlaps and gaps. Several of the areas which are not being adequately covered or evaluated involve the application of new maritime transportation technologies, and the commercial application of technology already proved in trial conditions. There is a lack of assessment of the military application of LASH and SEABEE related technology, coastal and inland waterways in this nation lag behind several foreign nations in the application of new technology (which exists in the military establishment), and much of the U.S. fishing fleet is primitive when compared to some available technology.

A first step in this area would be establishment of a national maritime research and development coordinating program. Initially this effort would be a cooperative effort of government, commercial, and institutional activities. However, it is envisioned that at a future date this program would be placed under the aegis of a National Maritime Affairs Coordinator (discussed below).

NASA/Department of Defense cooperation in a number of areas has demonstrated that such an effort can work within the United States.

Comparing national policies affecting sea and air transportation and their impact on national defense.

Major U.S. industries, such as aircraft manufacturing and the air transport industry, are supported by certain laws, regulations, tariffs, and subsidies. This government support protects these industries from unfair foreign competition and tends to offset the higher costs of U.S. labor and other factors related to the high U.S. standard of living.

The maritime industry is also a major industry and an essential element of national security. In several respects the Merchant

Marine and shipbuilding industries (and related activities) are similar to U.S. airlines and aircraft industries, with both types of transportation essential to defense. Therefore, government policies toward sea and air transportation and their supporting industries should foster the development and encourage the maintenance of both.

The examination of differences in legislation and regulations affecting the two transport modes should also address related government organization, and the value of related government-sponsored research and support facilities.

In the course of this effort, areas which could enhance support for the maritime industries may be identified, as well as practices of those industries which could be improved from lessons assessed in the aviation industries.

Maintaining a shipbuilding/industrial base adequate for national defense.

If the United States is to maintain a modern Navy and Merchant Marine, even of modest size, and have a mobilization potential in these areas, a modern and viable shipbuilding/industrial base must be available. Previous studies, including the authoritative report of the Commission on American Shipbuilding (1973), have concluded that the nation lacks the shipbuilding/industrial base needed in a sustained conflict.

The long-lead times for ship construction, the skilled labor requirements, and other factors make shipbuilding an extremely difficult industry to start up rapidly. The construction of additional merchant ships in peacetime (some for the naval roles described above) would stimulate and improve the investment climate in the industry; capital expenditures for labor saving equipment and advanced production line techniques would facilitate more cost-effective construction of merchant ships and warships, and would strengthen the mobilization capabilities.

More efficient construction of merchant ships would increase American competitiveness in the world shipbuilding market, and increase the ability to exploit the high-technology American concepts. Every additional merchant ship on a production run lowers the unit cost and more so than buying additional naval auxiliary ships out of the potentially large commercial market available for tankers, tugs, container ships, and possibly other types.

Developing an organization for a strengthened U.S. maritime policy.

The United States traditionally has conducted its peacetime foreign policy through diplomatic means and has attempted to achieve national security by purely military means. Separate and apart, other governmental activities are geared toward international economic achievements. There is virtually no organizational mechanism through which related efforts to accomplish national political, economic, and military goals are coordinated, especially through the inclusion of commercial activities.

This is in stark contrast to our principal opponent, the Soviet Union, which has a highly integrated maritime posture. The Soviet Merchant Marine, for example, is openly employed to further national political as well as economic goals, while providing direct support for Soviet military activities.

There is no single agency within the Executive Branch of the U.S. Government which seeks to coordinate U.S. maritime policy and activity. Prior to the 1947 defense reorganization the Secretary of the Navy—then at the cabinet level—had certain extra-Navy responsibilities. But these have been greatly curtailed as the Navy became subordinated to the Department of Defense. Similarly, there is no single House or Senate committee which oversees maritime interests, but rather there are defense, commerce, and other committees which address specific segments of the nation's maritime activities.

Accordingly, as an initial step, consideration should be given to establishment of an office of Maritime Affairs Coordinator at the White House Assistant level. The goals of this office would be to:

1. Develop the U.S. Merchant Marine to compete in world commerce, to support national interests, and to serve as naval and military auxiliary in time of war or national emergency.

2. Introduce maritime alternatives in all applicable policy discussions concerning national interests and national security.

3. Produce national economic gains by optimum use of maritime transportation in foreign and domestic commerce.

The Maritime Affairs Coordinator would have specific responsibilities for establishing and developing legislation for a national maritime strategy, coordinating U.S. maritime research, designing and coordinating an overall naval-merchant shipbuilding program, and ensuring adherence to the provisions of the various existing laws relating to domestic and foreign trade, but proposing exemptions or changes, as appropriate.

The Coordinator also would provide a forum for the exchange of ideas for all parts of the naval-maritime community.

From an organizational viewpoint, the Coordinator would report directly to the President. He would be given authority to ensure inter-departmental coordination of all naval-maritime interests with the Navy, Coast Guard, Maritime Administration and NOAA, and conduct continuous liaison with other government departments and agencies as appropriate and the relevant Congressional committees. He also would sit on the National Security Council. Of course, by being a central point of contact in the government, directing certain programs, and providing the forum noted above, the Maritime Affairs Coordinator would work closely with representatives of the fishing industry, maritime labor unions, shipbuilding industry, shipping lines, and other non-government interests.

During 1976 bills were introduced in both the House and Senate to establish the office of Maritime Affairs Coordinator. For a number of reasons the bills were not passed, partially because of an Administration proposal to establish another "coordinating committee" in place of a specific coordinator.

Proponents of the establishment of a national Maritime Affairs Coordinator are somewhat optimistic that President Carter would back such an effort. However, the proposal to establish a new energy department and certain other federal organizational changes have priority, and are pushing the maritime position into the back bay.

Nevertheless, in a period when the United States is more dependent upon use of the sea for political, economic, and military reasons than ever before in the nation's 200 year history, the establishment of a national Maritime Affairs Coordinator, and a better understanding of the potential direct impact of the U.S. Merchant Marine on national security are a necessity.

#### THE MOUNTING PROSPECTS OF NUCLEAR WAR

Mr. CLARK. Mr. President, in recent weeks, the Senate has devoted considerable attention to the fundamental issues of U.S. national security, and the problem of pursuing a sane national defense policy in a nuclear world. After a sometimes heated debate, the Senate approved funds in the Energy Research and Development Agency budget for the construction of yet another nuclear weapon—the controversial "enhanced radiation" warhead. Just last week, the Sen-

ate approved an appropriations bill providing over \$113 billion for this Nation's defense.

I thought of this, Mr. President, when reading the terrifying conclusions on the prospects for nuclear war in a report by the prestigious Stockholm International Peace Research Institute. This Swedish institute, renowned throughout the world for the quality of its professional staff and the soundness of its analyses, began its report with the simple conclusion:

The probability of a nuclear war is steadily increasing.

This conclusion, the report suggest, is not only possible, but given the consequences of advances in military technology and the spread of nuclear capability, "is virtually inescapable."

But the spread of military technology is not the only grounds for this bleak prognosis. Other reasons, according to the report, are:

The arms race evolution toward a "first-strike" capability;

The proliferation of nuclear technology all over the globe; and

The militarization of the entire globe through arms transfers.

Mr. President, I think these are factors which should be read and taken to heart by every American. Indeed, they should be called to the attention of every person in the world who cares about the issues of war and peace.

For that reason, I ask unanimous consent that this report, "The Mounting Prospects of Nuclear War," by Frank Barnaby, from the Bulletin of the Atomic Scientists, June 1977, be printed in the RECORD.

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

THE MOUNTING PROSPECTS OF NUCLEAR WAR—  
A REPORT OF THE STOCKHOLM INTERNATIONAL PEACE RESEARCH INSTITUTE

(By Frank Barnaby)

The probability of a nuclear world war is steadily increasing. If just the consequences of recent advances in military technology and the worldwide spread of this technology are considered, this conclusion is virtually inescapable. But there are other reasons for this pessimistic conclusion. Some of the main ones are:

The arms race is now leading to a first-strike capability<sup>1</sup> by both the United States and the Soviet Union,

The growth of peaceful nuclear technology is spreading the capability of producing nuclear weapons all over the globe,

The international trade in arms is rapidly militarizing the entire globe,

And, finally, the current arms control approaches have failed. They have failed to restrain the nuclear arms race; they have failed to prevent the proliferation of nuclear explosives, and they have failed to control the arms trade—let alone lead to nuclear disarmament.

<sup>1</sup> A first-strike capability does not mean the ability of one side to destroy totally the other side's ability to retaliate. It means that one side perceives that it has the capability of destroying enough of the other side's retaliatory forces so as to limit the casualties and damage it would suffer from a retaliatory strike to an "acceptable" level for a given political goal. The more reckless the political and military leaders, the higher this level is likely to be.

Given the catastrophic nature of a nuclear world war, this increasing probability of its occurrence is, to say the least, alarming.

Quantitatively, both the United States and the Soviet Union have enormous strategic nuclear arsenals. The United States admits to having 2,124 strategic nuclear delivery systems: 1,054 land-based intercontinental ballistic missiles (ICBMs); 656 submarine-launched ballistic missiles (SLBMs), on 41 strategic nuclear submarines; and 414 stra-

tegic bombers. The U.S. arsenal can deliver 8,500 independent targetable nuclear warheads.<sup>2</sup>

The Soviet Union is thought to have 2,404 strategic nuclear delivery systems: 1,452 ICBMs; 812 SLBMs on 60 strategic nuclear submarines, and about 140 strategic bombers. The Soviet arsenal can deliver about 4,000 independently targetable nuclear warheads.<sup>2</sup>

<sup>2</sup> The numbers quoted are for July 1, 1976.

And, in addition to their 12,000 or more strategic nuclear warheads, the United States and the Soviet Union have tens of thousands of tactical nuclear weapons in their arsenals, mostly much more powerful than the atomic bomb that destroyed Hiroshima.

But, as awesome as these numbers are, recent qualitative developments in offensive and defensive strategic weapons and delivery systems are as dangerous, if not more so, than the size of these nuclear arsenals.

U.S. AND SOVIET STRATEGIC NUCLEAR DELIVERY SYSTEMS, 1968-77<sup>1</sup>

	1968	1969	1970	1971	1972	1973	1974	1975	1976	1977
Strategic bombers:										
U.S.	642	592	545	545	496	496	456	435	414	414
U.S.S.R.	150	140	140	140	140	140	140	(140)	(140)	(140)
Submarine-launched ballistic missiles:										
U.S.	656	656	656	656	656	656	656	656	656	656
U.S.S.R.	59	155	248	360	456	564	664	700	732	812
Strategic nuclear submarines:										
U.S.	41	41	41	41	41	41	41	41	41	41
U.S.S.R.	11	17	22	29	35	42	50	53	55	60
Land-based ICBM's:										
U.S.	1,054	1,054	1,054	1,054	1,054	1,054	1,054	1,054	1,054	1,054
U.S.S.R.	900	1,200	1,498	1,527	1,527	1,547	1,567	1,587	1,552	1,452
Total bombers and missiles:										
U.S.	2,352	2,302	2,255	2,255	2,206	2,206	2,166	2,145	2,124	2,124
U.S.S.R.	1,109	1,495	1,886	2,027	2,123	2,251	2,371	2,427	2,424	2,404
Total warheads on bombers and missiles:										
U.S.	4,200	4,200	4,000	4,600	5,700	6,784	7,650	8,500	8,400	8,500
U.S.S.R.	1,100	1,350	1,800	2,100	2,500	2,200	2,500	2,500	3,300	4,000

<sup>1</sup> July 1 figures.

Both the United States and the Soviet Union are improving their strategic nuclear forces qualitatively along roughly the same lines. The United States remains ahead of the Soviet Union in almost all areas of strategic nuclear technology, but the gap is closing. Much more information is available about U.S. weapons than about Soviet ones, and so a description of developments inevitably, but unfortunately, emphasizes U.S. systems.

Warhead delivery. The most dangerous current development in strategic nuclear weapons is the continuous improvement of the accuracy of warhead delivery. This accuracy is normally measured by the circular error probability (CEP)—the radius of a circle, centered on the target, within which 50 percent of the warheads aimed at the target will fall.

The current U.S. Minuteman III ICBM multiple independently targetable re-entry vehicle (MIRV), for example, probably has a CEP of about 350 meters (1,148 feet) at a range of 13,000 kilometers (8,078 miles). But the guidance system of the Minuteman III—the NS 20—is capable of providing a CEP of about 200 meters (656 feet). And the new MIRV under development for Minuteman III—the Mark 12A—is expected to have this accuracy. The Mark 12A will be capable of destroying enemy missiles in hardened silos.

Recently deployed Soviet ICBMs—the SS-17 (with four MIRVs, the SS-18 mod. 1, and the SS-19 (with six MIRVs)—are thought to have CEPs of about 600 meters (1,968 feet), a considerable improvement on earlier Soviet ICBMs.

The next generation of U.S. guidance systems—currently planned for the MX ICBM, the proposed replacement for the Minuteman III—is expected to provide CEPs of about 100 meters (328 feet). And in the generation after that, warheads will presumably be guided right on to their targets; CEPs as small as 30 meters (98 feet) will probably be achieved. These warheads, likely to be available in the mid-1980s, may also be provided with a maneuvering capability

so that they can take evasive action against missile defenses. Such maneuvering independently targetable re-entry vehicles (called MARVs) will represent the ultimate in accurate ICBM delivery systems.

Warhead design. Military technology has virtually attained the theoretical maximum also in warhead design. The Minuteman III MIRV, for example, weighs only about 100 kilograms (220 pounds) and yet has an explosive power equivalent to that of 200,000 tons (200 kilotons) of TNT. The Hiroshima bomb weighed four tons, had an explosive power of 12 kilotons, and delivered by a B-29 bomber, a delivery system with an extremely large CEP.

These extraordinary developments in military technology since World War II show that the only significant limits on military research and development—the activity which makes the arms race possible—have been the innovative capabilities of the Soviet and American peoples. There is no reason why this rate of progress should not be sustained—in fact, it will probably continue to increase. Where then will military technology take us in the next 30 years?

At the end of 1976, the world's nuclear power reactors had a total generating capacity of about 79,000 megawatts of electricity (MWe). This nuclear capacity, provided by 173 power reactors in 19 countries, was capable of producing 16,000 kilograms of plutonium annually. About 30 percent of it was in 15 nonnuclear weapon countries: Argentina, Belgium, Bulgaria, Canada, Czechoslovakia, the Federal Republic of Germany, the German Democratic Republic, India, Italy, Japan, the Netherlands, Pakistan, Spain, Sweden and Switzerland.

By the end of 1980, about 250,000 kilograms of plutonium will probably have been accumulated worldwide. Austria, Brazil, Finland, Hungary, Iran, South Korea, Taiwan and Yugoslavia will also then have nuclear power reactors. And by 1984, 28 nonnuclear weapon countries will probably have nuclear power reactors with a potential annual plutonium production rate of about

30,000 kilograms—theoretically enough to produce 10, 20-kiloton atomic bombs per day.

The major problem in controlling the spread of nuclear weapons is that the fissile material for atomic bombs can be produced on a relatively small scale. A 40-megawatt electrical graphite-moderated, natural-uranium reactor could, for example, produce about 20 kilograms of plutonium-239 per year, more than enough for two 20-kiloton atomic bombs. The components for such a small reactor could be easily and secretly obtained on the open market for a cost of less than \$20 million. The reactor and a small chemical reprocessing unit to remove the plutonium from the reactor fuel elements could be clandestinely constructed and run.

Many countries have deposits of uranium ore within their borders and so it would normally not be difficult to obtain fuel for such a reactor. The small reactor route may well be the one chosen even by countries with large peaceful nuclear power programs, if they should decide to produce atomic bombs.

This does not, of course, mean that the possibility of the diversion of plutonium from a peaceful nuclear power program to military purposes should be ignored. Nor does it necessarily mean that the current concern over the acquisition of nuclear power reactors, reprocessing plants or enrichment plants by new countries is misplaced. But, contrary to public opinion and often even to official statements, it does mean that a lack of access to a commercial reprocessing plant need not (and probably would not) prevent the proliferation of nuclear weapons to countries which make the decision to acquire them.

The problem of controlling plutonium will be even more difficult if, and when, breeder reactors are developed to a commercial stage. The elements from the breeder blanket—in which uranium-238 is converted into plutonium—will normally contain plutonium with a 95 to 98 percent plutonium-239 content, excellent material for the manufacture of atomic bombs.

WORLD NUCLEAR POWER CAPACITY IN OPERATION ON  
DEC. 31, 1976

Country	Total nuclear power capacity 1976 (net MWe)	Number of power reactors (>20 MWe)	Approximate theoretical atomic bomb production capability in 1976
Argentina.....	319	1	6
Belgium.....	1,663	3	35
Bulgaria.....	837	2	17
Canada.....	2,535	7	50
Czechoslovakia.....	110	1	2
France.....	2,723	10	( <sup>1</sup> )
German DR.....	879	3	18
Germany, FR.....	4,855	8	100
India.....	603	3	12
Italy.....	542	3	11
Japan.....	7,067	13	140
Netherlands.....	499	2	10
Pakistan.....	126	1	( <sup>1</sup> )
Spain.....	1,073	3	20
Sweden.....	3,244	5	65
Switzerland.....	1,006	3	20
United Kingdom.....	4,302	28	( <sup>1</sup> )
United States.....	39,590	57	( <sup>1</sup> )
U.S.S.R.....	6,616	20	( <sup>1</sup> )

<sup>1</sup> Nuclear weapon power.

#### NOTES

Number of countries having at least 1 reactor > 20 megawatts (MWe).....	19
Number of reactors > 20 MWe.....	173
Capacity in megawatts (includes reactors < 20 MWe).....	78,589
Total annual atomic bomb production capability in countries without nuclear weapons.....	510

The plutonium in the spent fuel elements from the core of a breeder reactor will normally contain about 70 percent plutonium-239, which is about the same concentration as the plutonium in the spent fuel elements from a typical non-breeder reactor. This "contaminated" plutonium would still be usable as the fissile material for atomic bombs, albeit of less than optimum efficiency.

The military uses of highly enriched uranium (over 40 percent uranium-235) include the use of this material for the trigger of a hydrogen (thermonuclear) bomb, and, with plutonium, for the manufacture of more efficient atomic bombs. The spread of uranium-enrichment plants could, therefore, contribute to the proliferation of nuclear weapons. Once again, attention has been mainly focused on plants large enough for commercial use. But a small enrichment facility—a dozen or so centrifuges, for example—would be enough to produce the kilogram-per-year quantities of suitably enriched uranium needed for the development of a modest nuclear weapon force. The relatively high degree of enrichment necessary could be obtained by repeatedly recycling the uranium through the system.

The major suppliers of nuclear material and equipment have, for the past few years, periodically held secret meetings in London to discuss ways of making the nuclear market place less anarchic. The aim is to minimize the risk of the diversion of nuclear technology—a technology which they are so eager to supply—to the production of nuclear explosives. The very fact that these meetings are deemed necessary is essentially an official admission of the failure of the Non-Proliferation Treaty (NPT) to establish a viable non-proliferation régime.

Countries that are party to the NPT are committed to have International Atomic Energy Agency (IAEA) safeguards applied to all their nuclear facilities, whether indigenously constructed or imported. A sensible course of action to slow down proliferation would be for the exporters to insist that their clients accede to the NPT, or at least subscribe to the same system of international safeguards as that which the parties to the NPT are required to take on. So far the suppliers have failed to establish such a rule.

It is unrealistic to hope that any new

international measure to establish a non-proliferation regime will succeed where the NPT has failed. The most that can be hoped for is that measures will be taken to slow down the rate of proliferation. Such measures include a moratorium on the construction of reprocessing plants and breeder reactors until the necessity for these reactors is unambiguously demonstrated, and multinational uranium-enrichment plants are under IAEA safeguards.

But the most essential action of all is the demonstration by political leaders of the nuclear-weapon states that they see no political or military value in nuclear weapons. This they could most convincingly do by undertaking nuclear disarmament.

A new nuclear-weapon power should be able to produce a 20-kiloton atomic bomb with a weight of about 1,000 kilograms, even at an early stage in its nuclear-weapon program. Such a warhead could be transported by many delivery systems, some of which are already in the arsenals of many near-nuclear countries, including the American A-4 Skyhawk, the F-104 Starfighter and the F-4 Phantom; the French Mirage V; the British Canberra and Buccaneer, and the Soviet Ilyushin 28.

Surface-to-surface missiles such as America's Honest John, Lance, Pershing and Sergeant; the Soviet's Scud and Frog, and Israel's Jericho are all nuclear-capable. Moreover, the technology of a peaceful space program could produce, as byproducts, guided missiles suitable for short-medium- and long-range ballistic delivery systems for nuclear warheads.

Recent developments in cruise missile technology could have far-reaching consequences for the proliferation of credible nuclear delivery systems—both tactical and strategic. Apart from their relative invulnerability, modern cruise missiles have two important characteristics: they are very accurate and relatively cheap. Many states, underdeveloped as well as developed, may see cruise missiles as highly desirable tactical and strategic delivery systems.

Most countries, including underdeveloped ones with a moderately sized defense industry producing, say, jet aircraft and missiles, could produce effective (even though relatively unsophisticated) tactical cruise missiles should they choose to do so. Many of these countries would, or will soon be able to, produce cruise missiles suitable for use by them as credible strategic delivery systems. Such nonindustrialized countries with well-developed defense industries include Argentina, Brazil, China, India, Israel and Taiwan. If present trends continue, this list will quickly grow.

#### INTERNATIONAL COMMERCE

The major exporters of nuclear material and equipment are the United States, the Soviet Union, the United Kingdom, Canada, France, the Federal Republic of Germany, Sweden and Japan. In many of these countries, however, the nuclear exporters are private companies.

Canada has exported two nuclear power reactors, one to India and one to Pakistan; and is constructing a power reactor in Argentina, India and South Korea.

The Federal Republic of Germany has constructed a power reactor in Argentina and in the Netherlands; and is constructing one in Austria, two in Brazil, two in Iran, one in Spain and one in Switzerland.

France has constructed a power reactor in Belgium and in Spain; and is constructing another one in Belgium.

The United Kingdom has constructed one power reactor in Italy and one in Japan.

The United States has constructed 26 power reactors abroad: Belgium (3), the Federal Republic of Germany (2), India (2), Italy (2), Japan (6), the Netherlands (1),

Spain (2), Sweden (1), Switzerland (3), and the United Kingdom (4). Currently, the United States is constructing 26 more power reactors abroad: Brazil (1), Italy (1), Japan (4), South Korea (2), Mexico (2), Spain (7), Sweden (2), Switzerland (2), Taiwan (4) and Yugoslavia (1).

The Soviet Union has exported five power reactors: Bulgaria (2), and the German Democratic Republic (3). It is now constructing 14 power reactors abroad: Czechoslovakia (4), Finland (2), the German Democratic Republic (6) and Hungary (2).

Sweden, the only other exporter of nuclear power reactors, is constructing two in Finland.

The 92 nuclear power reactors constructed or being constructed abroad by the major nuclear exporters have a total electrical generating capacity of 46,000 megawatts electrical. But international cooperation in nuclear energy extends far beyond the construction of these power reactors. Uranium enrichment plants, reprocessing plants and other key elements of the nuclear fuel cycle are involved.

Bilateral agreements, in fact, cover virtually all conceivable types of nuclear assistance and involve many countries. In some cases, both parties to bilateral nuclear agreements are underdeveloped countries. India has nuclear agreements with Afghanistan, Argentina, Bangladesh, Egypt, Iraq, and the Philippines. Argentina has agreements with five other Latin American states and with Libya.

International governmental nuclear transactions form a complex web of agreements. In addition, some transactions are not formalized in government agreements and some may be secret. And then there are the purely commercial transactions.

The nuclear industry has become a multi-billion dollar concern, with cutthroat competition. The stakes are so high that nuclear issues are often decided on the basis of narrow commercial and national interests instead of the consequences for nuclear-weapon proliferation.

As there are many thousands of nuclear weapons in the world's arsenals, a significant portion of which are on alert, it is hardly surprising that nuclear weapon accidents occur. But few realize just how frequently they do occur. The data on nuclear-weapon-system accidents given in the SIPRI Yearbook 1977 suggests that there have been at least 125 such accidents in the past 30 years—a frequency of one every three months.

Thirty-two accidents are listed, involving American weapon systems, in which nuclear weapons were believed to have been destroyed or seriously damaged. In 59 other American accidents, nuclear weapons may have been in danger of destruction or serious damage. Also listed are 22 Soviet nuclear weapon incidents, eight British, and four French. And the lists, relying as they do on open sources, are certainly incomplete.

Some of these accidents are bizarre. A U.S. Corporal missile with a nuclear warhead is recorded as "rolling off a truck into the Tennessee River." On April 9, 1968 the U.S. strategic nuclear submarine, Robert E. Lee, "became snagged in the nets of a French trawler" in the Irish Sea.

Among the Soviet incidents is one in which "American personnel recovered a nuclear weapon from a Russian airplane that crashed in the Sea of Japan." And in September of 1974 a Soviet guided-missile destroyer allegedly exploded and sank in the Black Sea. A number of Soviet nuclear-powered submarines have been snagged by Norwegian or Japanese fishing boats. Some have collided with American submarines.

On at least nine occasions U.S. submarines, some of them armed with nuclear weapons, have collided with other, apparently Soviet,

vessels within or close to Soviet territorial waters while on intelligence-gathering missions. There are probably similar incidents involving Soviet nuclear-armed submarines on intelligence missions. Such events vividly recall President Kennedy's warning of the danger of a nuclear world war being started by an accident.

#### WORLD MILITARY SPENDING

SIPRI estimates show that total world military expenditure in 1976 was about \$334 billion, a 3,000 percent increase since 1900 (in constant prices). If the U.S. intelligence estimate of the dollar-cost (U.S.) of 1976 Soviet military activities (\$130 billion) is used instead of SIPRI's estimate (\$61 billion), then total world military expenditure in 1976 exceeds \$400 billion.

The SIPRI figure is calculated from the Soviet national budget converted to U.S. dollars using SIPRI estimates of the ruble/dollar purchasing power parity. The SIPRI calculation takes into account the fact that the cost of some military activities—such as military R&D, military aid and stockpiling, and the military elements of the nuclear energy program—are considered not to be fully covered by the Soviet budget. The U.S. intelligence figure is a calculation of how much it would cost in the United States to develop, procure, maintain and operate a military force like that of the Soviet Union.

According to SIPRI figures, the major alliances—NATO and the Warsaw Treaty Organization—spent about 70 percent of the total world military expenditure. The Third World (excluding China) spent \$51 billion, or 15 percent of the total. The Middle East spent about 53 percent of total Third World (excluding China) military expenditure; the Far East (excluding China) and Africa (excluding Egypt) spent 13 percent each; South America spent 11 percent; South Asia spent 8 percent; and Central America, 2 percent. China has given no budgetary data since 1960, but a rough estimate of its military expenditure indicates that in 1976 it spent about 10 percent of total world military expenditure.

The military expenditures of individual Third World countries vary considerably. In 1975, for example, the three top spenders out of 93 Third World countries were Iran, Egypt, and Saudi Arabia, which spent (in current prices) \$7.3 billion, \$5.4 and \$4.4 billion, respectively. These three countries accounted for 36 percent of Third World military expenditure. Israel spent \$3.6 billion; and India, \$2.6 billion. These five countries together accounted for 49 percent of Third World expenditure.

Each of another seven countries (Nigeria, Iraq, Brazil, Argentina, Libya, South Africa and Indonesia) spent between \$1 and \$2 billion. These top twelve countries—five of them in the Middle East—together accounted for 70 percent of Third World military expenditure.

An impression of the burden that military spending can become is given by the fact that Israel's 1975 gross domestic product per capita (in current dollars) was about \$3,600 out of which about \$1,050 was spent on the military; for Egypt the figures are \$302 and \$140, respectively. In comparison, the U.S. per capita military expenditure (the highest of all developed countries) in 1975 was about \$425.

SIPRI's valuations of international deals in major weapons (tanks, ships, missiles and aircraft) are based on the annual arms trade registers it constructs and a list of comparable constant prices for the different types of major weapons supplied. The SIPRI figures do not, therefore, show the actual monetary value of major-weapon transactions.<sup>3</sup>

Most of these transactions in any case involve credit arrangements of some kind and others are on a grant basis. The SIPRI figures are designed to provide an index of the amount of resources involved in the arms trade.

Major weapons probably account for about one-half of the total trade in weapons and equipment. The remaining items traded include spare parts, small arms, ammunition and support equipment.

The four biggest arms-producers—the United States, the Soviet Union, the United Kingdom and France—continue to dominate the trade in major weapons. In the 1970's, these four countries supplied about 90 percent of the major weapons sold. The United States supplied 39 percent of the major weapons sold to the Third World; the Soviet Union supplied 33 percent, and the United Kingdom and France each supplied 9 percent.

During the 1970s, the Middle East was the largest regional importer of major weapons in the Third World, accounting for about 52 percent of the major weapons imported, followed by the Far East (including Vietnam) with about 15 percent.

According to SIPRI valuation, the value of major weapon deliveries to the Third World in 1976 was more than 16 percent higher than that in 1975. This increase was due mainly to large deliveries of U.S. weapons to Iran, Israel, Saudi Arabia and South Korea. About 40 percent of U.S. exports of major weapons in 1976 went to Iran, and about 12 percent went to each of the other three. The United States accounted for about 50 percent of total exports of major weapons to the Third World in 1976, the Soviet Union accounted for about 20 percent and the United Kingdom and France for about 8 percent each.

If there were no international trade in arms, participants in arms races—at least qualitative ones—would be limited to a few industrialized countries able to support sufficient military R&D activities to develop new weapons. But as it is, arms races are almost worldwide. In 1976, a total of 95 countries imported major weapons—tanks, ships, missiles or aircraft. About 105 countries, 75 of them in the Third World, imported military equipment of some type.

An increasing number of Third World countries produce weapons, or their components, under licensing arrangements with industrialized countries. Participation in co-production projects with foreign companies, although relatively rare at present, is also increasing. Argentina, Brazil, Colombia, Egypt, India, Indonesia, North Korea, South Korea, Pakistan, Peru, the Philippines, Singapore, Taiwan and Venezuela all produce major weapons, or parts of them, under licenses issued by China, Czechoslovakia, France, the Federal Republic of Germany, Israel, Italy, Spain, Switzerland, the United Kingdom, the United States and the Soviet Union.

Publicity about satellites, and about space activities in general, normally focuses on their peaceful applications. Consequently, there is little public debate about the military use of space, in spite of the fact that about 60 percent of U.S. and Soviet satellites are military ones. Since the space age began, 1,386 military satellites are known to have been launched: 551 by the United States, 817

by the Soviet Union, 5 by the United Kingdom, 8 by France, 2 by China, and 3 by NATO.

Satellites for military communications, over both short and long distances, satellites for weather prediction, and satellites for accurate navigation are among the types used by the military. But perhaps the most important types are satellites used for photographic and electronic reconnaissance, to identify all sorts of military targets; satellites to position military targets accurately; satellites used to give early warning of the launching of enemy missiles; and satellites capable of intercepting and destroying orbiting enemy satellites.

Up to the end of 1976 the United States had spent about \$30 billion on its military space activities, about one-third of the total sum spent on space. The cost of the Soviet military space program is kept secret, but the magnitude of the effort is similar to that of the United States.

China, France, the United Kingdom and NATO also operate military satellites. The exact purpose of the Chinese satellites is not known, but photographic reconnaissance is probably included. In fact, two of them (those launched on Nov. 26, 1975 and Dec. 7, 1976) ejected recoverable capsules. French, British and NATO military satellites have so far been only for communication, meteorologic and geodetic purposes.

In 1976 the United States launched 4 photographic reconnaissance satellites whereas the Soviet Union launched 34. Many of these satellites had on board high-resolution cameras for "close-look" missions. The U.S. Big Bird satellite, launched on July 8, 1976, orbited for 158 days, a much longer lifetime than that of any Soviet photographic reconnaissance satellite. It is because of the relatively long lifetimes of its newer satellites that the United States can perform its space reconnaissance missions with such a small number of satellites.

Other military satellites launched in 1976 by the United States included 1 for electronic reconnaissance, 1 for navigation, 11 for communications, 1 for geodetic purposes, 4 for ocean surveillance, 3 for weather forecasting and 1 early warning satellite. In 1976, the Soviet Union launched 9 electronic reconnaissance satellites, 8 navigation satellites, 29 communication satellites, 1 geodetic satellite, 2 ocean surveillance satellites, 5 weather satellites, 1 early warning satellite, and 7 interceptor-destroyer satellites. The only other military satellite launched in 1976 was a NATO communications satellite.

Considerable efforts are currently being made to increase the survivability in war of military satellites. Research into, for example, protection of orbiting satellites against nuclear attack from a hostile satellite is actively underway. Also under investigation are detection systems for early warning of satellite attacks, based on the surveillance of space by ground- and space-based sensors.

In the long-term, the most revolutionary military technological development may turn out to be the use of navigational and geodetic satellites to guide missiles on to their target. There is no reason why CEPs of a few meters over intercontinental ranges should not be obtained by these means. Moreover, the space-based navigation system of one country may be used by others for military purposes. This, coupled with the almost inevitable proliferation of, for example, cruise missile technology, is an extremely worrisome prospect.

The other side of the coin is the useful role of satellites in verifying, by "national technical means," some arms control agreements.

<sup>3</sup> The U.S. Arms Control and Disarmament Agency attempts to estimate the cash flow involved in the global arms trade. From ACDA's figures, it can be concluded that the annual value of the arms trade in military equipment exceeds \$10 billion. New orders run at about \$20 billion annually.

## ARMS CONTROL

There was virtually no progress in 1976 in efforts to slow down the Soviet-American arms race and to limit armaments. The difficulties of achieving a SALT II treaty remained unresolved. The 1974 Threshold Test Ban Treaty, and the 1976 treaty governing peaceful nuclear explosions remained unratified. Since a threshold ban may indefinitely delay a comprehensive ban on nuclear tests it may be better for disarmament if these treaties are never ratified.

The Vienna talks on the mutual reduction of forces in Central Europe were almost at a standstill. The two sides merely agreed that reductions should be carried out by stages: that U.S. and Soviet troop strengths would be dealt with apart from those of the other nine states; and that tanks, nuclear warheads, aircraft and other nuclear weapon delivery vehicles could be among the weapons to be reduced. But there was still disagreement about the extent of the reductions and how they should be implemented.

At the end of 1976, the U.N. General Assembly decided that a convention on environmental warfare should be opened for signature. The convention prohibits military or any other hostile use of environmental modification techniques having "widespread, long-lasting or severe" effects as the means of destruction, damage or injury to another state party.

The convention may be taken to legitimize modification techniques such as rain-making, the effects of which are other than "widespread, long-lasting or severe." Perhaps more seriously, the convention does not deal with such environmental damaging military operations as the use of herbicides and strategic bombing.

All in all, the convention is valueless even as an arms-control measure and is certainly not a step toward disarmament. During 1976, negotiations about urgently needed measures, particularly a comprehensive nuclear test ban and a prohibition of chemical weapons, remained in the doldrums.

During 1976, 40 nuclear explosions were announced or are presumed to have been conducted: 15 by the United States, 16 by the Soviet Union, 4 by France, 1 by the United Kingdom, and 4 by China. One of the Soviet explosions was probably for peaceful purposes. The rest were almost certainly nuclear weapon tests. These nuclear explosions bring the total number between 1945 and the end of 1976 up to 1,081: 614 by the United States, 354 by the Soviet Union, 64 by France, 27 by the United Kingdom, 21 by China, and 1 by India. The numbers themselves dramatically demonstrate the need for a comprehensive nuclear test ban.

## CHEMICAL WARFARE AGENTS

The tragic accident that occurred in Seveso, Italy, on July 10, 1976 demonstrated again the potential of dioxin (2,3,7,8-tetrachlorodibenzo-p-dioxin) as a chemical-warfare agent. Dioxin is one of the most poisonous substances synthesized. It is easy to produce; it maintains its integrity very well, and can be easily disseminated. These characteristics make dioxin a highly suitable agent for a number of hostile military purposes.

The dissemination of dioxin, as a contaminant of "agent orange," during the Vietnam war was the first significant contamination of man's environment with dioxin. Estimates indicate that a total of more than 110 kilograms of dioxin was spread, mainly during a four-year period, over about a million hectares of South Vietnam's inhabited forest and farmlands. In the Seveso incident, about 2.5 kilograms is estimated to have spread in a matter of hours over about 230 hectares of inhabited farmland.

From the available evidence it is quite clear that dioxin is rapidly incorporated into

an ecosystem and taken up by the living things within it. Once present it is almost impossible to remove. A conceivable military use for dioxin would be as an area-denial weapon. The consequences of such use would be to make the contaminated area uninhabitable for a very long period of time. Wildlife would be virtually eliminated and a major ecological imbalance produced. Seveso is our most recent reminder of the urgent need for a comprehensive prohibition of the development, production and stockpiling of chemical weapons.

In modern war, munitions, particularly missiles and major weapons, are likely to be used at a very high rate. During the 18-day October 1973 Arab-Israeli War, for example, about 600 aircraft, 3,000 tanks and 16 ships were lost at an average rate of one aircraft about every 40 minutes, one tank every 9 minutes and one ship every 27 hours. The immediate financial cost of the war has been estimated at about \$20 million per hour. Because of the international arms trade the military forces of even small powers come to rely on the most up-to-date armament.

The main recipients of arms can become bound to their suppliers, almost as strongly as if they were allies. In particular, the knowledge that victory in war may well depend upon the receipt of lavish supplies of munitions throughout the fighting can result in the great-power supplier becoming the virtual guarantor of the survival of the client state. The rate of loss of weapons and the consumption of munitions was so high during the October 1973 war that both sides requested additional supplies from their great-power suppliers within a very few days of the outbreak of the fighting.

In a future conflict, a war in an unstable region involving such client states may escalate to a general nuclear war between the two great powers. The conflict may start as a conventional war but escalate to a local nuclear war fought with the nuclear weapons of the regional powers. This nuclear war could then escalate further to the involvement of the great powers, intent on preventing the annihilation of their clients. This chain of events is most likely if it starts at a time when one of the great powers perceives the chance of making a first-strike. In fact, the pressures for escalation may, under such circumstances, be so strong that only a very strong-willed political leader could resist them.

Some argue that the bonds formed between states as a result of bilateral and multilateral cooperation in economic, social and political affairs are sufficiently strong, or may soon become so, to overcome tendencies toward such a confrontation. But given the speed at which military technology is advancing and spreading throughout the world, and the frailty and uneven progress of international détente, it is reasonable to doubt this argument. Those that do, and those who are not prepared to rely on the hope that sufficiently responsible political leaders will be in power in the right countries at the crucial times to avoid a nuclear world war, have an obvious option—to work for nuclear disarmament.

To say that nuclear disarmament is impossible in today's world is not only incorrect but may be tantamount to saying that nuclear war is inevitable.

## ALTERNATIVES IN LONG-TERM CARE FOR THE ELDERLY

Mr. CHURCH, Mr. President, as chairman of the Committee on Aging, I was very pleased when Senator CHILES, a member of the committee, recently agreed to chair 3 days of hearings on "Health Care for Older Americans: The Alternatives Issue." The committee re-

ceived important information during these hearings and I urge my colleagues to take note of the excellent summary provided by Senator CHILES in the CONGRESSIONAL RECORD of June 30.

Senator CHILES has long been a forceful advocate for improving the quality of health care available to all older Americans, both through his work on the Committee on Aging and through his earlier work as a member of the Committee on Government Operations, where he conducted an investigation of the proliferation of medicare-only home health care agencies in Florida.

Over the years, the Committee on Aging has watched with interest the development of noninstitutional alternatives on long-term care for the elderly. We have already issued two reports on home health care services in the United States<sup>1</sup> which illustrated the actual decline, rather than increase, of certified home health services. At the same time we were experiencing increases in our rates—and costs—of acute care hospitalization and nursing home placement.

In partial response to that situation, I was successful in obtaining legislation and funding for a home health demonstration project to provide startup funds for new home health agencies and allow expansion of services for some single service home health agencies already in existence. I am glad to say that during the past fiscal year 46 communities received assistance under this provision, and more are expected to be funded this year. But in view of the need, this is only a beginning.

We have also seen some progress, and some retrenchment, in other areas.

We know, from the growing demand by older persons themselves, that we must provide assistance in the home and help them stay out of hospitals and nursing homes.

We have been saying, with growing conviction, that the right kind of community-based alternatives in long-term care for the elderly can be good for the Nation by reducing our present overwhelming commitment of funds for institutional care and providing lower cost, more appropriate in-home care.

This new administration is turning to many issues which are fundamentally involved in the difficult long-term care questions we are trying to address.

In testimony before the Senate Finance and the House Ways and Means Committees on the administration's hospital cost containment bill, Secretary Califano expressed many goals which have been cited over and over again by those who have been building appropriate alternatives in long-term care for the elderly. He pointed to the 15 percent of our Nation's acute-care hospital population who do not need to be there and could be, in Secretary Califano's words, better cared

<sup>1</sup>Home Health Services in the United States, a report, April 1972, U.S. Senate Special Committee on Aging, prepared by Brahma Trager, home health consultant; and Home Health Services in the United States: A Working Paper on Current Status, July 1973, U.S. Senate Special Committee on Aging, prepared by Brahma Trager.

for at home, in skilled nursing facilities, or on an outpatient basis. He charged that these patients were generating excess charges of \$7 million per day just for operating costs, or \$2.6 billion a year. Secretary Califano also said that we must provide alternatives to costly institutional care—whether in hospitals or in nursing homes—as the first element of a successful long-term cost containment strategy.

We know the Secretary is right, that many forms of alternative care can provide more suitable supportive services at much less cost.

During the hearings, for instance, we heard of an innovative supported housing program right here in the Washington, D.C. area which combined support services with a congregate housing arrangement with operating costs of \$395 per month per person. According to the witness, this is about one-third the cost of nursing home placement, where many of the residents would have to be if this unique housing were not available.

These hearings represent an important step forward in obtaining the full range of information we need to move forward in developing an active national strategy in providing alternatives in long-term care. Senator CHILES took testimony from a broad range of witnesses, including very encouraging testimony from Mr. Robert Derzon, the newly appointed Director of the Health Care Financing Administration within the Department of Health, Education, and Welfare.

Additional important testimony has been obtained from national aging organizations and national health care organizations.

I believe we must move ahead quickly. Marie Callender, director of the Connecticut Health Plan in Bridgeport, Conn., and previously Special Assistant for Nursing Home Affairs in the Department of Health, Education, and Welfare, told Senator CHILES that we have not made much progress:

When asked if I believe that this Nation had progressed toward providing alternatives since the White House Conference on Aging in 1971, I would be compelled to respond negatively. The reality is that we are faced with potentially decreasing those chances, rather than expanding the opportunity.

A major factor which has been holding back a more direct commitment to this task has been the old question of cost-effectiveness. How can we show what forms of alternative care are most cost-effective in relationship to skilled and intermediate nursing home care? In relation to acute-hospital care?

It would appear that we do not have smooth cost-effectiveness formulas across the board, and there was considerable testimony at the hearings which indicated that we will not have all the answers on relative costs until we provide the alternatives to test. We must first make suitable choices available.

But there are a number of elements of a national long-term care strategy which do now seem clear:

We have to examine ways to redirect our medical and health dollar. Medicare and Medicaid still support costly institu-

tionalization at the expense of other, frequently more appropriate, community long-term care options. Less than 1 percent of our national medical reimbursement dollar goes for allowable home health services. I introduced legislation last year to deal with that problem and I will consider reintroduction again this year as soon as I have had a change to fully analyze the recommendations made at these hearings.

We must find ways to integrate and build upon existing social and health and medical systems and devise ways to integrate them effectively within the community. A number of very interesting projects have been experimenting with ways to achieve the needed coordination within the community, and many of them have been highly successful. But it is clear that we cannot go much further without providing the necessary Federal incentives and flexibility to make this possible. A priority need in this area is the development of uniform standards of care and service for all in-home services, whether they are funded through Medicare or social service funds or housing assistance subsidies.

A number of specific recommendations were made to the committee during these hearings, and we will soon make a report to the Senate on available options.

#### U.S. NAVY NEEDS HYDROFOILS

Mr. HART. Mr. President, I call to the attention of my colleagues a most informative article from Seapower magazine, the publication of the Navy League. The article is entitled "PHM Flies Into Heavy Opposition," and it discusses the recent attempts to curtail our procurement of the patrol hydrofoil missile—PHM—ship.

The PHM is currently the Navy's only operational hydrofoil warship. Although it is a small ship—only 231 tons—it is fast, has excellent seakeeping ability, and possesses a capability of knocking out the largest Soviet surface warship. Only the PHM, of all the ships and aircraft in the Navy, will have the ability to keep station on Soviet warships at night and in bad weather: Our frigates and destroyers are generally slower than their Soviet counterparts, and aircraft cannot maintain effective surveillance at night or in bad weather. Only the PHM will have the capability to destroy Soviet ships in a preemptive scenario before those Soviet warships have been able to launch all of their own antiship missiles.

As the article from Seapower notes, although PHM costs have risen substantially, it remains a highly cost effective system. This will be even more true if the Navy adapts the PHM for antisubmarine warfare, as well as surface warfare.

Currently, the Appropriations Committees of the Congress in conference are considering a rescission proposal on the PHM, put forward by the administration. I hope that the distinguished members of this conference committee will be aided in their examination of this program by this excellent article from Seapower, and by the report of the Senate Armed Services Committee on the fiscal

year 1978 authorization bill, which noted:

The PHM program is representative of the new technology approaches to naval missions which the committee believes should be pursued. The committee believes that the PHM could provide a needed capability to the U.S. Fleet in a scenario involving a pre-emptive Soviet naval attack because of its ability to present an effective and immediate threat to Soviet surface units. Also, it is believed that the Navy should explore possible anti-submarine warfare applications of the PHM, utilizing a different weapons/sensors suite. The committee, therefore, directs that funds already authorized and appropriated, along with those funds added to the program for cost growth and escalation, be used only for completion of these five ships.

Mr. President, I ask unanimous consent that the article, "PHM Flies Into Heavy Opposition" by James D. Hessman be printed in the RECORD.

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

#### PHM FLIES INTO HEAVY OPPOSITION

(By James D. Hessman, Editor-in-Chief)

"A totally unexpected sight on one of Leningrad's canals this autumn was a large, new gas turbine-powered hydrofoil in the final stages of construction . . . [which is] obviously the forerunner of a new class of extremely formidable patrol boats destined for service with the Soviet Navy.

"Approximately 155 feet long, its displacement is estimated as being in excess of 300 tons, making it the world's biggest operational hydrofoil warship to date. Its armament includes the latest ship-to-ship missiles and a ship-to-air missile system of a new concept . . . The vessel, which is expected to have a maximum speed of about 55 knots, is the outcome of intensive development over the past 30 years."

So reported Roy McLeavy, editor of Jane's Surface Skimmers, in the recently released 1976-77 issue of that authoritative publication. The first public appearance of the new Soviet hydrofoil, he added—in an assessment gloomily shared by NATO defense officials, who have given the ship the NATO code name "Serancha" (locust)—demonstrates the "growing confidence" of Soviet Navy leaders (and their civilian superiors) in Russia's hydrofoil technology "and is a significant milestone in the evolution of Soviet sea power."

#### A GIANT STEP BACKWARD

While the USSR was thus taking another lengthy stride forward in its flank-speed drive to equal or surpass the United States in all aspects of naval/maritime strength, the United States itself was not sitting idly by. It was, in fact, also on the move—taking a giant step backward with the recently announced decision by Defense Secretary Harold Brown to cancel spending previously approved by Congress of some \$126 million for continuation of the promising, but costly, PHM (patrol hydrofoil missile) program, which now consists of but one operational ship, the Pegasus (PHM-1). There will still be over \$200 million remaining for "cost growth" and hydrofoil research, which program officials say will continue despite the cutback of ship construction money.)

Brown's decision, apparently based for the most part on strictly economic reasons, must under current law be submitted for approval to Congress—which has 45 days, following submission of a "request for rescission," either to reaffirm its original funding decision or, by failing to act, to accept the requested cutback.

PHM characteristics			
Length	131.2 ft.	40 m.	
Beam	28.2 ft.	86 m.	
Draft:			
Hullborne (foils retracted)	6.2 ft.	1.9 m.	
Hullborne (foils extended)	23.2 ft.	7.1 m.	
Foiborne (nominal)	8.8 ft.	2.7 m.	
Displacement	231 long tons	235 metric tons	
Speed:			
Hullborne	12 knots		
Foiborne	In excess of 40 knots		
Propulsion:			
PrHullborne	2 diesels with 2 waterjets		
Foiborne	1 gas turbine with waterjet		
Crew	21		
Jetfoil characteristics			
Length	90 ft.	27.4 m.	
Beam	31 ft.	9.5 m.	
Draft:			
Hullborne (foils retracted)	4.8 ft.	1.5 m.	
Hullborne (foils extended)	16.3 ft.	5 m.	
Foiborne (nominal)	7.2 ft.	2.2 m.	
Displacement	106 long tons	107.7 metric tons	
Speed—Foiborne:			
12-ft. waves	45 knots		
Calm water	48 knots		
Payload options:			
	190 passengers (with baggage), 250 commuter passengers, 25 tons cargo.		
Propulsion			
	2 gas turbines with 2 waterjets.		

PHM proponents, who only last year waged, and won, a year-long battle with Congress itself to keep the program alive, say the latest fiscal reversal (not yet final) could set back the U.S. military hydrofoil program several years, if not kill it entirely—and at the very time when, they assert, the Pegasus performance has proven the program's viability as well as the versatility of missions which could be assigned later-generation hydrofoils.

#### TOO MUCH OPTIMISM, TOO LITTLE REALISM

But those in the Pentagon's upper echelon disenchanted with the program are correct on at least one major point: It has, to date, cost much more than anticipated for the benefits so far realized. Both the Navy and the contractor (Boeing) were decidedly over-optimistic in their original cost estimates, and less than realistic about some of the technological challenges which had to be overcome. The result is a ship which, whatever its admitted capabilities, will now cost more than twice the \$23 million per copy anticipated less than three years ago.

It is fair to point out, however, that Defense Department and OMB (Office of Management and Budget) officials, and both houses of Congress, carefully reviewed, and concurred in, those original cost estimates—which did not, and could not, factor into the final funding total either the rampant inflation of the early- and mid-1970s or the additional costs tacked on by the equally unforeseeable material shortages of the past several years. The earlier cost projections, moreover, were predicated on a total buy of as many as 25 PHMs, a fleet large enough to reduce significantly the per-ship research, development, and startup costs. With only six ships, including Pegasus, now funded, unit costs have of course soared astronomically.

There are, however, several ways of measuring costs. One way is cost per ton, and by that measurement the technologically sophisticated PHM would be probably the most expensive ship in the U.S. Navy—at least in terms of original procurement costs. It might, however, in long-term costs prove to be considerably less expensive than most other ships in the current fleet inventory. To illustrate: the cost of another Nimitz-class nuclear-

powered supercarrier would be about \$2 billion in fiscal year 1977 dollars. For the same money the Navy could buy about 40 PHMs. But the Nimitz, with air wing embarked, has a complement of approximately 6,100 officers and men. The highly automated PHM has only a 21-man crew; 40 PHMs would have a collective total of 840 officers and men assigned, less than one-seventh of the Nimitz complement. With personnel costs now consuming about half of the Navy's annual budget it is obvious the PHM's outyear savings on personnel costs would be significant.

#### COST PER MISSION

There is, moreover, another and perhaps more realistic way of measuring costs: by cost per mission—the same measurement by which a seemingly high-cost "smart" bomb or missile which hits the target almost every time is considered a better bargain in the long run than relatively less expensive ordnance which must be expended in large volume to achieve the same hit probability.

In cost per mission, happily, the PHM would, it seems, be an extremely cost-effective addition to the Navy's inventory. A 1975 study conducted by the Center for Naval Analyses compared the PHM with a 3,000-ton frigate and a 2,000-ton cutter and found the hydrofoil to be two to three times as cost-effective in assignments: (1) to neutralize a large combatant; (2) to search a "fixed area"; and (3) to "pursue and overtake." The CNA study was corroborated by a similar Coast Guard study examining possible use of the PHM for protection of offshore oil and gas resources and/or enforcement of the new 200-mile fisheries conservation zone. "On a cost-effectiveness basis," the Coast Guard concluded, "hydrofoils are far superior to conventional cutters for performing the fisheries law enforcement mission; i.e., hydrofoils can perform the same amount of work for much less cost." (The Coast Guard's first hydrofoil, the Grumman-built Flagstaff, went into commission on 2 March specifically to help in the USCG's fisheries zone enforcement mission.)

The real key to the PHMs, however, and to the entire future of hydrofoils in the Navy, is not that they can perform "the same amount of work" as other ships at a lower cost, but that they can perform a wide variety of missions which no conventionally-hulled ship could perform under any circumstances.

What hydrofoils do best is go fast, a necessity for any ship intended to go in Harm's way. Along with the equally revolutionary surface effect ships (SES), in fact, hydrofoils may well be the only ships in tomorrow's U.S. Navy with sprint speed sufficient to outrun Soviet nuclear submarines, a point which program officials say makes a modified PHM a likely candidate for a strong ASW role.

#### UNIQUE SEAKEEPING ABILITIES

But such undiluted speed is not sufficient unto itself. What enhances that speed and makes the PHM uniquely valuable is its seakeeping ability in heavy seas. Unlike other relatively fast ships, which must reduce their speeds appreciably in high seas, the PHM is slowed down only fractionally by rough water. Through a combination of fully submerged foils and the ship's automatic control system (ACS), studies have shown, the PHM can continue to "fly" (the term applied when the ship is foiborne) smoothly at 40 knots through waves in which a 400-ton fast patrol boat would have to slow to 10 knots and a 3,000-ton cutter to 16 knots.

The military significance of the PHM's speed-plus-stability was spelled out by Sigmond Bakken and Richard G. Merritt in the March 1977 issue of *Navy International*: "The PHM was specifically designed for operating in rough seas. Her strut-length was

chosen to allow foiborne operation in five-meter waves. As a result, PHM could operate foiborne at speeds of over 40 knots more than 99 percent of the time in the North Sea in the summer and over 96 percent of the time in the winter. By comparison, computer simulations of a 400-ton fast patrol boat . . . have shown that it could operate at high speeds for only 75 percent of the time in summer, and less than 50 percent in winter. Thus, the PHM can be considered the first truly all-weather advanced ship."

The same speed-plus-stability combination, Bakken and Merritt point out, gives the PHM other tactical advantages: "Hydrofoils are more maneuverable than conventional ships. Their turning rates are three to four times as fast in both calm and rough seas. This makes the hydrofoil a more difficult target for enemy missiles, guns, or torpedoes. The exceptional stability of the hydrofoil makes it a superior platform on which to mount surveillance equipment and weapons while maintaining the comfort and proficiency of its crew." (The importance of crew proficiency should be obvious—a ship's performance can sometimes be worse than, but it can never be better than, the performance of the ship's crew. Here again the PHM demonstrates its superiority over conventional ships. Boeing studies indicate that "for a normal watch of four hours" the crew members of a PHM "can remain proficient 99 percent of the days aboard the foiborne hydrofoil at speeds over 40 knots, compared to 80 percent of the days aboard the conventional fast torpedo boat operating at only 10 knots.")

#### POTENT PUNCH

Carrying eight Harpoon surface strike cruise missiles and 330 rounds of ammunition for its automatically-controlled rapid-fire 76mm OTO Melara cannon, the PHM packs an extremely potent punch. As a ship-killer, it could sink, destroy, or at least put out of commission any Soviet surface combatant from the Osa patrol boat to the Kiev V/STOL (vertical/short takeoff and landing) aircraft carrier. As a fleet air defense ship it could defend against any missiles or aircraft targeted against U.S. and allied ships in convoy. And as a gunboat it could carry out bombardment of enemy land targets.

Its most important early mission, however, in the view of U.S. planners, probably would be to seal off the various chokepoints and narrow waterways—the Dardanelles, Strait of Gibraltar, and Baltic approaches—which Soviet surface ships would have to traverse to reach the open seas.

America's NATO allies, who seem to be gravitating toward a "zone defense" concept for the Alliance's naval forces (with each country responsible for protection of its home waters and the U.S. Navy acting as roving linebacker), envision yet other roles for either the PHM or a military version of the Jetfoil (also built by Boeing). Norway and the United Kingdom, for example, are both reported to be interested in exploring use of the PHM/Jetfoil for protection of their North Sea oil rigs and pipelines against military or terrorist attack.

Norway, the only NATO nation besides Turkey which has a common border with Russia, is also said to want some Jetfoils as insurance against a Russian land attack, accompanied by air strikes, across the top of the Kola Peninsula. NATO officials (who would not speak for attribution) point out that in such a battle scenario the airfields on either side of the border would be quickly destroyed. For Norway, sea transport would be the only reinforcement alternative. (Helicopters would be faster, but would also be much more vulnerable to enemy attack, and couldn't carry as many troops per run as the Jetfoil, which could carry 250 troops and their equipment 250 nautical miles in less

than six hours.) A relatively inexpensive (\$7.5 million per ship) fleet of 40 Jetfolks would be able to transfer an entire division—less the heaviest rolling stock, which would have to be pre-positioned—to the battle area in less than one day's time.

#### A LONELY, ONLY CHILD

Other possible uses envisioned for the PHM or Jetfoil: high-speed minelayer (which Denmark, particularly, is looking for); cargo carrier—the Jetfoil can carry 30 tons of cargo 250 nautical miles without refueling; medical evacuation ship (213 litter patients, plus attendants); counterinsurgency vehicle for clandestine delivery of SEAL teams and commandos; and anti-ship coastal defense vessel, hiding in shoreline caves or coves but prepared to dart out at high speed to repulse would-be invasion forces.

Still other missions are probable for future-generation PHMs, which theoretically could reach speeds of up to 80 knots. One Boeing study anticipates the possibility of a 1,363-ton DEH (destroyer hydrofoil) with a foilborne speed of 50 knots and a range of 3,600 nautical miles, while carrying an armament and military payload of 45 tons.

But that is in the future. What is here and now, on the American side, is the Pegasus, and only the Pegasus—which, unless the proposed PHM cutback is reversed, may go through life as an only child.

The same type of lonely existence does not appear likely for the new Soviet military hydrofoil, which joins 42 earlier hydrofoils (of lesser capability) already in the Soviet inventory: 25 of the 50-knot, 70-ton Pchela class, and 17 of the later 40-knot, 230-ton Turya class.

The fact that the Soviet Union, which already owns the world's largest hydrofoil fleet, now appears to be building its own PHM force may prompt U.S. and NATO decisionmakers to take another, more appreciative, look at the Pegasus family. While doing so they may want to ponder one other thing which Editor McLeavy of Surface Skimmers said about the USSR's latest ship: "It illustrates how imaginative thinking, planning on a bold scale, and the allocation of adequate resources have put the Soviet Navy ahead of its rivals once again."

#### UNITED NATIONS RATIFICATION ANNIVERSARY REMINDS US OF UNRATIFIED GENOCIDE CONVENTION

Mr. PROXMIER. Mr. President, 32 years ago this week the U.S. Senate ratified the Charter of the United Nations. In doing so, the United States pledged itself "to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, and to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, and to promote social progress and better standards of life in larger freedom."

Mr. President, I ask the Senate today whether we have kept our word on that pledge of ours. Have we done what should be expected of the leader of the world whose commitment to world peace led to the creation of the U.N. in San Francisco over 30 years ago?

The answer to that question, as far as human rights are concerned, is a resounding "No." The U.S. Senate has failed in this area because some Sena-

tors listen to certain legal hairsplitters rather than their own consciences.

Reports indicate that Kurds are being transported en masse away from their homelands in Iraq. Other reports indicate that the ruling minority in Burundi are continuing to oppress the majority group in that country. Genocide is taking place today, in 1977, and yet the Senate still refuses to ratify the Genocide Convention and help bring these atrocities to a halt.

Mr. President, the time for ratification is now. The responsibility for ratification, should we fail to act, will haunt us in the future as it will haunt those innocent human beings we will have failed to protect.

#### PRESIDENT CARTER RESPONDS TO OSHA QUESTIONS

Mr. CHURCH. Mr. President, during President Carter's July 21 town meeting in Yazoo City, Miss., he responded to a question concerning the Occupational Safety and Health Act and its administration. I ask unanimous consent that it be printed at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. CHURCH. Mr. President, the President said that OSHA is good legislation gone wrong in its administration. As past Presidents have been unable to do, President Carter cited his own personal experiences as a small businessman to testify on the OSHA abuses that have occurred and on the genuine needs it can meet. He detailed how the law will now be administered and that, as the President indicated, is good news for America's small businessmen. I commend President Carter on his views; it is refreshing to have an administration which will administer the law as the Congress intended.

#### EXHIBIT 1

QUESTION. Mr. President, my name is Sam Ray. The Occupational Safety and Health Administration has recently announced that they are screening their regulations to take out unrealistic ones.

Since 1970, small businessmen have been complaining to their Congressmen and others in Washington about OSHA's tactics. What will be done in your Administration to safeguard against further abuses of power by Federal regulatory agencies?

THE PRESIDENT. I am a small businessman, too, as you know. And in several of the magazine and newspaper articles recently there has been an analysis of the OSHA Program by my brother, Billy, concerning his filling station and concerning Carter's peanut shelling plant. So I know at first hand the problems with the program.

I think I want to make clear that the Occupational Safety and Health Act is a good piece of legislation. It is important that in the working places we protect the health and safety of employees, but the OSHA Program is going to extremes.

The Director of OSHA this past week announced that 50 percent of all the report forms that had been used in this country are being eliminated altogether before the end of September and that the other 50 percent of the reporting forms are being substantially simplified.

I believe, also, that we have had too much

of an emphasis on detailed regulations on safety. For instance, if you had to go home and write for me every possible description of a safe chair or a safe stool or a safe ladder, it would take you a year to do it. And it would take a 200-page volume to describe every possible danger that could be related to a ladder or a chair.

I think the Federal Government ought to get out of those kinds of detailed safety precautions when the worker can observe with his or her own eyes that a danger exists and then have the safety regulations covered perhaps by increases in the payment of Workmen's Compensation if an employer does have a dangerous place for the employees to work.

It is a little different in the case of health because, for instance, in my peanut shelling plant for years we treated peanut seed with what is called sericin, which is a mercury compound. I had no idea that it was poisonous and neither did my other employees that worked with me in the shelling plant. But had we had OSHA back then in the fifties and early sixties they could have told us a mercury compound was dangerous to our health because an employee cannot tell what is dangerous.

For a long time nobody knew that breathing cotton lint would give you permanent lung disease or asbestos fibers would cause death. Nobody knew anything about radioactivity. So I think in the field of health care that the regulations are necessary.

In the safety area, I do not think many of them are necessary. But we are doing what we can now to simplify the whole system, to shift the program as I have described to you.

I hope the Congress will help us with it and just a change in those regulation forms that I described to you will make a million and a half small businessmen happy before the end of September.

#### BRITAIN ADOPTS SMALL VSTOL AIRCRAFT CARRIERS

Mr. HART. Mr. President, recently an article was published in the Economist on the Royal Navy's adoption of small aircraft carriers designed for VSTOL aircraft.

Numerous U.S. naval experts have long believed that the United States should stop building large aircraft carriers designed for catapult-launched aircraft and do what Britain has done. The reason is that the Soviet Navy's anticarrier capability is dependent on facing only a small number of U.S. carriers, and only VSTOL carriers are affordable in sufficient numbers to take advantage of this Soviet weakness. At one time the U.S. Navy appeared willing to move in this direction: the Navy 5-year shipbuilding program presented in 1975 had seven VSTOL Support Ships in it, and the 1976 program had one. Unfortunately, there were none in the program presented this year. As the Economist states:

The American navy has been considering ships like *Invincible* for years, but their American supporters have managed only partly to curb the appetites of the big-carrier admirals.

By the early 1980's, we will have a highly capable VSTOL aircraft suitable for ships of this type, the Advanced Harrier or AV-8B. This aircraft will be able to deliver 4,000 pounds of ordnance at a range of 600 miles flying an operational profile. This aircraft would be fully cap-

able against the Soviet Navy, which does not have high-performance naval tactical aircraft.

Mr. President, this article from the Economist explains why the Royal Navy has gone to small carriers for VSTOL aircraft. I commend it to the attention of my colleagues, and ask unanimous consent that it be printed in the RECORD.

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

#### THE ROYAL NAVY STAYS IN THE AIR

After a long period of decline in its naval air strength, and vacillation about how (or whether) it should use aircraft at sea, Britain has come down in favour of small aircraft carriers loaded with helicopters and short-take-off-vertical-landing (Stovl) aeroplanes. On Tuesday the Queen launched *Invincible*, the first of this new class of carriers.

The new ship will displace about 20,000 tons, and although it does not have the sharply angled flight deck of other modern warships of its kind it is otherwise unmistakably an aircraft carrier. The navy does not want to confirm the suspicion that the *Invincible* is a giant dodge to get round a government decision years ago to do away with all aircraft carriers. In fact it amounts to just that.

The new aircraft carrier will normally carry five Harrier Stovl aeroplanes plus nine Sea King helicopters with sonars which they can lower into the water to detect submarines. It will defend itself with Sea Dart anti-aircraft missiles, and carry an array of communications and control equipment (including advanced devices for talking to friendly submerged submarines without giving their presence away) which its admiral will use in directing his force.

The *Invincible* class—a sister ship is authorised and a third is planned—will be the Royal Navy's backbone in the 1980s. The *Invincible* itself will probably enter service in 1979. But its real significance is what it signals for new air-at-sea techniques throughout the world.

Most of the important developments in aircraft carriers since the second world war—mirror landing systems, angled decks, steam catapults—have come from Britain. *Invincible* promises one more: a "ski-jump" ramp on the bow, a sort of artificial cliff from which the Harriers will leap after a short run along the deck. Much simpler than complex catapult machinery, the ramp is expected to add about 1,000 lb to what a Harrier can weigh when it takes off. This extra poundage may consist of more fuel for longer range, or more weaponry, or some of each.

The American navy has been considering ships like *Invincible* for years, but their American supporters have managed only partly to curb the appetites of the big-carrier admirals. The result is that the United States finds itself with a fleet of giant aircraft carriers which carry big supersonic jets, only to see them being priced out of the market. After a lot of debate the Americans have now decided—compromised would be a better word—on medium-sized carriers of about 40,000 tons, which can still carry the big jets. This is a compromise that has neither the old American advantage of size nor the new British advantage of relatively inexpensive effectiveness.

The *Invincible* with its Harriers will be the nucleus of a task force which can sweep a fairly large area of ocean clean of enemy submarines and surface craft. In addition, the new ship has room to pack in several hundred marines who can be landed to fight ashore. The Harriers, operating from ships

of this size, can attack targets on shore as well as ships and enemy aircraft. Britain is all the way back in the traditional carrier business.

The present Harriers have a very short range, and lack the speed and acceleration to fight on equal terms with modern fighters. But future Stovl aircraft can be made to do this. Such aircraft will cost more money than non-Stovl ones of equal quality, but the carriers from which they operate will cost enormously less than the huge American-style ones.

The trouble is that Britain has all but given up the Stovl research technology in which it once led the world. The Americans are making an advanced Harrier under license and are pouring research money into new vertical takeoff and landing technology. But today the Harrier-*Invincible* combination points the way to the sea power of the future.

#### MOBIL'S SUBTLE SOFT SELL

Mr. ABOUREZK. Mr. President, many people in this country are disturbed about an aspect of the energy crisis which receives only indirect publicity. That is the explosion of advertising by oil companies. The pack is led by Mobil, which puts out pious rhetoric about how interested it is in a wide-ranging public debate over how we should develop our remaining oil and gas resources, but spends millions on subtle ads that ridicule or misrepresent positions that Mobil disagrees with.

Today's Washington Post happened to pick up one of Mobil's tactics—sending around clever cartoons which attack a serious proposition regarding the need for increased competition among major oil companies. These cartoons get played by newspapers as though they were the free thoughts of creative artists, when in fact they are part of a corporate strategy to undermine any serious debate about the role and structure of the oil industry.

When divestiture legislation was still pending before Congress last year, Mobil published a long list of small papers which, like the oil industry, opposed divestiture. I wrote to each of the papers listed. Most replies indicated that the materials available to them on the issue came from the oil companies, from the lobbying arm of the industry, the American Petroleum Institute, and from industry groups within their State. One editor wrote back that he had never printed a pro-oil editorial, despite the fact that he had been listed by Mobil in their attempt to make people think that dozens of editors came independently to the conclusion that breaking up big oil was bad.

These are obvious examples of the way that advertising by big, wealthy corporations can influence debate covertly. I think Charles Seib's article from the Post covers others. But we need a thorough examination of how advertising is changing as a tool of corporate power. Mr. President, I ask unanimous consent that the column "The News Business," from the July 22 Washington Post be printed in the RECORD.

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

#### MOBIL'S SUBTLE SOFT SELL

Mobil Oil, whose infatuation with the media knows no bounds, has come up with something new for the jaded newspaper reader: funny cartoons with a hidden commercial.

Now, if you are fortunate enough to subscribe to a weekly newspaper or a small daily, you cannot only laugh at a cartoon but also wonder whether you are getting a secret message from Mobil. Thus a company that is already famous for its editorial ads and that has been thinking of buying a newspaper for its very own can claim credit for a journalistic breakthrough.

This is the way it works: Mobil sends clever, well-drawn cartoons to about 5,000 small newspapers. The cartoons are drawn by top artists and are New Yorkerish in tone. The first batch of three went out some weeks ago and more are to follow in September.

Among the first was a cartoon by Roy Doty in which a man is talking to some friends while he uses an ax to hack to pieces the hose that runs to his kids' backyard pool. In the foreground, a woman speaks: "He's explaining how breaking up the oil companies would work."

Get it? A touch of humor to ease down a lump of propaganda.

Another was drawn by Robert Weper. A store clerk is explaining a new game to a customer: "It's a real challenge. You have to get the oil out of the ground and to market through this maze of federal restrictions, state restrictions and local restrictions."

Judy Lynn Prince, Mobil's media specialist, says the cartoons are designed to convey Mobil's feeling that "the government is too strong and industry is being overregulated."

In sending out the cartoons, Prince said in a note to editors that they make "editorial statements" in a "brash, off-beat, occasionally lighthearted manner." "If you like the cartoons," she said, "feel free to use them."

Although the mailing clearly comes from Mobil, the cartoons themselves bear no identification except for a tiny pair of concentric circles in one corner. These resemble the "O" in the Mobil trademark, but not one person in a million would make the connection. Prince says the purpose of the mark is to assist her clipping service in finding published cartoons.

Mobil people point out that editors can identify the cartoons from Mobil if they want to. But few do. Prince says that several newspapers printed feature stories saying, in effect, "look what we got from Mobil," but in all the other 70-odd clippings she had received when I talked to her the cartoons were used without identification.

An editor of a Pennsylvania daily told me he was planning to use the Doty cartoon with an editorial he was writing on the oil industry, but he didn't plan to identify the source. "There is a tendency to discredit anything the corporations put out," he said, and "it would tend to weaken the point of my editorial."

If the use of the cartoons without identifying Mobil as the source is open to criticism—and I am convinced that it is—the editors who publish them must take the blame. Mobil is merely accepting any free rides it can get.

Editor & Publisher, a newspaper trade magazine, noted in an article on the cartoons that Herbert Schertz, Mobil's vice president for public affairs, recently asserted in a letter to news people: "The public has a right to know who is behind any advocacy effort, and for whom the advocate is speaking. That applies to material from a corporation, or from a group that labels as 'public interest.'"

That statement was made in connection with some anti-Mobil ads placed by a group that did not identify itself, and Schertz says it has no application to the cartoons.

Editors know they come from Mobil, he says, and there is no attempt to dissuade them from identifying the source.

"If this is an issue," he adds, "then every newspaper has a problem in the use of press releases without identifying the source."

Most newspapers don't use unidentified press releases without identifying the source, but Schmertz has a point. Unlabeled propaganda does find its way into the press. A few days ago, for example, The New York Times reported that some small newspapers have been publishing Republican Party press releases as news items, with no mention of where they came from.

Schmertz also maintains that not identifying the source of the cartoons is no worse than the use of unidentified sources in news stories—a practice he calls, with reason, "one of the greatest abuses in the press today."

He has a point there, too, although I think he is reaching. Nevertheless, there is something particularly sneaky about cartoons that pose as entertainment but carry a hidden corporate message.

Maybe what the news business needs is a truth-in-packaging code. What a fascinating document that would be!

#### PROPOSED ARMS SALES

Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification 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 notification I have just received. A portion of the notification, 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 notification was ordered to be printed in the RECORD, as follows:

DEFENSE SECURITY ASSISTANCE  
AGENCY AND DEPUTY ASSISTANT  
SECRETARY (SECURITY ASSISTANCE)  
OASD/ISA

Washington, D.C., July 22, 1977.

HON. JOHN J. SPARKMAN,  
Chairman, Committee on Foreign Relations,  
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding under separate cover, Transmittal No. 77-48, concerning the Department of the Army's proposed Letter of Offer to Tunisia for major defense equipment, as defined in the International Traffic in Arms Regulations (ITAR), estimated to cost \$18.0 million and support costs of \$3.3 million for a total estimated cost of \$21.3 million.

Sincerely,

H. M. FISH,

Lieutenant General, USAF Director,  
Defense Security Assistance Agency  
and Deputy Assistant Secretary (ISA),  
Security Assistance.

#### TRANSMITTAL No. 77-48

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(B) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Tunisia.  
(ii) Total Estimated Value:

	(Millions)
Major Defense Equipment*	\$18.0
Other	3.3
<b>Total</b>	<b>\$21.3</b>

(iii) Description of Articles or Services Offered: [deleted] Vulcan, self-propelled 20mm anti-aircraft guns (M163).

(iv) Military Department: Army.

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: 22 July 1977.

\*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

#### VETERANS LACK RIGHT TO APPEAL ADVERSE GOVERNMENT DECISIONS

Mr. HART. Mr. President, the June 12 edition of the Baltimore News American carried a news article entitled "Veterans Lack Right to Appeal Adverse Government Decisions" and an accompanying editorial, "A Denial of Rights". These articles illustrate the abuses which have resulted from the fact that the Veterans' Administration—VA—is the only Federal agency which is insulated by statute from judicial review of its administrative decisions.

I am concerned with this denial of due process rights of veterans and have introduced legislation to correct this inequity. S. 364, "The Veterans Administration Administrative Procedures and Judicial Review Act", would subject the administrative decisions of the VA to judicial review and require this agency to adhere to provisions of the Administrative Procedures Act. Additionally, this bill would promote public participation in the rulemaking procedures of the VA and allow veterans to make payment of reasonable attorney's fees for those individuals who wish to be represented by counsel in adjudicative proceedings before the VA.

I am encouraged by the widespread support for this legislation generated by recent hearings in San Francisco before the Senate Veterans Affairs Committee. The committee's able chairman, Senator CRANSTON, is to be commended for his efforts to bring this problem to the attention of Congress and the Nation. Since the San Francisco hearings, this issue has received attention from both the print and broadcast media. My office has received numerous inquiries and statements of support from individuals and organizations concerned about the rights of veterans.

Additional regional hearings on the judicial review question are scheduled for August and September, and full committee hearings will be conducted in September. I am confident that these hearings will result ultimately in the realization of this important legislation.

Mr. President, I ask unanimous consent that these two articles from the Baltimore News American be printed in the RECORD.

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

#### VETERANS LACK RIGHT TO APPEAL ADVERSE GOVERNMENT DECISIONS

(By John Hall)

WASHINGTON.—What category of American citizens receiving federal benefits has no right to appeal to the courts from an adverse judgment of the government?

Welfare recipients?  
Social Security retirement beneficiaries?  
Unemployment compensation claimants?  
Recipients of crop subsidies, disaster relief, airline and ship construction subsidies, small business loans, research grants?

Wrong.

The correct answer is veterans.

The Veterans Administration is the only agency in the federal government whose decisions are final and cannot be challenged in the federal courts. It is the closest thing the United States has to a system of unfettered, arbitrary authoritarianism.

Veterans' disability and pension benefits are classified by the courts as government "gratuities," while other payments—including welfare—are regarded as matters of legal entitlement.

VA judgments, under the current law, are not even reviewable by the President. Its files are closed even to Congress. The applicable 1933 statute declares that the VA's judgment on question of law or fact concerning a claim for benefits "shall be final and conclusive and no other official or any court of the United States shall have power or jurisdiction to review any such decision."

The Senate Veterans Affairs Committee, in San Francisco last week, opened a series of nationwide field hearings to determine whether it is time to change the 1933 law. Sen. Gary Hart, D-Colo., has introduced legislation to provide for judicial review of VA decisions. His measure would also eliminate a requirement that effectively prevents veterans from even hiring a lawyer to represent them in the claims process.

Strangely enough, traditional U.S. veterans organizations like the American Legion and the Veterans of Foreign Wars are opposed to Hart's bill. They warn that it would flood the courts with thousands of appeals from veterans who have been denied pensions or think they are entitled to a higher rate of disability than they are receiving.

The veterans organizations are an integral part of the current VA administrative set-up. To get legal help, a veteran usually must obtain free legal services from the Legion or VFW to avoid a \$10 limitation the current law imposes on lawyers' fees.

But in a few, very complex cases, the veterans organizations have been unable to supply the time-consuming legal work that applicants need to obtain due process.

Hart cites one case in which a World War II veteran was severely wounded in Europe but no record could be found of his hospitalization. A local three-man rating board denied him any benefits and the man appealed in Washington to the VA's Board of Veterans Appeals, which turned him down.

With the help of a friend who was a lawyer, the man then went to the Defense Department's board for correction of military records, which ruled against him, and appealed that decision in the U.S. court of claims. The court held that he had indeed been injured in combat and was entitled to benefits. But the VA declared it was not bound by law to respect the court's decision and summarily refused to hear the case again. There was no other appeal.

Another case that has attracted interest here is that of Joseph Leib, a former campaign aide to President Franklin D. Roosevelt. A free-lance investigative reporter in the 1940s, Leib says he was drafted at the age of 32 in retaliation for his crusade against

defective aircraft purchased in World War II and suffered a disabling back injury, but his benefits were cut off in 1961. Leib enlisted support from dozens of congressmen to support his claims that the records of his war injury were deliberately destroyed and falsified because of his investigative work, including articles charging war profiteering that led to the firing of a former VA administrator. But his 16-year campaign to regain his disability benefits has floundered on the agency's contention that his back injury was sustained prior to the war, even though Leib was certified in 27 separate medical examinations as fit for combat duty when he was drafted.

Hart contends there must be a check on the VA's authority in cases like these.

He agrees that opening up the VA to judicial scrutiny will add to the courts' workload, but not as greatly as opponents contend. Of 2.7 million claims processed annually by the VA, only 28,000 ever reach the Board of Veterans Appeals.

In the Social Security system, whose beneficiaries may appeal rulings in the courts, only about 20 per cent of the cases which go through the entire administrative process ever reach the courts.

But Hart says the real question is whether veterans ought to be singled out for denial of due process because justice might prove to be too troublesome.

The VA "not only writes its own rules and regulations, but they are immune from the public and judicial review to which most other federal agencies are subject," says Hart. "To deny a citizen access to an attorney, and also to isolate a federal agency from the scrutiny of the federal courts, goes against the very principles of our constitutional system."

#### A DENIAL OF RIGHTS

It is hard to believe, but the fact is that United States war veterans—of all people—are the only American citizens receiving federal benefits who are denied the right of a court appeal from adverse rulings in their cases.

An option available even to welfare recipients, it seems, is barred to the nation's former service men and women by a 1933 statute which makes claims decisions by the Veterans Administration final and beyond any outside challenge.

Applicants for service benefits not only have no right to court appeal when they believe they have unjustly been denied pensions or higher disability rates, they also are effectively prevented from even hiring a lawyer to represent them in VA adjudication proceedings.

Under the law, as a result, the VA is the closest operation the U.S. has to an official system of unfettered, arbitrary authoritarianism. Its rulings are not even reviewable by the President and its files are closed even to Congress.

The word which comes quickest to mind to describe this is "outrageous." It is all but inexplicable why it has been permitted to stand for so long, along with its supportive rationale that veterans' benefits are "gratuitous" rather than matters of legal entitlement.

Now, at very long last indeed, a move toward corrective action is under way. A series of nationwide field hearings on the 1933 law and its effects was launched in San Francisco last Friday by the Senate Veterans Affairs Committee.

Objectors to change contend that the present VA adjudication machinery—in which the American Legion and Veterans of Foreign Wars have an active function—is uniquely specialized, efficient and just. They also declare that opening the VA to judicial scrutiny would swamp the courts.

This is a clear contradiction. Why would the courts be "swamped" with cases of veterans' claims if VA rulings were invariably and patently just? More important—why

should any American citizen, under any circumstance, be denied full legal recourse if he thinks he has been wronged?

Sen. Gary Hart (D-Colo.), who has introduced legislation to provide for judicial review of VA decisions, summed up an inexcusable situation in these words:

"To deny a citizen access to an attorney, and simultaneously to isolate a federal agency from the scrutiny of the federal courts, goes against the very principles of our constitutional system."

#### THE AWACS SALE TO IRAN

Mr. CULVER. Mr. President, the Foreign Assistance Subcommittee of the Foreign Relations Committee today wrote President Carter expressing its concerns over the proposed sale of AWACS aircraft to Iran and asked him to withdraw this proposal for further review. I believe this is an appropriate action because the evidence strongly suggests that this proposal was inadequately reviewed before it was presented to the Congress.

The AWACS sale to Iran also has been criticized in a number of newspaper editorials, and I ask unanimous consent that these views from the Washington Post, the New York Times, the Philadelphia Inquirer, the Des Moines Register, the Atlanta Constitution, and the New Republic be printed in the RECORD.

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

[From the Washington Post, July 27, 1977]

#### ARMS BUSINESS AS USUAL

In 1972 President Nixon secretly gave Iran virtual *carte blanche* to buy the arms of its choice. Scarcely a year later, OPEC's quintupling of oil prices put into the Shah's hands the money to buy the quantities of sophisticated weapons he has been amassing relentlessly since. Campaigning for President, Jimmy Carter decried profligate American arms sales. In the White House, he declared he would view arms sales "as an exceptional foreign policy implement to be used only in instances where it can be clearly demonstrated that the transfer contributes to our national security interests." Putting his policy into effect in respect to Iran, he decided not to sell the F-18.

He has persisted, however, in pushing the sale of an elegant airborne radar system called AWACS (airborne warning and control system). Iran wants seven at a cost of \$1.2 billion. Evidently the administration feels that American relations with Iran cannot easily stand the strain of canceling AWACS. Moreover, there is strong Pentagon pressure to recapture by exports some of the huge development costs (\$2.8 billion). NATO is gagging on the price. Hence the drive to sell to Iran.

It's a pity because on the merits the administration's case is weak. The Director of Central Intelligence agrees that the technology could leak, with damaging results, to the Russians. The need for Americans to man the system could conceivably suck the United States into unwanted trouble. Since the system lets you control your fighter aircraft as well as detect enemy missiles, its sale undercuts the formal Carter pledge not to introduce into a region a weapons system creating "a new or significantly higher combat capability." Iraq or Saudi Arabia could reply by escalating their own military preparations. Ground radar provides Iran an alternative. Granted, not all these considerations are of equal merit. But in the 30 days which the law gives Congress to block proposed sales, the administration has not satisfactorily an-

swered the questions that overhang this transaction. Said the President on May 19: "The burden of persuasion will be on those who favor a particular arms sale, rather than those who oppose it."

Senate Majority Leader Robert Byrd offered the administration a gracious escape from a collision with Congress. Citing the press of Senate business and the non-urgency of the AWACS sale, he suggested that the President wait awhile. But Mr. Carter said no. So a bruising battle is coming. Conservatives as well as liberals are aroused. For the sale to be blocked, both houses must disapprove by Aug. 5. We hope they do. The administration should understand in any event that its stand has federal a congressional drive to change the law to make it easier to block future sales.

[From the New York Times, July 13, 1977]

#### THE BOEING SHUFFLE AND THE SHAH

The Carter Administration proposes to sell Iran seven enormously expensive radar aircraft, running great risks for just one reason: to enable the United States Air Force to buy some too. The risks are that Soviet spies could gain easier access to some of the most secret and sophisticated American technology and that American personnel could become hostages to the service of those craft in Iran. The only immediate benefit is that if Iran buys three aircraft a year, Boeing will keep open its production line and deliver three others to the Air Force as well.

We are talking about the so-called Airborne Warning and Control System (AWACS), whose purpose is to monitor and control air warfare. Each of these modified Boeing 707 airliners and its accompanying electronic gear and spare parts will cost \$170 million. The Air Force would like 31 of them, but can afford only three a year. Boeing says it cannot afford to produce so few, even at that price. But an additional three for Iran would buy time for the Administration to iron out the difficulties which thus far have blocked a hoped-for sale of 27 more to NATO governments.

AWACS has had an odd history on its way to the Shah's stable of costly hardware. It was conceived more than a decade ago as part of a program to modernize America's continental air defenses. Then the Nixon Administration decided that expensive air defense was not worth buying; SALT I had banned antiballistic missiles and thus made both the United States and the Soviet Union vulnerable to each other's missiles. So the Air Force changed AWACS' mission to one of controlling tactical air battles. Some military analysts doubt that AWACS is worth the cost and argue that most of its missions could be adequately performed by the smaller Grumman E-2C, which costs only \$30 million.

As is so often the case, however, the Air Force wants the finest, and in the Shah it knows it has a kindred spirit. Like Senator Jackson, who spares no effort to promote the fortunes of Boeing, the largest employer in his state of Washington, the Shah is not an easy man for the Administration to turn down. But a clutch of Senators, led by John Culver of Iowa, an influential first-term member of the Armed Services Committee, has sponsored a resolution to block the proposed sale.

The Senators advance three main arguments. First, although the Iranians contend that they want AWACS for air defense against the Soviet Union, the Senators suspect that a more likely role for the system would be for military operations in the Persian Gulf—offensive as well as defensive. Second, they fear that Iran would not be able to safeguard AWACS from a major Soviet espionage effort. Finally, the Senators fear that the Iranians would not be able to operate AWACS without very substantial

help from American military personnel, some of whom would likely be needed even to man equipment aboard the aircraft. A Senate report warned last year that by 1980 perhaps 50,000 Americans, including dependents, might be resident in Iran to supply trained manpower for the sophisticated weapons the Shah has been buying. In the case of AWACS, Americans might actually find themselves in combat operations, raising even further the risk of American involvement in an Iranian war.

These arguments amount to a strong case. The only countervailing argument—aside from the habitual desire not to offend the Shah—is the need to give Boeing sufficient business to keep its production line open. There is, of course, another way to accomplish that: the Air Force could increase its own purchases from three to six per year. But that would mean diverting funds from purposes more dear to both the Air Force and the Department of Defense, and AWACS might not survive such competition.

Arms sales usually confront principle with expediency. The Administration has made much of its desire to curb expedient sales and to let principle rule. No AWACS for Iran would be a good place to start.

[From the Philadelphia Inquirer, July 15, 1977]

#### U.S. NEED NOT SELL SHAH ALL THE ARMS HE WANTS

One reason for selling the Shah of Iran seven highly sophisticated Boeing radar command planes at a cost of \$1.23 billion, as the Defense Department has informed the U.S. Congress it plans to do, is that the Shah wants them.

And what the Shah wants, the Shah gets, where arms are concerned: This has been U.S. policy since President Nixon made the decision during a brief visit to Iran in May, 1972. Sitting on top of all that oil, the Shah can afford to pay for what he wants and since 1972, Iran has become the U.S.'s best customer for arms, with total purchases rising above \$15 billion.

There is another reason for selling Iran the Airborne Warning and Control System, known as AWACS, which the U.S. has sold to no other countries, including our NATO allies. It is that the U.S. Air Force wants to sell these jet transports, because the U.S. wants to buy them for itself. The argument is put in terms of cost-effectiveness: The more of these planes roll off Boeing's assembly lines, the more the costs can be spread for research and development.

There are, however, far more compelling reasons for blocking the sale, as Democratic Sen. John Culver of Iowa, Thomas Eagleton of Missouri, Republican Sen. Richard Schweiker of Pennsylvania and others propose to do in a resolution to be introduced today.

One is that AWACS, built as an air defense system, has a potent offensive capability. It is a "force multiplier," as Secretary of Defense Harold Brown called it in testimony to Congress, increasing the effectiveness of the hundreds of tactical aircraft the U.S. has also sold to Iran, including the F-14 Tomcat fighter. The Shah, with his dreams of empire, may want that, but it is questionable American interests are served if he has it.

Second, AWACS contains top-secret technology—including advanced radar, cryptographic equipment and the largest-capacity airborne computer ever flown. The Senators who signed the resolution are concerned about the risks that this stuff might fall into Soviet hands.

But there are other serious risks. As a Senate staff report pointed out about a year ago, Iran is trying "to create an extremely modern military establishment in a country that lacks the technical, educational and industrial base to provide the necessary trained

personnel and management capabilities to operate such an establishment effectively."

That means Iran must have, for years to come, thousands of Americans for operations, logistics, training, maintenance and the like. That in turn means an inextricable U.S. involvement in whatever adventures Iran might embark upon.

Beyond these considerations but very much related to them is the matter of the promised change in U.S. policy on arms sales abroad. At the very first meeting of his National Security Council last January, President Carter discussed "tight restraints on future commitments." Last May, the President issued a policy statement declaring that "the United States will henceforth view arms transfers as an exceptional foreign policy implement, to be used only in instances where it can be clearly demonstrated that the transfer contributes to our national security interests."

In the case of AWACS, no such clear demonstration has been made, and unless the administration can produce exceptional circumstances it has not produced so far, Congress should insist that the administration follow its own professed policy.

[From the Des Moines Register, July 15, 1977]

#### AWACS FOR IRAN?

As a candidate, President Carter campaigned against excessive arms sales to foreign governments and this spring he announced a set of principles to start bringing such sales under control. But he approved sale of \$1.2 billion worth of Airborne Warning and Control System (AWACS) planes to Iran: seven big transport planes loaded with secret equipment.

Senator John Culver (Dem., Ia.) believes the sale would violate several of Carter's principles. It would introduce new and possibly destabilizing weapons into a potentially volatile area; it would risk compromising technology vital to U.S. defenses by putting these complex secret command and guidance systems made up of radar and electronic equipment right on the Soviet border. There is a cheaper way to do the same job.

Iran, thanks to past U.S. sales, is one of the most heavily armed countries in the world, and it is controlled by a single, arbitrary ruler who violates human rights and wants to make his muddled country a top industrial and military power. He is on bad terms with most of his neighbors and with many of his own people. Huge sales to him are risky.

Under a recent law, Congress can stop a foreign arms sale of this size if both houses vote against it within 30 days of notice from the President. Culver started the procedure in the Senate, quickly getting nine other senators to co-sponsor his resolution, including Dick Clark (Dem., Ia.). Hearings before the Senate Foreign Relations Committee start July 18.

The sale is frightening and warrants further consideration by Congress.

[From the Atlanta Constitution, July 13, 1977]

#### ARMS DEAL

The Shah of Iran must be nervous. He wants to invest over \$1 billion in seven U.S. Boeing 707s equipped with highly complex radar systems intended to monitor air battles. And President Carter has decided to go through with the deal.

What's this the President has been saying about limiting sales of arms abroad? That's what critics of the Iran deal want to know.

The President followed the Iran decision with some remarks on our arms policy. It's hard, he said, to lead the way in limiting arms sales when the Communist nations jump right in when we move out.

There's an effort to block the deal in Con-

gress. Besides being against announced policy, critics maintain the Iranians couldn't operate the planes and complex equipment without hundreds of U.S. technicians. And Iran may not be getting the best deal for its money—the Pentagon is charged with fixing things so the Shah didn't have a chance to consider cheaper alternatives.

The Iranians went shopping back in 1975 before Carter was President. But since the President has consistently said he wants to cut back on Uncle Sam's huge international arms business, it is hard to see how he squares that with this decision. The explanation that "if we don't the Russians will" was as valid before the decision as after. Why didn't he consider that when talking about limiting arms sales?

[From the New Republic, July 30, 1977]

#### SPECIAL RULES FOR THE SHAH

President Carter already has failed a major test of his resolve to restrict arms sales to foreign governments. Now it is up to Congress to save Carter's policy for him. Congress has only until August 6 to block Carter's proposed \$1.2 billion sale to Iran of seven sophisticated airborne radar systems.

The AWACS, or Airborne Warning and Control System, is a modified Boeing 707 airliner that monitors and controls air warfare. A group of senators led by Democrats John Culver of Iowa and Thomas Eagleton of Missouri opposes the AWACS sale to Iran, claiming it would constitute a needless security risk. The Soviet Union has a land border of 1200 miles with Iran. If the Russians somehow were to gain access to the AWACS, Soviet defenses and intelligence capabilities could be enhanced, and electronic countermeasures against U.S. and NATO AWACS could be developed. The senators also worry that the AWACS sale would require more American technical support. Even if Americans already resident in Iran were able to provide all the advice needed, their involvement could mean American support for an Iranian war.

Finally the opposition contends that selling the radar system to Iran contradicts the policy President Carter announced May 19 to deescalate arms sales. In that announcement, Carter declared one way the reduction in foreign arms sales was to occur: the US will not be the first to introduce into a region new or significantly higher combat capability. The AWACS sales would be a definite exception. AWACS is foreign to that area of the world, and its ability to function as an offensive weapon may upset the balance of power in the Middle East and Indian Ocean areas. Since the AWACS acts as an airborne command and control center, it could multiply offensive power of the aircraft already owned by Iran. The AWACS would be another asset in Iran's growing military arsenal, an arsenal that already is seen as a threat by neighboring nations.

Although not mentioned by the senators, selling the AWACS to Iran would contradict another of President Carter's policies: his stand on human rights. Carter has refused to help those countries whose standards of political freedom do not meet his own. The sale of AWACS to Iran seems to be a violation of this principle.

Iran has recently made some cosmetic changes in its dictatorial regime. The systematic torture of prisoners may have been restricted. A few people incarcerated for political reasons recently were freed. But the Shah's autocratic reign continues. Both the United Nations International League for Human Rights and Amnesty International have documented Iranian violations of the most basic human rights. The detention of Iranian citizens without due process of law, frequent executions of political prisoners, repression of all opposition to the Shah's government, restriction of press and speech and persecution of Iranians throughout the

world by the Iranian secret police (SAVAK) are just a few of the rights infringements that have been reported.

The Carter Administration has barred arms sales to Uruguay and Chile, ostensibly because of human rights violations. What is so much less offensive about the Shah's regime?

Clearly Carter's human rights doctrine and his new arms sale policy are not even factors in the AWACS decision. Perhaps a new policy should be issued: where oil is at stake, anything goes. If the Shah wants AWACS, the Shah gets AWACS.

Mr. CULVER. Mr. President, today's Washington Post contains an article by Anthony Sampson entitled "Curbing Global Arms Sales: Europe Looks To Carter." The writer, a British journalist, points out that the AWACS sale reinforces European doubts about the sincerity of the administration's new policy for controlling U.S. arms sales. He maintains that the Europeans might be interested in cooperative efforts to limit global arms sales, but that this welcome possibility depends on American example. Mr. President, I ask unanimous consent that Mr. Sampson's article also be printed in the RECORD.

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

[From the Washington Post, July 27, 1977]  
CURBING GLOBAL ARMS SALES: EUROPE LOOKS TO CARTER

(By Anthony Sampson)

Is President Carter really serious in his campaign to restrict arms sales in agreement with his allies? Or is he adopting a painful posture from which he would be glad to back down? The Europeans, particularly the British, are watching with considerable skepticism, and already they detect signs of retreat from Carter's first promise.

"Competition in arms sales is inimical to peace," said Carter in May. "We are trying to get other nations, both free and otherwise, to join us in the effort." Carter's policy was based on a report of the National Security Council—partially released July 11—that stressed that "the prospect that other countries will voluntarily and spontaneously follow our model of restraint is unlikely."

The President raised the question of controlling arms sales with his allies at the London summit in May, and talks on conventional arms sales are scheduled with the Russians for September. But in the meantime there is not much movement. British diplomats report little sign of serious pressure from Washington to restrict European arms sales, only some greater watchfulness from the American embassies. And their doubts about Carter's sincerity have been reinforced by the promise of sophisticated Boeing airborne warning and control systems to Iran.

The British government's attitude is politely skeptical. Whitehall points out that Britain—like France—accounts for only four percent of the world's arms trade, whereas the United States accounts for over 50 percent. But the government also stresses the great benefits to employment and the economy in the expanding arms trade. As the chairman of the Labour Party defense group, Alan Lee Williams, M.P., said on the BBC last week: "If there's some kind of moratorium, the Americans stand to lose very little because they are in the Middle East in such a big way. But for us, you see, it's our life blood."

The British and the French are all the less likely to restrain their arms sales to the Middle East at a time when new prospects are opening up. The tiny sheikhdom of Kuwait, which already spends more per capita on

weapons than any other country in the world, is soon expected to produce another huge order for tanks and hovercraft from Britain. Another half-billion-dollar order is expected from Saudi Arabia, and the fact that the Saudis are now financing Egyptian arms is excellent news for the British companies, who see Egypt as a growing market from which the Americans are largely abstaining.

All this fits in well with the propaganda from the American arms companies, who are relentlessly opposed to Carter's restrictions on sales. After the Paris Air show in June, Aviation Week, the chief apologist for the industry, reported how Carter's new policy had spread "gloom, confusion and anger" among the Americans, and "joy and vitality" among the British and French, who (Time magazine reported) were planning to fill the vacuums left by the Americans. The aerospace lobby has been repeating endlessly the old refrain: "If we don't sell them, someone else will."

But the apparent lack of an agreement with the European allies cannot honestly be used by the Carter administration as an excuse for retreating from its policy of restraint. In the first place, as Paul Warnke, head of the U.S. Arms Control and Disarmament Agency, has stressed, the argument "someone else will" is not very convincing from a country that is responsible for more than half the trade. It sounds all too much like the old arguments for the slave trade. The first responsibility must lie with the chief trader.

In the second place, Washington thus far has not tried very hard to press the European allies—and there is some reason to suppose that Europe could be quite vulnerable to effective pressure.

In Britain, while the government has continued to foster arms sales surrounded by secrecy, there has been growing discontent from politicians and the public about the expansion of the trade. This week the national executive committee of the Labour Party published a report on defense spending that included strong arguments for banning arms sales to dangerous parts of the world and for publishing an international register of arms sales. The BBC produced a documentary nine days ago revealing the extent of government involvement in arms sales, particularly to Kuwait, including a forceful criticism of British policy by Paul Warnke. In the meantime trades unionists within British arms companies, including Vickers and Lucas Aerospace, have become more active in urging conversion of plants from military to peaceful production.

Even in France, where the government has been most impervious to criticism, there are signs of growing public concern about the dangers of the trade. And the French government is now much less confident that the Dassault Company can keep pace with American technology, as it has done in the past with the Mirage fighters. France's go-it-alone arms policy looks increasingly unconvincing, and its backwardness is likely to give greater scope for leverage from Washington.

The Russians, of course, present the thorniest problem. But the fact remains that the competition for the two biggest arms customers in the Middle East (Iran and Saudi Arabia) is confined to Western suppliers, and it is not very likely that either country would turn eastward for alternative weapons. An agreement between Western countries would be a major step in itself.

But a serious European response will depend on a much more energetic American initiative and pressure both in public and in private. If President Carter is serious—as many European liberals devoutly hope—he must speak out as the leader of the West and prove his good intentions. Until he has seriously tried, he can hardly use the Europeans as an excuse for backing down.

Mr. CULVER. Mr. President, in my judgment, there is no reason for the AWACS sale to Iran to be the first major exception to the administration's May 19 foreign military sales policy, and I believe there are very important reasons for the Congress to object to this proposal as suggested in these various editorials and commentaries.

#### PUBLIC OPINION ON THE U.N.

Mr. ANDERSON. Mr. President, today I had the opportunity to meet with a representative of the Minnesota League of Women Voters, Judy Rosenblatt. As a part of the educational service which the league performs, a nationwide survey has been conducted to evaluate the public's opinion of the role of the United Nations. The league's investigation revealed that Americans understand the limitations of this international organization and are hopeful about the U.N.'s role in keeping peace and solving world problems.

In addition to gathering facts, the league organized discussion groups for those who were interviewed to facilitate a more careful understanding of their views and serve as an educational opportunity for all participants. The league should be commended for performing this service. While their analysis does not evaluate the actual contribution the U.N. is making, it is important to understand how the public views the U.N.'s role.

In order for others to evaluate their results, I ask unanimous consent that the full text of the League of Women Voters survey be printed in the RECORD.

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

#### PUBLIC OPINION ON THE UNITED NATIONS: WHAT POLLSTERS FORGET TO ASK

The League of Women Voters Education Fund (LWVEF) has completed an in-depth nationwide survey that indicates the continuing slide in public esteem for the United Nations has come to a halt in the past year, while negative evaluations of the organization have fallen off. Survey results also found no evidence for the speculation of some observers that decline in UN support stemmed from Americans' resentment of a pro-Arab atmosphere at the UN, frustration with Third World domination of the General Assembly, or growing isolationism here at home. None of these factors proved to be significant in Americans' assessments of the United Nations.

The survey found few people willing to advocate pulling out of the United Nations, although many were ready to criticize its performance. By and large, Americans are hopeful about the United Nations' role in keeping peace and solving world problems, but they recognize that there are limits to what the UN can do.

The LWVEF's project brought into play an array of techniques that made it one of the most comprehensive studies of citizen opinion on the United Nations ever undertaken. Specially trained members of the League of Women Voters of the United States conducted 1,769 telephone interviews in 71 communities across the country with a scientifically selected random sample of the public. The interviewers not only asked standard UN questions used by major pollsters, but also went on to ask why. League leaders then conducted "focus group" discussions—which delved into attitudes behind the answers—

first with 210 of the telephone interviewees, then with 351 community leaders in the same areas. Finally, the League Education Fund sponsored a public opinion poll by the Roper Organization to check current trends in opinion against earlier poll results.

The incentive for the project was a desire to shed light on the apparent conflicts in citizens' attitudes toward the United Nations in past public opinion polls. A 1976 poll, for example, found almost three-fourths of those questioned favored UN membership; yet that same year, another poll showed that no more than half of the respondents gave a positive evaluation of UN performance in any specific area. What lay behind these responses? What do people really mean when they give a certain answer and why do people feel the way they do? The League's survey was designed to get behind the cryptic answers to yes-no, broadly phrased questions of the polls.

TABLE I—Trends in opinion toward the U.N.

[In percent]	
1. In general, do you feel the U.N. is doing a good job or a poor job in trying to solve the problems it has to face?	
Gallup:	
1967:	
Good job.....	49
Poor job.....	35
Don't know.....	16
Total.....	100
1970:	
Good job.....	44
Poor job.....	40
Don't know.....	16
Total.....	100
1971:	
Good job.....	35
Poor job.....	43
Don't know.....	22
Total.....	100
1975 (J):	
Good job.....	41
Poor job.....	88
Don't know.....	21
Total.....	100
1975 (D):	
Good job.....	33
Poor job.....	51
Don't know.....	16
Total.....	100
League sponsored Roper poll, 1977:	
Good job.....	32
Poor job.....	39
Don't know.....	29
Total.....	100
2. The United States should cooperate fully with the United Nations.	
Potomac Associates:	
1964:	
Agree.....	72
Disagree.....	16
Don't know.....	12
Total.....	100
1968:	
Agree.....	72
Disagree.....	21
Don't know.....	7
Total.....	100
1972:	
Agree.....	63
Disagree.....	28
Don't know.....	9
Total.....	100
1974:	
Agree.....	66

Disagree.....	20
Don't know.....	14
Total.....	100
1975:	
Agree.....	56
Disagree.....	30
Don't know.....	14
Total.....	100
1976:	
Agree.....	46
Disagree.....	41
Don't know.....	13
Total.....	100
League sponsored Roper poll, 1977:	
Agree.....	47
Disagree.....	30
Don't know.....	23
Total.....	100
3. Do you think our Government should continue to belong to the United Nations or should we pull out of it now?	
National Opinion Research Corp.:	
1973:	
Continue.....	79
Pull out.....	15
Don't know.....	6
Total.....	100
1975:	
Continue.....	75
Pull out.....	18
Don't know.....	7
Total.....	100
1976:	
Continue.....	73
Pull out.....	19
Don't know.....	8
Total.....	100
League sponsored Roper poll, 1977:	
Continue.....	70
Pull out.....	13
Don't know.....	17
Total.....	100
4. How effective has the U.N. been in keeping world peace?	
Roper, 1976:	
Highly.....	12
Moderately.....	37
Somewhat.....	27
Not at all.....	17
Don't know.....	7
Total.....	100
League sponsored Roper poll, 1977:	
Very.....	11
Somewhat.....	56
Not very.....	24
Don't know.....	9
Total.....	100
5. Do you happen to know the names of any U.N. institutions or agencies?	
Gallup, 1975:	
Yes (UNICEF 20 percent, UNESCO, 9 percent).....	29
No.....	71
Total.....	100
League telephone survey, 1977:	
Yes (UNICEF 19 percent, UNESCO 9 percent, WHO 4 percent, other 4 percent).....	36
No.....	64
Total.....	100
6. If the United Nations had not been in	

existence, do you think there would likely have been another world war?

Gallup, 1965:	
Yes.....	59
No.....	26
Don't know.....	15
Total.....	100
League telephone survey, 1977:	
Yes.....	41
No.....	29
Don't know.....	30
Total.....	100

The most unexpected finding was that the trend toward increasing criticism of the United Nations, which had paralleled a general decline in public confidence in the UN, was a sharp drop in criticism of the organization. The League commissioned Roper poll found that positive evaluations of the UN have stayed at approximately the same level over the past year or so. But the survey identified significantly fewer negative attitudes in 1977 on three basic questions. For example, the percentage of those who say the UN is doing "a poor job in solving the problems it has to face" has fallen from 51% in late 1975 to 39% today. At the same time, Roper's "don't know" answers are much higher than those found in recent years. Many people who held negative views toward the United Nations have become more reluctant to criticize. This shift makes the reasoning behind these answers even more intriguing.

Although the League interviewers received somewhat more positive responses to the standard questions than Roper did, the League's open-ended telephone questions, coupled with information from focus group discussions, were able to probe beneath the raw totals to identify underlying attitudes.\* The reasons people gave the League interviewers for their positive and negative answers should be broadly representative of American public opinion as a whole.

When pressed, people proved to be quite consistent in their responses, whatever the surface ambiguities might be. What seems to be happening is that people's expectations have become more realistic. Fewer Americans expect the United Nations to solve all the world's complex problems. People are ready to back the United Nations on the more modest grounds that it serves as a necessary forum for communication among nations. This explains why only 33% want the UN to pull out. The down to earth assessments, interestingly enough, come both from those who give the United Nations a "poor job" rating and those who give it a favorable evaluation.

People who criticize the job the UN is doing simply recognize that the organization has not solved the world's problems. Twenty-five percent of those giving a "poor job" rating note this failure. Half that many com-

\*The generally more favorable responses the League received could be attributed to several factors: the differences between telephone and in-house surveys; the fact that the interviewer explained at the start that the subject of the survey was the UN (some of those who really dislike the UN may have refused to take part at all); and the fact that the communities used for the survey had to be at least partially selected on the basis of where League volunteers could be found to do the work, rather than to represent a perfect statistical sample. However, no significant differences in attitudes between the Roper and League studies can be attributed solely to a bias in the League sample on the basis of such factors as sex, age, education, or income.

ment that the UN has no effective enforcement methods, or that it is "all talk and no action." Another 8 percent mention that nationalism and nations pursuing their selfish interests keep the UN from acting effectively. (See Table II).

Even those giving favorable evaluations of the job the UN is doing recognize that it faces tough obstacles and cite mitigating circumstances. Close to a third of their answers note that the UN "is doing the best it can," "it's better than nothing," or "it's our best hope." Even fewer think the UN is generally helping to keep peace. But only 9 percent actually state that the UN has been effectively solving problems.

However, these less than enthusiastic job performance ratings do not translate into opposition to U.S. participation in the UN. The 70 percent majority who clearly favor U.S. membership in the UN give a broad range of reasons, citing particularly that membership is in the United States' self-interest, that the U.S. has an obligation to support the UN, that world cooperation is important, and again that the UN is our best hope for working on problems and contributing to peace. On the other hand, the 13 percent who want to get out of the UN feel that it costs too much, that it is not accomplishing anything, that it is ruled by factions and blocs, or that U.S. interests are not adequately represented in the United Nations.

The in-depth discussions were especially useful in searching out why people feel the UN is "better than nothing" and that U.S. membership is valuable in spite of ineffectiveness in many areas. The importance of the UN as a forum to facilitate communication came up more than twice as often as anything else as an argument for retaining U.S. membership in the United Nations. When asked to think of specific examples of UN effectiveness, the focus group participants stressed the UN's successes in such humanitarian activities as alleviating world poverty, helping underprivileged children, and providing health services.

Perhaps even more interesting than what the survey found about the reasons behind opinions was what it did not find. As noted earlier, very few participants in either the telephone survey or the discussion groups emphasized Third World domination of the General Assembly or a pro-Arab bias as reasons for negative opinions on the UN. Less than 1% of the phone interviewees specifically mentioned Third World domination in connection with any question. Even among the focus group participants whose knowledge of world affairs and UN activities was greater, only about a quarter agreed with the statement that the "UN is pro-Arab and anti-Israel."

The League survey also highlighted several areas of public ignorance about the United Nations. Barely a third of those interviewed could identify a single UN agency, and most vastly overestimated the size of the U.S. financial contribution to the UN. Sixty-one percent mistakenly believe the U.S. pays at least half of the total UN budget, instead of the actual share of only a quarter. Just over half of those interviewed felt the U.S. pays "too much" but of these, 80% overestimated our share. The focus group discussions made it clear that Americans are willing to give a substantial contribution to the UN if they feel others are paying their fair share and if the money is not being squandered.

The study was funded by a grant from the Charles F. Kettering Foundation, with financial assistance from the Exxon Corporation, The George Gund Foundation, The United Nations Association, and The Institute for World Order. The Communications Research

Center of Cleveland State University provided technical guidance in the research design and data analysis.

TABLE II.—Results of telephone interview with the general public

[In percent]	
1. In general, do you feel that the UN is doing a good job or a poor job in trying to solve the problems it has to face?	
Good job	43
Poor job	33
Don't know	24
Major reasons for saying the UN is doing a good job:	
The UN is doing the best it can/it's better than nothing	130
The UN is helping to keep peace	10
The UN is solving problems/working on problems	9
The UN is a forum/improving communication	6
Major reasons for saying UN is doing a poor job:	
The UN hasn't solved problems/is ineffective	25
The UN has no enforcement/"all talk, no action"	11
Nationalism/selfish interests hamper UN is not keeping peace	6
UN effectiveness	8
Membership in the UN is not in US interest/US should stay out of others' problems	4
2. Do you agree or disagree with the following: The United States should cooperate fully with the United Nations?	
Agree	54
Disagree	31
Don't know	15
Major reasons for saying the U.S. should cooperate fully with UN:	
World cooperation is good	23
U.S. has responsibility to belong to UN/UN needs the U.S.	16
UN is solving problems	8
UN is helping to keep peace	6
It's in the interests of the US to cooperate with the UN	6
UN is our best hope/the idea is good	6
Major reasons for saying the United States should not cooperate fully with U.N.:	
Objection to the word "fully"/cooperation depends on issues	27
U.S. interests not represented/U.N. goes against U.S. policy	25
Communists control the U.N.	4
The United States should act independently	4
3. Do you think our government should continue to belong to the U.N. or pull out now?	
Continue	82
Pull out	7
Don't know	11
Major reasons for saying U.S. should continue to belong to the U.N.:	
U.N. membership is in the U.S. interest/good for the United States	13
The United States has responsibility to belong to U.N./U.N. needs U.S.	13
U.N. is our best hope/concept is good/doing best it can	13
World cooperation is good/U.S. should work with others	12
U.N. is solving problems/only organization that can work on world problems	10
U.N. is a forum for communication	8
U.N. is helping keep peace	5

<sup>1</sup>Percentage of those giving "good job" rating.

Major reasons for saying U.S. should pull out of U.N.:

U.N. is ineffective/not solving problems	16
U.N. costs too much/too much waste	14
U.S. interests are not represented/U.S. hasn't gotten anything from U.N.	12
Nations at U.N. pursue own interests/blocs of nations control U.N.	11
U.S. should stay out of others' problems/should protect U.S. first	11
4. Below is a list of things the U.N. does. Do you think this is an important thing for the U.N. to do? How good a job you think the U.N. does in this area?	

[In percent]	
a. Working to help underprivileged children around the world.	
Importance:	
Very	74
Somewhat	18
Not very	6
Don't know	2
Effectiveness:	
Very	15
Somewhat	42
Not very	17
Don't know	26
b. Keep world peace.	
Importance:	
Very	91
Somewhat	5
Not very	2
Don't know	2
Effectiveness:	
Very	17
Somewhat	48
Not very	29
Don't know	6
c. Helping to increase world food production.	
Importance:	
Very	80
Somewhat	12
Not very	5
Don't know	3
Effectiveness:	
Very	11
Somewhat	34
Not very	29
Don't know	26
d. Helping our population problem by teaching family planning.	
Importance:	
Very	69
Somewhat	16
Not very	12
Don't know	3
Effectiveness:	
Very	10
Somewhat	32
Not very	33
Don't know	25
5. Most people we have talked to do not know the names of any UN agencies or institutions. Do you happen to know any?	
Yes	36
UNESCO	9
Who	4
UNICEF	19
Other	4
No	64
6. If the UN had not been in existence, do you think there would have been another world war?	
Yes	40
No	30
Don't know	30
7. Would you estimate the percentage of the entire UN budget which the U.S. pays to be:	

10 percent.....	6	Too much.....	52	9. Do you think the U.S. should or should not contribute money to the UN to help people in poor countries?	
25 percent <sup>2</sup> .....	23	About right.....	34	Yes.....	71
50 percent.....	34	Not enough.....	4	No.....	20
75 percent.....	24	Don't know.....	10	Don't know.....	9
100 percent.....	3				
Don't know.....	10	8. Does the UN have its own army?			
Do you think this is too much, about right or not enough for the U.S. to pay?		Yes.....	27		
		No.....	48		
		Don't know.....	25		

TABLE III.—Results of Focus group discussions

	Public	Leader	Total		Public	Leader	Total
Rural.....	12	17	---	Peacekeeping efforts of the U.N. have been successful.....	17	32	49
Urban.....	27	38	---	The U.N. is a necessary means of communication.....	10	24	34
Suburban.....	11	14	---	The U.N. has been effective in solving problems.....	4	2	6
Total.....	50	69	119	The U.N. has no real power.....	16	37	53
Number of participants.....	198	374	572	Fractionalism within the U.N. hinders effectiveness.....	10	37	47
Number for staying in U.N.....	188	367	555	U.N. peacekeeping hasn't worked.....	15	19	34
Number for getting out of U.N.....	10	7	17	U.N. is ineffective/hasn't solved problems.....	7	12	19
Arguments for staying in U.N.:				Communists dominate the U.N.....	5	9	14
The U.N. is a forum/provides a means of communication.....	23	68	91	The U.N. costs the United States too much money/wastes money.....	6	7	13
The U.N. is doing the best it can/the basic concept is good.....	14	26	40	Lack of communication and cooperation within the U.N. hampers effectiveness.....	1	4	5
The United States has a responsibility to stay in the U.N./U.N. needs United States.....	17	19	36	The leader groups were more informed than the public groups but were also less interested in receiving information on the United Nations.			
The U.N. has helped keep peace.....	7	18	25	Kinds of information desired:			
The U.N. does needed humanitarian work.....	12	10	22	U.S. contribution and U.N. budget.....	17	27	44
It is in the U.S. interest to belong to U.N.....	7	10	17	Work of the specialized agencies.....	11	22	33
The U.N. is solving problems/working on problems.....	7	8	15	U.N. accomplishments.....	10	17	27
The U.N. promotes cooperation among countries.....	7	2	9	Overall more information.....	7	9	16
Examples of U.N. effectiveness:				Structure of the U.N.....	3	9	12
Specifically WHO and UNICEF are effective.....	33	71	104	Day to day activities of the U.N.....	2	10	12
The U.N. does needed humanitarian work/the specialized agencies are effective.....	15	38	53	Peacekeeping.....	5	3	8

**CHARGED-PARTICLE BEAM WEAPONS**

Mr. HART. Mr. President, recent weeks have seen a debate develop concerning possible Soviet efforts to build an antiballistic missile system around charged-particle beam technology. Such Soviet attempts should arouse concern; the development by the Soviet Union of an effective antiballistic missile defense could undermine deterrence and increase the risk of nuclear conflict.

On the other hand, it is important that we not jump to false conclusions. U.S. reactions to Soviet efforts that have little promise of success could be almost as destabilizing as a Soviet breakthrough in missile defense.

A recent paper by Dr. Richard L. Garwin gives some useful insights into the question of whether practical charged-particle beam weapons are feasible. While no statement is likely to be definitive given the extreme complexity of the subject, Dr. Garwin makes a number of interesting points that are useful information in the ongoing debate.

I ask unanimous consent that the paper by Dr. Richard L. Garwin, "Charged-Particle Beam Weapons" be printed in the RECORD.

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

**CHARGED-PARTICLE BEAM WEAPONS?**

Recent publicity (especially an editorial and article in Aviation Week and Space Technology, May 2, 1977—pages 11, 16-20) describes in alarming terms supposed Soviet progress toward a charged-particle-beam (CPB) weapon for defense against U.S. ballistic missiles.

To argue publicly whether or not U.S. government intelligence supports the conclusions of Aviation Week would presumably involve sensitive intelligence information and methods. Fortunately, one can discuss the feasibility and utility of these supposed Soviet accomplishments without the use of any intelligence information at all, and that is what I shall do.

The reader must understand, however, that I hereby take no position as to whether the Soviet Union has or has not made certain technical demonstrations, whether certain facilities could or could not be what the publications imply, and the like.

**INTRODUCTION**

Accelerators have been among the most productive tools of nuclear and particle physics for more than 50 years. Much ingenuity is embodied in modern physics accelerators, and many ideas have been proposed by scientists and engineers from the U.S., the Soviet Union, and many other countries. In particular, various "collective" process accelerators have been subject to analysis and experimentation.

For more than 25 years, technical people and others have dreamed of using CPB weapons for defense against ballistic missiles, just as they have dreamed of using nuclear-armed

interceptor missiles for defense. I shall discuss ABM systems which the USSR might build against the U.S. ballistic missile force and then proceed to analyze what might be relevant to a CPB ABM weapon.

We shall see that most of the specific information that has been cited to indicate that the Soviet Union is close to achieving such an ABM capability is simply irrelevant to the question. We should be no more concerned because of these supposed facts than if we had no information at all on Soviet ABM work.

**ABM SYSTEMS EFFECTIVENESS**

Early ABM programs in the U.S. concentrated, for much too long, on the question whether one could hit "a bullet with a bullet"—whether one could track sufficiently accurately a ballistic missile warhead (re-entry vehicle—RV), launch an interceptor missile with a nuclear warhead and command that interceptor to fly sufficiently close to the trajectory of the RV so that the interceptor warhead could be detonated to kill the nuclear warhead contained in the RV. Reasonable interceptor warheads can have a kill radius of several kilometers against RVs above the atmosphere, and at least some hundreds of meters within the atmosphere, where the neutrons of the interceptor explosion are absorbed by the air.

Following the deployment of a succession of air defense systems, the U.S. Army pressed to deploy the NIKE ZEUS ABM system, which would use a long range missile to intercept ICBM warheads above the earth's atmosphere.

It is one thing to devise an ABM system to destroy enemy RVs if the enemy cooperates

in their destruction. It is quite another to maintain that capability when the enemy does not wish his RVs to be destroyed.

In the case of NIKE ZEUS, the countermeasure was relatively simple—to accompany the enemy RVs by decoys (inflatable balloons, wire jacks, and miscellaneous junk), to put the RVs themselves inside aluminum foil balloons to make them look like decoys, and to use multiple reentry vehicles (MRVs) spaced far enough apart so that a single interceptor could not kill more than one of them. My article with Hans Bethe in the February, 1968, Scientific American described these countermeasures in considerable detail.

Because such an exo-atmospheric intercept system can be so readily countered, it was next proposed to deploy the NIKE-X system, which would depend primarily on a short range interceptor, the SPRINT missile. Here the idea was to defend terminal areas such as cities by waiting until the enemy RVs had penetrated through much of the atmosphere, which would burn up or slow the decoys so that they could be ignored. Furthermore, radars and computers could avoid wasting interceptors in shooting at RVs which were sufficiently far away so that they did not threaten the defended area.

A determined enemy, however, could counter this defense either by avoiding it or attacking it. He could avoid it by the use of MARV (maneuvering reentry vehicles), which could enter the atmosphere tens of kilometers from the defended area and maneuver within the atmosphere to attack the target. He could counter also by "antismulation", slowing or otherwise modifying the RV so that it looked like a decoy and would be ignored. He could also counter by using sufficiently many MRVs or MIRV (multiple independently-targeted reentry vehicles) to exhaust the ABM system. Finally, he could attack the critical elements of the ABM system, especially the radars.

As is well-known, NIKE-X was never built and neither was Sentinel nor Safeguard, for these same reasons of ineffectiveness against the Soviet Union and ineffectiveness even against a limited ballistic missile threat which might be mounted by other nations.

From the foregoing discussion we see that the question of ABM systems effectiveness concerns far more than just the interceptor which might be replaced by a charged-particle-beam weapon (CPB), if such were practical.

#### CPB ABM SYSTEMS CONCEPTS

As with the systems embodying interceptor missiles bearing nuclear warheads, CPB weapons could be used for ABM purposes in a number of concepts. In particular, one could have a ground-based CPB which is used to shoot through the atmosphere to destroy RVs in midcourse or nearing the terminal area. Such a system would require the following capabilities:

- To detect and track RVs with long-range radars.
- To discriminate against decoys outside the atmosphere.
- To generate the charged-particle-beam.
- To point and track that beam.
- To propagate that beam through the atmosphere.
- To determine how far and in what direction the beam missed the target.
- To correct the aiming of the beam.
- To measure once more the miss.
- To determine whether the target has in fact been killed.
- And to attack all other objects which might be threatening RVs.

Furthermore, the system must be able to defend itself—its radars, accelerator, and the like, against nuclear attack.

One great difference between an ABM using a CPB and an ABM using a nuclear armed interceptor is that the nuclear weapon

has a kill radius of some kilometers while the CPB with a diameter of a few centimeters must actually strike the RV in order to injure it. Thus, at a range of 100 or 1000 kilometers, the radar accuracy and beam pointing accuracy for a CPB weapon must be better than that for an ABM interceptor by a factor of a thousand or more.

Furthermore, the CPB is bent substantially by the earth's magnetic field, so that one must point the beam in a direction other than that directly to the target. Finally, the earth's magnetic field is readily disturbed by nuclear explosions outside the atmosphere, so that a determined attacker can use this fact to help ensure the survival of his RVs.

One might imagine basing the CPB on satellites in order to avoid the problems of penetrating the atmosphere. Either near-earth satellites would be used or satellites in synchronous orbit.

If the purpose of the CPB ABM system were to destroy reentry vehicles, one might be able to defend a nation by shooting RVs at distances no more than 2000 km, but low-orbit satellites are mostly on the other side of the world from where one wants them at a particular time. In fact, only one in perhaps 20 would be within 2000 km of a particular target.

Furthermore, all of the problems of tracking and discriminating RVs from decoys would be present for this system as for the ground-based systems. It should be noted that certain kinds of decoys can fairly readily be swept by exo-atmospheric nuclear explosions (although others can then be destroyed), but a CPB has no such bulk discrimination capability.

Finally, one might consider a satellite-based CPB with the job of destroying ICBMs and SLBMs during the boost phase—while the rocket is still thrusting to gain the speed which will carry the RVs to their target. This phase lasts about 5 minutes from lift off, and it has the advantages for the defense that there is only one object to attack rather than the large number of RVs and decoys which might otherwise be the case, that the rocket in boost phase is far less durable than the RVs once they have been deployed, and that it is also much more visible since it is radiating large amount of light and heat from its rocket exhaust.

Most discussions of CPB ABM are concerned with boost phase intercept. In this case, the Soviet Union must detect and track U.S. ICBMs over U.S. territory, which requires satellite-based sensors, either radar or infrared. Further, the USSR would have to detect and track and destroy U.S. SLBMs fired from any of the oceans surrounding the Soviet Union—(either that or have a strategic ASW capability sufficiently good to destroy reliably and preemptively the U.S. SLBM fleet).

Thus, one might imagine sensor satellites in synchronous orbit, together with CPB satellites which would carry the power supplies, accelerators, pointing and tracking equipment, and the like, to direct the CPB at the designated boosters, to measure miss distances and so on. For this system the particle beam must ultimately be directed with an accuracy on the order of 1 meter—an accuracy far beyond the capability of radar or infrared systems which might be used—Furthermore, the CPB will be sent severely by the earth's magnetic field and would not be able even to reach its target unless it had an energy above several billion electron volts ("giga-electron-volts" or GeV).

One might consider a bolt of protons of 5 GeV and ask how much energy must be in the beam in order to destroy a missile in boost phase. One reliable way of destroying an ICBM would be to burn a hole in the skin of its fuel tank, to explode the high explosive of its nuclear warhead, or something similar. Let us assume for the moment that the prob-

lem is to raise a section of an aluminum tank to its melting point. Since the high-energy beam loses very little energy per centimeter of travel in aluminum, a beam some 3 centimeters in diameter would have to carry an energy at least of 10 megajoules in order to raise aluminum to its melting point. This is not very much energy—about as much as in 3 kilograms of high explosives. In what follows, we shall take a requirement for an effective CPB weapon a bolt of energy of 10 megajoules.

An accelerator can be imagined with substantial efficiency. All things considered, an overall efficiency of 30 percent for the requirements of this job (in a light, compact accelerator) would be doing very well. Thus, the primary power source must provide some 30 megajoules to the accelerator.

One might consider a beam current between 1,000 and 10,000 amps. The beam power would then be 5,000 to 50,000 gigawatts (Gw). The accelerator power thus requires what would be the output of 15,000 to 150,000 standard nuclear power plants all operating at the same time; but really for only a very short time—between 1 microsecond and 10 microseconds.

Alternatively, if one considers that the energy of high explosives can readily and rapidly be turned into electrical energy (for instance with an efficiency of 10 percent), each bolt of energy of 10 megajoules could require the detonation of some 100 kilograms of high explosives. A device suitable for this purpose has been used in the United States for more than 20 years and is well-known in the Soviet Union, in Italy, and every place else where plasma physics research is done.

This method, however, will require 100 kg of high explosives per bolt, and many bolts will be required per kill (remember the initial miss distance), and there are many hundreds of ICBMs to be shot down.

#### U.S. COUNTERMEASURES TO CPB ABM SYSTEM

In considering U.S. countermeasures let us assume a Soviet system of sensor satellites at synchronous altitude, together with a set of CPB-producing satellites. It is clear that no effective system of this sort could be built without a long series of overall system tests in space.

Even such mundane questions as whether the system is to work entirely automatically or whether it is under Soviet communication control from the ground have major importance in the strategic capability of such a system. If the sensor satellites are to relay their information to the ground, this link can be jammed by spending enough money.

Such a system could be destroyed while it was in the process of being deployed.

Furthermore, a CPB system is quite readily countered at various critical points in its operation. As the beam is being stepped toward the target by some kind of successive approximation, one could fairly readily arrange additional aluminum foil shapes attached to the booster (above the atmosphere) out to distances of 50 meters or so, which could confuse the miss-distance sensor whatever its design.

Furthermore, although the particle beam travels essentially at the speed of light, even if the pointing and tracking response time is zero the miss-distance signal to the sensor and the beam return time to the target requires at least some 0.4 second, plenty of time for the booster to detect a charged-particle beam in the neighborhood and to eject chaff or other appropriate countermeasures to confuse the fine pointing of the beam.

Obviously, CPB-producing satellites are going to be very much more expensive than little satellites which could follow them in a similar orbit, carrying a few pounds of high explosives which could be used to destroy the CPB satellites on command.

In sum, even if CPB producers, sensors,

and the whole system were technically feasible, there is grave doubt whether it would be deployed because of its questionable effectiveness in the face of countermeasures.

#### NEUTRAL PARTICLE BEAMS

The Aviation Week article sketches the concept of a hydrogen-atom beam (HAB) which, being uncharged, crosses the earth's magnetic field without being bent and thereby avoids a serious problem with the CPB.

It should be noted that there are very fundamental limits to the angular spread of such a beam (caused by the motion of the electron in the negative hydrogen ion from which the hydrogen atom beam is to be formed by "stripping"). For a beam of 1 GeV, this angular spread amounts to about 1 microradian—a beam diameter at 40,000 km distance of about 40 meters. Presumably a negative hydrogen ion CPB would be accelerated, pointed accurately by a bending magnet and then stripped.

Due to the wide angular spread of the hydrogen atom beam (HAB), instead of a charged particle beam of a few centimeters diameter which could heat or otherwise seriously injure durable objects in its path, a HAB system would have to rely on peculiar vulnerabilities of the electronics of the missile it is attacking. These vulnerabilities could be fairly readily remedied, certainly more rapidly than a HAB system could be deployed with the capability of shooting down many hundreds of ICBMs simultaneously.

The problems of miss-distance indication and correction are serious ones with the HAB, which also suffers from its vulnerability to decoys and the like. Evidently, HABs are harder to generate than are CPBs. They are also trivial to counter in a strategic engagement.

A CPB of adequate energy can go through kilometers of air at sea level density and many centimeters of steel. Because the HAB consists of protons with electrons bound to them in the form of hydrogen atoms, a HAB can penetrate only a few millionths of a centimeter of air at normal density before becoming a proton beam. If one is considering the possibility that some day the USSR might deploy HABs on satellites intended to destroy U.S. ICBMs during their boost phase, we can readily counter that threat by sending up first a single high altitude nuclear explosive, high in the atmosphere above the U.S., with the purpose of throwing into space a relatively small quantity of air from the upper atmosphere.

To nullify the capability of a HAB over a region 2,000 km by 2,000 km by 1,000 km high, only about 10,000 tons of air need be lifted, at an energy expenditure of approximately 20 kilotons high-explosive equivalent. A nuclear explosion smaller than the present warhead on any of our ICBMs or SLBMs would suffice to render ineffective a Soviet HAB device.

The foregoing arguments should provide good reason to doubt the utility of work being done toward CPB or HAB ABM weapons, the depth of understanding of those who emphasize a threat in this regard, and the good sense of those government officials who would be responsible on either the U.S. or the Soviet side for spending large amounts of funds in the development of such a capability.

Furthermore, if we exaggerate a threat to the extent of persuading U.S. political leaders of the importance of countering or limiting a Soviet CPB program, we may give the Soviet Union a bargaining chip in SALT. In effect, we may have to limit some real military capability on our side in order to induce the Soviets to limit their own CPB efforts.

Long years of "head in the sand" behavior by system proponents and defense leaders brought us to the SAFEGUARD fiasco where the magnitude of the job required of SAFE-

GUARD was not apparent until the decision to deploy had already been made. We should learn from that experience.

We should also learn from the experience of the "missile gap" of 1960, apparently a previous misinterpretation of available information.

#### APPENDIX—RELEVANCE AND UTILITY OF VARIOUS TECHNOLOGIES DISCUSSED IN RELATION TO THE CPB

I have mentioned briefly the problem of propagating a CPB through the atmosphere as would be required for the ground-based ABM. The best that can be done is to have the beam in some way heat a tube of air and thereby to reduce the density so that the following beam suffers less energy loss than in traversing normal atmosphere. Still, there remain energy loss, nuclear scattering, stability problems, interference with the tracking of the beam, and the like.

The CPB generator itself must consist of:

A primary power source which produces on the order of 30 megajoules per bolt. If the individual CPB is to deliver 1,000 shots in a minute, the generator must produce some 500 megawatts of electrical energy on the average for that time. On the ground, 5 or 10 large jet engines connected to electrical generators could provide the primary power. In space, the explosion of a ton of explosive per second connected with appropriate magnetic generators could provide this power, consuming some 60 tons of explosive during the minute of presumed activity.

A device for staging the energy from the continuous production by jet engines to the time scale required for an accelerator (1 to 10 microseconds or thereabouts, although a HAB device could use a longer pulse). This device would have to store more than 30 megajoules of energy and retrieve it at high efficiency and in a short time. Such techniques are used the world over for various purposes, including research in fusion energy, but the mechanisms are very heavy.

An accelerator for receiving the electrical energy and converting it into the energy of the CPB.

Magnetic deflection devices and the life for focusing and pointing the CPB in the desired direction with adequate accuracy (accuracy better than anything has ever been pointed before).

The Aviation Week article suggests that "nuclear-driven explosives" are being used or will be used to power CPB weapons (a "nuclear explosive generator sphere"). This makes absolutely no sense as indicated above. For generation of prime steady power, more conventional approaches suffice and are better—jet engines on the ground, rocket-exhaust driven generators in space, high-explosive magnetic generators on the ground or in space.

If a nuclear explosion were to be used to provide the pulsed energy for a single bolt, how would one generate the many thousands of bolts required for an effective ABM system, either boost phase or terminal? Why saddle a CPB development effort with nuclear explosions for powering it?

#### SUMMARY

Without having to consider in detail the status of charger-particle-beam generation, propagation, pointing, and the like, we see that the system problems are such that the future looks dim for a CPB ABM system to be effective against the ballistic missile force of the United States or the Soviet Union. Much of the "evidence" which is used to support allegations that the USSR is close to deploying an effective CPB ABM system is completely irrelevant to CPB, even if it were true. In particular, nuclear explosive generators of electrical energy (even if they were to exist) are irrelevant to the supply of power for a CPB ABM system.

#### NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

John C. Krsul, of Montana, to be U.S. marshal for the district of Montana for the term of 4 years vice Louis A. Aleksich, term expired.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Wednesday, August 3, 1977, any representations or objections they may wish to present concerning the above nomination with a further statement whether it is their intention to appear at any hearing which may be scheduled.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

#### REGULATORY REFORM

Mr. BAKER. Mr. President, I am pleased that my colleagues have organized today's discussion on the subject of regulatory reform. I can think of no broad issue which directly affects more Americans and results in a greater outpouring of views to Members of Congress than the extent to which Federal, State, and local government regulation has permeated our lives.

While few would question the desirability of the objectives which Congress has sought to achieve in expanding Federal regulatory controls over the private sector, we can no longer ignore the fact that such controls result in diminished production, a reduced incentive to develop new products, restrictions on the consumer's freedom of choice in the marketplace, and rising consumer prices. In addition, as Murray Weidenbaum, former assistant secretary of the Treasury for economic policy, has pointed out in his study, "Government Mandated Price Increases," by requiring actions in the private sector which increase the costs of production and raise prices, the Government is continually mandating more inflation by the regulations it promulgates.

Recognition of these unintended and undesirable effects of Federal regulation requires the Congress, in fairness to consumers and to private industry, to review the extent of regulatory controls and to eliminate, wherever possible, those requirements which are duplicative, wasteful, outmoded, and unnecessary. I regret that we have not made more progress on such reform. Former President Ford and President Carter have both expressed their support for a broad review of regulatory activity throughout the Government, and it is my hope that the Congress will follow through on such a review.

A notable exception to the general lack of activity on regulatory reform has been

the diligent effort within the Committee on Commerce, Science, and Transportation to develop legislation reforming regulation of the Nation's air transport industry. It is my understanding that such a measure will soon be ready for action by the full Senate, and I look forward to a full discussion of the issues which have been raised on the floor. The purpose of this legislation is to reduce or modify regulatory requirements which have resulted in lessened competition and wasteful capacity in the airline industry at the expense of consumers and, ultimately, of the industry itself. I have been pleased to support such reform, and I hope that successful reform in the airline industry will stimulate further reforms affecting other modes of transportation and other industries.

Again, I commend my colleagues on both sides of the aisle for their contributions today to the continuing dialog on Federal regulation, and I look forward to consideration by the Senate of effective regulatory reform legislation in the months ahead.

Mr. President, I ask unanimous consent that the previous order for special orders may be amended to permit the distinguished Senator from New Mexico (Mr. SCHMITT) to proceed at this time and out of sequence.

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

Mr. SCHMITT. I thank the distinguished Senator from Tennessee and minority leader.

Mr. President, this morning a number of Senators will discuss in their various ways the issue of regulatory reform.

Mr. President, the American citizen, the small businessman, business in general and Government are staggering under an increasingly heavy load of regulations. There is a general perception among the people that the regulatory bureaucracy is running out of control. There is a general mandate to the Congress to do something about reestablishing control of the regulatory process and to reform existing regulations. This mandate was reestablished in 1976 with the election of numerous Senators and Congressmen and the election of a new President.

There is little question that in recent decades Congress has increasingly given up much control over the "making of law" to the regulatory agencies. This loss of constitutional congressional authority has occurred through the passage of legislation that calls for the promulgation of rules and regulations that will cure some social ill. Subsequent congressional oversight over the rules and regulations so promulgated has been poor to nonexistent in many cases. Thus, the constitutional concept of the separation of powers between the legislative and executive branches of Government has been seriously blurred and compromised.

A number of recent legislative proposals are aimed directly at regulatory reform.

One effort currently being considered by the Congress to help correct this situation is S. 2, a bill sponsored by Sen-

ator MUSKIE which requires reauthorization of new budget authority for Government programs at least every 5 years. In addition this bill provides for a congressional review of Government programs every 5 years.

Another effort to reform regulatory procedures at the Federal level is S. 600. This bill sponsored by Senator PERCY would reorganize regulatory agencies to prevent excessive, duplicative, and anti-competitive regulation.

Additionally, several bills reported by the Commerce Committee and now awaiting floor consideration contain regulatory reform provisions which would improve the control of the citizenry and its representatives over the rulemaking presently authorized by statute: These provisions include requirements for economic, paperwork, and judicial impact analyses written on the proposed recodification of agency rules, as well as additional oversight control provisions to assist the Congress in its oversight responsibilities.

In addition to these efforts, it seems clear that a Regulation Reform, Reduction and Control Act is required which would preserve and strengthen the constitutional separation of powers between the legislative and executive branches. The major desired characteristics of such an act are as follows:

#### PURPOSE

This regulation reform, reduction and control legislation should preserve and strengthen the separation of powers between the legislative and executive branches by:

First, establishing a uniform procedure for systematic and comprehensive congressional review of proposed rules and regulations which may have a serious impact on the public;

Second, expanding opportunities for public participation in the agency rule-making process;

Third, strengthening congressional oversight over Federal regulatory agencies;

Fourth, requiring agencies, when proposing new rules and regulations, to consider carefully the impact of their proposals on the economy—cost versus benefits, on Federal paperwork and on the workload of the Federal court system;

Fifth, providing more complete information to the public and the Congress about rules and regulations so that they can make informed decisions on future courses of action;

Sixth, making Federal agencies more responsive to the needs, concerns and interests of the public;

Seventh, substantially reducing the costs of Government regulation, alleviate Federal report filing and recordkeeping requirements and eliminate regulatory excesses; and

Eighth, restoring public confidence in Government institutions.

The legislation should apply to rules and regulations promulgated by agencies subject to the provisions of the Administrative Procedure Act—APA (5 U.S.C. secs. 551-559). The legislation should make congressional review, approval and

veto procedures an integral part of the APA.

#### CONGRESSIONAL REVIEW

This legislation should mandate a review period by Congress before most agency rules or regulations could go into effect; that is, all major rules and regulations with the exception of emergency rules, which I will discuss later.

This legislation should require the agency head promulgating a new rule to publish in the Federal Register the text of the proposed rule and a cross-referenced index of all regulations pertaining to the same subject matter. This information also would be transmitted to the Congress.

It also should require the agency to publish in the Federal Register an economic impact analysis of each proposed rule—and any alternative approaches considered by the agency.

Each economic impact analysis should estimate costs versus benefits to consumers, businesses, markets and levels of government and effects on productivity, competition, supplies of important manufactured products or services, employment and energy resources supply and demand. This information should be developed using internal governmental sources and would be transmitted with the proposed rule to the Congress.

The legislation should require the agency to publish in the Federal Register a paperwork impact analysis of each proposed rule—and any alternative approaches considered by the agency. Each paperwork impact analysis should estimate the nature, amount, frequency, costs, and manhours that would be required under the rule for fulfilling information, report filing and recordkeeping requirements, as well as measures the agency is undertaking to eliminate duplication. This information should be developed using internal governmental sources and would be transmitted with the proposed rule to the Congress.

The legislation should require the agency to publish in the Federal Register a judicial impact analysis of each proposed rule and any alternative approaches considered by the agency. Each judicial impact analysis would estimate the effects that adoption of the proposed rule would have.

Mr. President, with respect to the congressional veto, any regulatory reform reduction and control legislation, I believe, should adapt and apply the congressional review procedures that are now in the Congressional Budget Reform Act and apply these closely to the regulatory process.

This would enable Congress to re-establish its clear lawmaking authority and to prevent unnecessary regulations from going into effect. It should set standards for Congress in reviewing major rules proposed by the agency. In the case of a rule having an especially serious or costly impact on the public and the economy, both the House of Representatives and the Senate should pass a concurrent resolution approving the rule. Both Houses should act before the rule can become effective. In the case of a rule having a significant, but potentially less injurious or serious impact,

either House of Congress should be permitted to adopt within 60 legislative days a simple resolution disapproving the rule. This is the so-called congressional veto.

Existing House and Senate standing committees, subject to specific rules for discharge if they fail to act, should exercise jurisdiction over those rules and regulations falling under their normal legislative oversight responsibilities; that is to say no new committees need to be created to conduct the preliminary review.

Each agency rule adopted under the new congressional review procedures should automatically "sunset" in 5 years, in the opinion of this Senator. This legislation, as will be proposed, should also lapse in approximately 10 years, unless resubmitted by the enforcing agency.

Mr. President, there are additional provisions which I think would be important in any major reform effort of this kind. The legislation should amend the Administrative Procedure Act to require that interested citizens and groups be permitted at least 60 days for comment on proposed agency rules. Currently, 15 days is the minimum period allowed for public comment, and only 30 days are customarily granted by most agencies, and in our experience this is far too little.

Further legislation should amend the Administrative Procedure Act to allow agencies to put certain emergency regulations immediately into effect, under strictly defined circumstances relating to the immediate public interest but with mandated review at some subsequent time by Congress.

Mr. President, at the present time and for the last several months, I have been in contact with many of my colleagues on both sides of the aisle seeking cosponsors for a bill which meets the specifications just outlined, plus some others. In addition, I am seeking critical comments on the provisions of such a bill. I hope my colleagues now will consider cosponsoring this legislation. Introduction of the legislation will take place shortly after we have had sufficient opportunity to hear from all of my colleagues, and I believe that will occur within the next few days.

Mr. President, as evidence for the need of such legislation as I have described, I note an article which appeared just this morning in the Wall Street Journal. This piece points out that in spite of a great deal of rhetoric on the need for reducing the regulatory burden on our society, and much of that rhetoric during the last campaign, very little is being accomplished to achieve this end. In fact, if one looks at the legislation now under consideration in Congress one would think we were going in the opposite direction.

Indeed, there is little evidence that the burden is decreasing in any area of our economy. In fact it seems to be increasing.

I call the Senate's attention to the public financing legislation currently before this body. That will add regulations in spades to our own operations.

Mr. President, I ask unanimous consent that the complete text of this article in this morning's Wall Street Journal be printed in the RECORD.

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

**FEDERAL REGULATIONS, RED TAPE KEEP GROWING DESPITE CARTER'S RHETORIC ABOUT CUTTING IT BACK**

(By Burt Schorr)

WASHINGTON.—More than two years have passed since the nation's Chief Executive set an ambitious goal: to shrink the mountain of federal regulations, red tape and paper work pressing down on businessmen, state and local governments and ordinary citizens.

That Chief Executive isn't in the Oval Office any longer, but his successor's rhetoric is even more expansive. "We will cut down on government regulations, and we will make sure that those that are written are in plain English for a change," Jimmy Carter has vowed.

Perversely, however, the federal regulatory mountain is resisting shrinkage. In some areas, it has even continued to grow at the same rapid pace of the past decade. One obstacle to cutbacks is that regulators, lawmakers and business executives who pay lip service to deregulation fight hard to keep their own favorite regulations intact. Another difficulty is that the Carter administration isn't yet able to match its deregulation rhetoric with deeds. Some samples of current frustration:

Ford administration men cheered last year when Congress agreed to grant railroads greater freedom to alter rates to compete with trucks and barges. The change was seen as an important first step toward less regulation and more competition in all sorts of transportation. However, to protect barge and truck operators, the Interstate Commerce Commission has interpreted the law in a way that prevents easy rate changes by railroads. Joined by the Justice Department and others, the rail lines are challenging the ICC in federal court—a legal fight that may last two or three years.

When the new Title XX of the Social Security Act took effect two years ago, its sponsors saw twin benefits: states would get more flexibility in deciding what social services to offer lower-income citizens; Washington would get tighter control over about \$2.5 billion in federal aid given annually for such services. Now it appears that whatever else it has accomplished, Title XX has spawned an expensive proliferation of paperwork. After studies in six representative states, the Commission on Federal Paperwork recently reported that state costs of determining eligibility for family planning services spurted 266% and that costs of determining day-care eligibility zoomed 303%.

**AMBIVALENT BUSINESSMEN**

The Department of Health, Education and Welfare has been training its employees to write clear, simple regulations. But here's a sample from new regulations proposed for HEW student assistance—the section explaining how a school is to refund money laid out by Uncle Sam in the event a student withdraws or flunks out: "Subtract the number of days the student was enrolled . . . from the number of days making up the midpoint (of the payment period) . . . ; divide the remainder (of days to the midpoint) by the number of days to the midpoint. . . ; multiply the amount disbursed to the student as determined in paragraph (G) (1) of this section by the ratio established in paragraph (G) (3) (III) of this section."

Among the special targets of shrinkage efforts is the web of economic regulation surrounding much of American business. Yet the task of reducing it is proving arduous because of resistance from many affected businessmen. Corporate executives who are

quick to beef about Washington's safety and environmental rules are often just as quick to defend economic regulations that shield their companies from the vagaries of the free market.

A classic illustration is the reaction to current Senate efforts to free airlines from existing restrictions on fare and route competition. A number of airline executives, joined by airline unions and small towns fearful of losing scheduled air service, are lobbying strenuously against the idea.

"Deregulating the airline business is a dangerous step," Albert V. Casey, chairman and president of American Airlines, has warned the Senate Aviation Subcommittee. "If deregulation doesn't work, you will see the finest air transportation system in the world begin to disintegrate before your eyes."

The opposition threatens to swamp backers of the pending airline deregulation proposal, despite help from President Carter and organizations ranging from the National Association of Manufacturers to Ralph Nader's Congress Watch. Although Senate approval appears likely, one Senate aide gloomily perceives "rather atrocious politics" working against the bill in the House; deregulation opponents can muster their troops in nearly every congressional district, he says.

**CONGRESS OFTEN TO BLAME**

In other instances, Congress itself can be blamed for the continuing flood of new regulations. The strip-mining control legislation about to be signed by President Carter has already generated draft regulations that run almost 200 pages, an Interior Department executive says. The definition of "surface coal mining," lifted directly from the legislation, alone requires more than 300 words. (To enforce its strip-mining rules, moreover, the Interior Department will establish a new office staffed by several hundred employees.)

At the HEW Department, a specialist in regulatory matters acknowledges that "people are legitimately mad about the government intruding in their lives." Yet he argues that people often "want the government to do more" and cites new HEW regulations to prevent schools, local agencies and other recipients of federal aid from discriminating against handicapped persons; representatives of both the handicapped and the affected institutions and agencies insisted that the new regulations be very detailed, he claims. There's one 600-word section just to make clear what questions an employer can ask about a job applicant's handicap.

Whatever the reasons Uncle Sam's regulatory juggernaut isn't slowing down, few of the approximately 90 agencies that contribute most to its momentum have done much to make their regulations more comprehensible.

It's true that Interior Secretary Cecil Andrus, for one, has issued orders for clearer writing and fewer reporting requirements in regulations issued by his department. Nevertheless, they still sound like "lawyers talking to lawyers," frets a staff member who reviews departmental utterances.

**PROBLEM IN THE GSA**

Perhaps the strongest government advocate of regulations that sound like lawyers talking to ordinary folks is Fred Emery, director of Uncle Sam's official bulletin board, the Federal Register. Yet even Mr. Emery's own agency, the General Services Administration, hasn't exactly snapped up the concept.

Take the Privacy Act regulations that the GSA published a year and a half ago. Mr. Emery winced when he read that their purpose is to prescribe "procedures for notifying an individual of a GSA system of rec-

ords containing a record pertaining to him, procedures for gaining access and contesting the contents of their records, and other procedures for carrying out provisions of the act."

Putting his own staff to work, Mr. Emery came up with a proposed rewrite that would say: "... Congress passed the Privacy Act of 1974 . . . to protect your right to privacy and to prevent the misuse of personal information by federal agencies. This part applies to you, if you are a U.S. citizen or a permanent resident alien, and tells you how to—

"(A) find out what records, if any, General Services Administration has about you . . ." and so forth.

Thus far, the GSA hasn't done anything with the suggestion (though Mr. Emery tactfully blames the lack of response on the change in administration).

#### BASIC CHANGES NEEDED

Like their Republican predecessors, members of the Carter anti-red tape squad are convinced federal regulations won't improve without fundamental changes in approach.

One way to get such change at the Occupational Safety and Health Administration is to put Eula Bingham in charge. More than any other agency, OSHA has been denounced for workplace safety rules that deal in ex-cruciating trivia, such as the knots in wooden ladders and the placement of exit signs. In May, the agency's new chief, Assistant Labor Secretary Bingham, pledged an end to dozens of nit-picking regulations and an increased emphasis on policing serious work hazards like cancer-causing chemicals. The other day, OSHA proposed to exempt 3.4 million smaller companies (out of five million covered by its safety rules) from the need to keep routine employee accident and illness records.

Wherever bold slashing isn't needed to get rid of superfluous regulations, Carterites favor application of a preventive procedure used by the Environmental Protection Agency. Basically, the EPA system calls for internal reviews of regulatory plans at several stages in their development—beginning well before the agency goes public with its intentions.

The system hasn't stopped every blooper. But it did prevent the EPA from proposing to act as policeman over approximately one million building-maintenance workers, demolition workers and others through its regulations for controlling highly toxic polychlorinated biphenyls (PCBs), says James Janis, the official in charge of the reviews.

#### PCB DISPOSAL ISSUE

EPA officials are concerned about eventual disposal of the estimated 250 million pounds of PCBs now distributed around the country in electrical equipment—including the capacitor units of about 800 million fluorescent lighting fixtures. One draft of the regulations called for fines of up to \$25,000 on anyone neglecting to arrange for high-temperature incineration of such capacitors.

However, the review discussions led to a consensus that enforcement would be "extremely difficult." Result: The EPA has finessed the issue in its formal proposal, merely citing a requirement for high-temperature incineration as an "option" to be considered "if strong regulation is required."

Widespread application of the EPA technique could take time, however. Last year under the Republicans, the HEW Department adopted a similar screening system for proposed regulations, but now Secretary Joseph Califano wants it overhauled. "The system has gotten clogged with a lot of paper because agencies were sending up plans for every trivial matter," an aide to the Secretary explains.

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

The PRESIDING OFFICER. Under the previous order the Senator from Idaho (Mr. McCLURE) is recognized for not to exceed 15 minutes.

Mr. SCHMITT. Mr. President, I ask unanimous consent that that previous order be modified so that the Senator from Alaska, Senator STEVENS, may speak at this time.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Does the Senator from Alaska also have reserved time?

The PRESIDING OFFICER. The Senator has. The Senator has 15 minutes reserved.

Mr. STEVENS. Mr. President, if I may, I wish to join with my colleagues on this side of the aisle in this colloquy on regulatory reform. I think it is important that the Nation know that the Republican Members of the Senate will continue to try to provide leadership in this important area.

Nearly 3 years ago, in an address to a joint session of Congress, President Ford called for a "total reexamination of our regulatory agencies."

I think that it should be plain that the Republican Party's leadership, particularly that in the Senate, remains dedicated to this commitment and that our dedication continue unfinished.

I join all Members of the Senate, both Republicans and Democrats, who favor improving the regulatory system. I believe we should also welcome President Carter's expression of interest in, and his commitment to, the continuation of the Presidential involvement, which was started by President Ford, toward improving the regulatory process of the Federal Government. However, regulatory reform is an issue which must be addressed by Congress and ultimately it must be solved by Congress. It is a challenge that must be met by us because it is the legislative branch that created the problem. We cannot blame the regulatory agencies or, as many people call them, the bureaucrats downtown for the creation of their functions.

An article in the magazine, the Public Interest, entitled "The New Social Regulation," includes the not surprising statistics that the number of major economic regulatory agencies created by Congress between 1970 and 1975 increased by 25 percent while their budgets increased by 157 percent. The number of major social regulatory agencies increased by 42 percent and their budgets increased by 193 percent. A congressional study on regulatory reform presently underway indicates that the Code of Federal Regulations containing only the basic standing Federal regulations would fill a shelf 15 feet long with 60,000 pages of fine print.

Mr. President, we expect our fellow citizens to know the law and to follow the law. Yet I would be willing to wager that those regulations have never been read completely by any Member of Congress.

Lastly, an Associated Press survey disclosed that the Federal departments and agencies send out over 9,800 forms and receive 556 million responses from individual citizens each year. These agencies, regulations, and forms are ultimate-

ly the responsibility of the legislative branch. We created these agencies. They are known as "arms" of Congress, and Congress should insure that our constituents are not strangled by them.

We should restrict the reach of our regulatory "arms" to those activities helpful to our constituents' needs. It must be understood by our regulatory agencies that their purpose is not to invade the every day lives of the citizens of this country.

Mr. President, I wish to yield the remainder of my time to my good friend, the Senator from California, and to welcome him to this colloquy along with the other new Members on this side of the aisle and, for that matter, all other Members of the Senate. I hope those of us in the Senate, who are concerned with the extension of regulatory activity in the country, will join together in assuming responsibility for the activities of the regulatory "arms" of Congress.

I yield the remainder of my time to the Senator from California.

The PRESIDING OFFICER (Mr. SASSER). Without objection, the Senator from California is recognized.

Mr. PERCY. Mr. President, first will the distinguished assistant minority leader yield for just a question? As I understand it, there is time provided for Senator BAKER, Senator McCLURE, Senator SCHMITT, I believe Senator LUGAR wishes to speak, and I have a speech. Is there any sequence for yielding time to us for that purpose, on regulatory reform?

Mr. STEVENS. Mr. President, I might say to the Senator from Illinois it is my understanding that a series of orders were entered, and the time started before the Senators arrived. It is difficult to manage the time, because some of the Senators entitled to time are not here to yield it. I would have to inquire of the Chair if I am at liberty to yield time from those orders.

Mr. NUNN. Mr. President, I would suggest to the Senator from Alaska and the Senator from Illinois that they simply make a unanimous-consent request for whatever time they want now, because, having been in the chair, I know the time did start running and there were several Senators who were not here when their time was allocated. So I think right now it might clear the record if the Senators would propose whatever unanimous-consent request they wish for additional time.

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senator from New Mexico (Mr. SCHMITT), who has been here throughout these proceedings, be permitted to allocate the time that was reserved under specific orders for Senators on this colloquy.

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

Mr. SCHMITT. Mr. President, I believe I have 2 minutes left. How much time remains to the Senator from Alaska?

The PRESIDING OFFICER. The Senator from Alaska has 10 minutes remaining.

Mr. STEVENS. I had already yielded that time to the Senator from California.

Mr. SCHMITT. How much time does the Senator from California need?

Mr. HAYAKAWA. I would say about 6 minutes.

Mr. SCHMITT. I yield 6 minutes to the Senator from California.

Mr. STEVENS. And the Senator from Idaho had additional time.

Mr. SCHMITT. Yes; we had, I think, a half-hour for those gentlemen, but I hesitate to yield it until I check with them.

I yield the Senator from California 6 minutes.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. HAYAKAWA. Mr. President, I am glad to have the opportunity to join my colleagues today in addressing the need for reform of our Federal regulatory practices. Inefficiently administered regulations may well be one of the most significant factors working against the business community today, and the price is being paid by all Americans. I have received an enormous amount of mail from my constituents relating to the problems of overregulation, and requesting relief from what appears to be indiscriminate governmental rulemaking.

The General Accounting Office has estimated the annual cost of Federal regulations at \$60 billion, and this is one of the more conservative estimates. Another estimate places the cost at \$130 billion. We cannot afford to delay in finding a remedy for this situation.

I have come across several examples that illustrate the burden of these regulations. The Dow Chemical Co. claims that the cost of complying with Federal rules for only 1 of its 10 product divisions increased from \$164,000 in 1970 to \$1.5 million in 1975. That is, the cost has multiplied by 8 or 10 times in just those 5 years. More than 5,000 companies have eliminated their pension plans because the cost of implementing the regulations for the Employee Retirement Income Security Act is so great that the companies would have been forced out of business. A GAO report states that more than 6 billion board feet of mature timber in national forests dies every year because Federal regulations prevent its harvest. The license renewal application for a company operating three small television stations required the completion of 45 pounds of Federal forms. Today we have more safety rules and more inspection of work areas than ever before, however, the accident rate for industry has shown no significant reduction. These disturbing stories can be discovered in every business and industry that is governed by Federal regulations. We do not need to look far to find them.

The redtape and paperwork impose a more severe hardship on smaller businesses who lack trained legal and account departments. Small businesses often are not able to afford the expensive investments necessary to comply with health and safety, and antipollution laws. Government regulations often deny small businesses the right to enter a market to compete at all. Can we afford the high cost incurred by preventing the establishment of a new business—one that would provide additional jobs, or one which may increase competition and thereby keep prices lower?

We have already seen the unemployment rate for teenagers rise as we continue to increase the minimum wage requirements. We are also reducing the employment opportunities for heads of households as we divert the capital necessary to expand businesses or establish new companies to covering the costs of filing the form required by Federal rule.

One of the biggest defects in the rule-making procedure is a failure to take into consideration this relationship between costs and benefits of regulations. I do not believe any of us can deny that a cleaner environment is desirable, or that we prefer safer cars or freedom from work-related accidents. But we must recognize the high costs involved to achieve these goals and determine whether the benefits are justified in view of the price we pay.

For average persons, let us think for a moment of regulations that are of great inconvenience to some, while perhaps for the benefit of others. I think expressly of the mandated pill bottle tops which are almost impossible for the average person to take off. I have often thought that there ought to be a Federal regulation that pill bottle tops should be designed in such a way that they can be opened by any reasonably competent 65-year-old arthritic. Unfortunately, however, the regulations provide only that they should not be susceptible to being opened by the agile fingers of very small children.

I have found no one who can tell me how many regulations are in effect today. Nor can anyone tell me the cost in dollars of implementing these regulations—only that the price is in the billions. Recognition of the extreme costs is the first step. The next step is enactment of a system to review and revise in a systematic way present regulations. I am looking forward to consideration of sunset legislation which will give us the opportunity to begin such a review, as well as other potential remedies to halting the growth of Federal regulations.

I thank the Chair.

Mr. SCHMITT. Mr. President, I yield 7 minutes to the Senator from Illinois.

Mr. PERCY. Mr. President, first I wish to commend our distinguished colleague for setting aside this time for the discussion of something I feel is of great importance to the country. Certainly among the business community, among organized labor, among consumers, and among the American public in general, they are unanimous on one thing: There is just too much Government interference in the lives of individuals and in the processes of our organizations.

We live today in the Age of Regulation. Today there are at least 70 Federal regulatory agencies, many having a substantial impact on the economy. I say "at least" because there are so many of them, with such wide authority, that experts often cannot agree which may be properly termed "regulatory agencies" and which not.

Suffice it to say that there are almost as many regulatory agencies as there are Georgians in the government, but as a group they are not at all as friendly.

It is reported that thousands of small

businesses are being forced to close down, either directly as a result of regulatory agency orders or indirectly as a result of high costs of compliance. The Code of Federal Regulations now has over 73,000 pages of detailed regulations. Economists point out that regulation has stoked the fires of inflation.

Direct regulatory operating expenses account for \$3.5 billion in fiscal 1977, and the total cost to the American economy has been estimated at between \$60 billion, a figure confirmed by the Comptroller General of the United States, Mr. Elmer Staats, to \$120 billion annually, and a figure of over \$100 billion came from the Ford administration White House.

The basic problem is that the agencies are trying to do what the free market could often better do for itself. The Civil Aeronautics Board, for example, governs the fares charged on each of the 15,000 interstate airline flights made every day. The Interstate Commerce Commission now has on file over one trillion different freight charges truckers may collect for hauling various commodities.

Economists long ago discovered that, other things being equal, the free market is the most efficient and fairest price setter around. It automatically accounts for costs of production, fair return on capital, expected shortages, buyer preferences, and a host of other variables. The open market is, for the most part, free of influence from special interests, would-be bribers, and South Korean lobbyists. And it costs the taxpayers nothing. "In political economy," economist Jeremy Bentham said, "there is much to learn and little to do."

Particularly in the economic sphere, by attempting to set prices through a political process, regulatory agencies frequently waste Government enforcement dollars as well as industry compliance dollars. They arrive at prices which may only coincidentally be the optimum market price, giving rise to resource misallocations, commodity shortages, and service interruptions.

Mr. President, we need only look at what happened under 30 years of controlled agriculture. Farmers were in a desperate condition and consumers in this country were not well served. Now that we have a relatively freer market, we have the benefit of being able to perceive what happens in the free market to agriculture and the consumer, and what happens under regulation. I think universally we would say the free market is by all odds the best.

Perhaps more pernicious than the economic losses of regulation is the loss of freedom we have legislated for ourselves. Some regulatory agencies seem determined to pick the last nit out of American industry. For example, the Occupational Safety and Health Administration dictates the size of partitions between stalls in employee bathrooms, the time it may take a worker to walk from his workplace to a restroom, and the size, number, and location of knots on wooden ladders.

There are other less obvious, but

equally noxious, side-effects of regulation. We increasingly find ourselves imbued with a "regulatory mentality." Firms reportedly hesitate to expand service, introduce new products, consider capital formation plans, or even change their factory layout for fear of violating an obscure regulation. Small businesses without large legal staffs are especially inhibited. The paperwork required to introduce a new product makes many otherwise useful and profitable research projects just not worth the effort. Even excluding tax and banking forms, as a nation we spend 71,000 man-years annually to fill out Government forms.

Moreover, with each new regulatory agency, we run the risk of favoritism and undue influence among the regulators. The legendary cozy relationship between the regulatory agencies and the oligopolists is all too often a reality.

On occasion, the Congress has been willing simply to set up an agency to handle a perceived social problem. Such a solution provides immediate and highly visible legislation. But it is akin to a political blind date. The result is today's hodgepodge of regulatory authorities with ill-defined and overlapping powers.

In short, regulation as an answer to social problems is nobody's panacea. We cannot expect our troubles to go away through some sort of legislative sleight of hand if we just turn an agency loose. In some instances, the regulatory agencies may be doing more harm than good.

What, then, is the proper role of the regulatory agencies? At a minimum, they should serve one of three principal functions:

First. Insure a properly working marketplace. This requires honest dealings, accurate consumer information, and active business competition. Efforts to police the financial markets, to require labelling of food ingredients, and to control "natural monopolies"—such as the telephone network—are examples of justified regulatory functions falling into this category.

Second. Make judgments consumers cannot make because they lack the requisite training or technical information. Pharmaceutical testing and surveillance is perhaps the best example.

Third. Act as the Government's agent in handling certain major social priorities. For example, the role of the Nuclear Regulatory Commission is one the private sector could not be expected to handle for itself, as is the money supply function of the Federal Reserve Board. Pollution control by the Environmental Protection Agency and discouragement of racial and sexual discrimination also meet this criterion.

Which social priorities are sufficiently crucial and complex to be taken out of the private sector must be decided on a case-by-case basis, but the presumption should be in favor of the free market. Each time we establish a new regulatory agency, we add a little to the Federal budget, displace certain scarce resources, and constrict a few more of our freedoms. Accordingly, social goals must be sufficiently important to justify regulatory interference.

Conforming our regulatory apparatus to these criteria is one of the most valuable contributions the 95th Congress could make to society.

Progress is being made. Between April 1971 and May 1975 the Securities and Exchange Commission gradually introduced a system of competitive brokerage commissions on Wall Street. The FTC in recent years has shed the cloak which caused it to be known as the "little old lady of Pennsylvania Avenue." The Interim Regulatory Reform Act, when passed, should correct several procedural shortcomings of the regulatory agencies.

We are now excitingly close to airline regulatory reform. And trucking regulatory reform may not be far behind. S. 600, the Regulatory Reform Act of 1977, now has 44 Senate cosponsors and over 80 cosponsors in the House. Its purpose is nothing short of a full-scale overhaul of the Federal regulatory establishment. We must review the whole array of Federal regulation. Some areas may have to be abolished. Others may be curtailed. Still others may be merged. Perhaps a few will be expanded.

We cannot stop after rethinking the roles of regulatory agencies. We also must rethink their modes of operation. A recent report by the Senate's Committee on Governmental Affairs documents the claim that regulatory appointments and practices have often been less than ideal. Commission seats are too often treated as only patronage appointments for faithful supporters or tribute to be offered to politically potent industries. Instead, we need to expand the number of dedicated commissioners broadly representative of society.

Regulatory delay is another problem. One case has been pending before the Interstate Commerce Commission for over 13 years.

And the agencies must concentrate on the most critical problems first. The Occupational Safety and Health Administration, while issuing regulations minutely detangling knots in wooden ladders, has failed to promulgate guidelines on over 20,000 toxic substances employed by American industry.

We cannot blame the regulatory agencies for many of these faults. The inattention or carelessness of Congress and the White House has added considerably to our regulatory woes. The civil servants in the regulatory system have often had to deal with vague mandates and elected officials beset by other, seemingly more immediate, concerns. The point is not to condemn the past but to reform for the future.

But even when we have reformed the regulatory system and its operations, we cannot allow our vigilance to lapse. The economic and technological facts of life change so rapidly that unless we are careful we will again have outgrown our regulatory system. Review and reform must be frequent.

All of this is not going to be easy, conceptually or politically. Intelligent government seldom is. But then, the alternative is the mess we are in now.

Mr. SCHMITT. Mr. President, I yield 7 minutes to the Senator from Indiana.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. LUGAR. Mr. President, I take this occasion of the colloquy on regulation to bring to the attention of this body and the country the fact that two issues which are paramount in our current discussion but which will remain paramount for many years are the issues of food and energy.

Specifically, in the area of food, as my colleague from Illinois has just mentioned, we have been blessed in this country by a remarkable market system in which one farmer is able to produce enough food for 50 other citizens. I would contend, as others have, that this is a direct consequence of the market economy which is most pronounced in the agricultural area, an area in which men free from regulation to the greatest possible extent has given impetus to farmers in this country to plant all they wanted to plant, to plant those things they wanted to plant, and to make a maximum number of decisions free from Government regulation.

Even in the area of agriculture we recognize a mixed economy with the support facilities of research. Certainly, marketing orders in various parts of the country are part of that system. I would say our basic strength, however, comes from a lack of regulation and the maximum number of free choices made by farmers in this country.

On the area of energy, it seems to me that we are on the threshold of critical debate and the regulation issue is at the heart of it. I was impressed, in reading the front page story of the Washington Post last Sunday, to note recognition being given there to a point of view which suggests that very substantial supplies of petroleum are available in this country and very substantial additional supplies of natural gas are available in this country if, in fact, the price is right; in short, if the replacement cost in the amount needed for the major national supplies that will be hard to get to is paid by the consumers of those supplies.

The other side of the issue is doubt on the part of some in our country, first of all, that the supplies are there at all; and, second, very grave political doubts as to whether Americans understand the situation to the extent that they are willing to pay for the continuity of energy resources that are abundantly available if we are willing to pay that price. In short, the political issue has been the dominant one. To the extent that it is, the regulation lays on a very heavy hand.

Much of the debate on energy that has now ensued is on the area of conservation and regulation of price and regulation of allocation of resources, and the circumstances under which energy might be produced or extracted. It is very heavy regulation, and it grows more so daily as discussion occurs in the committees of this body and on the House side. It seems to me that, before that issue is locked in concrete, we had best take a look at the alternative, which has much less regulation in it, much more reliance on market forces, and suggests

that, to the degree that supply and demand are allowed to work, new natural gas will be found, that new petroleum supplies will be found, that solar energy will become competitive on a Btu basis in due course as the prices for other sources of energy rise, as they will, as we are forced to search farther and farther, with greater and greater expense, for these supplies. But clearly, now, we are paying a grievous price for a Btu of natural gas imported from abroad and for a Btu of petroleum imported from abroad; a very substantial price indeed.

We are living in a fool's paradise to believe that, through regulation, we can divorce that reality from the needs of the American public and from what is practical economic and political policy. So, at the heart of the matter, I have chosen to talk about food and energy today, because I believe a country that is basically self-sufficient in both of these areas will be a country that is basically strong. It has great strategic possibilities, a lot of possibilities to do many things for citizens in all sorts of areas of social services and social equity. But if we are not about the production of food and energy and we do not offer the incentives of a free market, untrammelled by growing regulation, then we are unlikely to have good on either side. We shall have the regulation; we shall not have the energy, and we shall not have very much social equity, in my judgment, either, as the pie constricts and the elbows become sharper for the various pieces of the pie.

I plead with my colleagues to think through seriously the implications of each of the areas of food and energy bills that we shall be considering in the weeks ahead, because it is of the essence that we cut back the regulation, that we free the market, that we offer the incentives to find growth and to have a strong market-production-oriented society.

I yield the floor.

Mr. SCHMITT. Mr. President, I yield such time as he may require—approximately 7 minutes—to Senator McCURE.

Mr. McCURE. I thank the distinguished Senator.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

#### THE IRS AND THE AMERICAN CITIZEN

Mr. McCURE. Mr. President, every year, the U.S. Government approves thousands of regulations. While these may vary greatly in subject matter, there is a common thread linking them: a belief that their enactment will enhance the welfare of the American people. But something has gone wrong. All too often, regulations choke the free enterprise system whose development they are intended to assist; their inflationary effect raises the prices financially hardpressed Americans must pay for goods; and, as often as not, they serve to harass the very citizens whose lives they were meant to improve.

While the intent behind Government regulation is meritorious, it is ultimately on its effect which the policy must be judged. The examples my colleagues have cited clearly indicate regulatory power is acquiring a life of its own, one largely

unrelated to our citizens' needs and desires.

Nowhere is the dark side of regulatory power more evident than in its use by the Internal Revenue Service. And nowhere is there sharper contrast between the intent in authorizing specific powers and the frequent effect of their application.

While we cannot reasonably expect our citizens to be fond of the IRS, we should be very concerned about the fear and absolute sense of helplessness most Americans feel when confronted by the IRS. Maybe they are sending us a message about abuses which we, as the body granting the IRS its broad powers, should have been the first to foresee.

I wish to review briefly some of the powers Congress allows the IRS to exercise. The IRS has the power of search and seizure without showing probable cause or need to notify the individual involved. It can unilaterally freeze bank accounts and place liens against property. The IRS can take an individual to court without showing probable cause, and it has the power to reinterpret law and make retroactive tax assessments based on this reinterpretation.

At the same time, the agency is not held accountable for its mistakes. It can give erroneous advice and later penalize the taxpayer for following it. All too often, the taxpayer becomes bogged down in a bureaucratic morass to straighten an IRS mistake at great personal expense. In the end, he has no way to recover his cost, even though he was in the right; citizens are forbidden to sue the IRS.

A few examples will illustrate how the application of the IRS powers often results in the harassment of innocent citizens.

There is the case of Willard Reese. He and his brothers made a late payment to the IRS of employee withholding taxes, and the penalty resulting from that late filing. This should have been the end of the story, but it was only the beginning. Even though the Internal Revenue Service received the check and cashed it, it failed to notify the local office. As a result, the local office seized the property belonging to the Reese brothers in the amount of \$8,500. This was some \$600 more than their total tax liability and penalty.

In addition to the seizure of buildings and automobiles, the Internal Revenue Service seized a fishing rod, a garden hose, and a bottle of dishwashing liquid. While it may be that the agents who seized these items were acting in good faith, there is some question as to their zeal when they start attaching 69-cent bottles of detergent. The Reese brothers, it turned out, had actually overpaid the IRS when they sent in their check, and had no liability. However, they had to take their attorney and the company books to an IRS office to have the attachment removed. Oddly, among the items seized was a vehicle which was not paid for, while others which were paid for were not seized.

It is certainly possible to make a mistake. What happened to the Reese brothers, however, was not an isolated

example, but rather one of countless instances in which Internal Revenue agents, acting on insufficient or inaccurate information, have wrongly seized property belonging to citizens and have caused those individuals to incur considerable expense to correct what was an IRS error.

Another example is the case of James White, of St. Petersburg, Fla. Mr. White is a carpenter, and was doing work on a home. Apparently, his customer was in some way involved in narcotics traffic, and had been arrested the previous night. Mr. White was in no way connected with the individual who had been arrested; he was merely a workingman trying to make a living. While he was working on the house, an Internal Revenue Service agent approached him and inquired as to the ownership of White's automobile. When the agent asked to see the title to the vehicle, White complied by showing it to him, and pointing out his name. The agent then placed the title in his briefcase and slapped an attachment notice on the vehicle. White had to go to Federal court to get his car back. It took 8 months and cost him between \$1,200 and \$1,500.

White was an innocent man. He had done nothing, he was not guilty of any violation of the tax law, and as I have mentioned, he was not involved in the drug charge. He merely was doing some work on a house.

Each year, the IRS seizes or makes levies on property of nearly 1 million taxpayers. For the most part, the seizures and levies are against bank accounts and paychecks. Usually, they are made against low- and middle-income persons, often with serious effects. Take, for example, a laborer in Cincinnati, who had a receipt slip from the tax collector—in other words he had paid his taxes—who had his paycheck attached. The laborer contacted his employer to let him know that he had paid the taxes the IRS was seeking to attach his check for. The employer, however, had no choice but to go through with the attachment, even though the laborer had shown him his receipts. The IRS gave no consideration to the fact that the man had a wife and children; they took his whole check.

The time has come to examine the latitude afforded the IRS and to curtail its breadth. The purpose of the Internal Revenue Service is to collect taxes, not to harass innocent citizens. To the degree that harassment does occur, our system of voluntary tax payments is undermined. Our citizenry will not indefinitely support a government whose tax collectors act in an arbitrary and capricious manner.

#### REGULATORY REFORM

Mr. President, the growth of Federal spending has been so rapid during the past decade that the impact of the Federal budget on the economy has critically increased. In 1967, the Federal budget was \$158.2 billion. Only 10 years later, a budget is proposed totaling \$406 billion, nearly three times greater. In the last 3 years alone, spending has increased by as

much as it did in the 176 years from 1789 to 1965.

While many figures exist documenting the uncontrollability of Government, perhaps the most explicit are those from the catalog of Federal domestic "assistance"—detailing that we have 228 health programs, 156 income security and social service programs, 83 housing programs, et cetera—in all nearly 1,000 Federal programs touching virtually every aspect of life in the United States. To demonstrate the degree of Federal involvement, one need only glance at the Federal Government manual, where we discover that in addition to the 11 Cabinet departments, we require 44 independent agencies and a mere 1,240 advisory boards, committees, commissions, and councils to run the Federal Government.

Today, there are nearly 1,000 categorical programs administered by 54 Federal agencies. Ten agencies alone administer some 230 different health programs, including 23 for planning and building health facilities and 22 to deal with drug and narcotics addiction. Seven Federal programs provide health services for outpatient health centers in one city—the District of Columbia. Or, consider that there are 14 separate units within the Department of HEW which administer programs for educating the handicapped.

Similarly, in the area of Federal water pollution research, there are at least 25 bureaus and offices that serve the same purpose. Such duplication of effort only succeeds in impeding the productivity and effectiveness of governmental services. Yet, year after year, funding is renewed without concern for wasteful overlap.

This same contagious "uncontrollability" has infected Government regulatory agencies as well, swelling their numbers to 80 and their bureaucratic forces to 105,000. It has been shown that regulatory agencies have often fueled inflation, stifled competition, focused on trivia while neglecting significant issues, and resulted in a loss of jobs while reducing productivity. Yet, lest they be thought ineffectual, these agencies continue frantically to promulgate regulations to the tune of \$130 billion/year in compliance costs.

Decades of increasing governmental regulation—controlling various aspects of the securities business, railroads, oil companies, antitrust, utilities, food and drugs, wages and hours, shipping, broadcasting, aviation, antidiscrimination, health and safety, environmental protection, energy, et cetera, have also resulted in wildly rocketing taxpayer costs and open-ended bureaucratic proliferation. Regulatory bodies at the Federal, regional, State, and local levels now number in the thousands. Due to their explosive growth and desire to perpetuate themselves, paperwork in agencies such as EPA, OSHA, IRS, and FEA has burgeoned to some 10,000 Federal forms alone.

Rather than thinking of ways to stimulate and assist the free enterprise system, we in Congress and the Federal Government have turned an army of

overzealous regulators loose on the American economy—an army which costs \$4 billion annually to support. If the apparent objective of these regulators be to strangle the vitality of this country in a sea of redtape, they are indeed succeeding, thus causing economic stagnation, overlap, nonproductive efforts and, ultimately, higher prices for consumers.

The Federal reporting burden on American business increased some 50 percent between 1967 and 1974, with new regulatory requirements such as EEOC, EPA, and OSHA serving as a main source of that increase. Higher prices for consumers resulted from the prohibitive cost private industry incurred in attempting to comply with the myriad new regulations. General Services Administration calculates today's cost to the private sector for handling Government forms to be \$20 billion per year for larger firms and as high as \$18 billion per year for small business. As one example, Du Pont estimates it spends \$5 million annually managing its rising tide of paperwork. Goodyear Tire and Rubber says it spent over \$30 million complying with Federal regulations in 1974. But the expense does not stop with private industry; it costs Uncle Sam another \$20 billion yearly merely to process returns from the flood of regulatory paper it generates. And most, if not all, of these costs are transferred to the taxpayer and consumer.

Typical "consumerist" writing has devoted about half to savage criticism of Government regulation as we now experience it and half to erudite proposals for more intensive forms of regulation. Seemingly, the philosophy is that Government economic regulation is a mess—but let us have more of it just the same—an odd combination of naive optimism and sophomoric cynicism.

Even the most avid free enterpriser will concede there is, in real life, a case for direct Government intervention in certain instances. Where the structure of an industry is inherently monopolistic, Government regulation might legitimately intervene to simulate the effects of competition. This was originally the envisioned role of the Interstate Commerce Commission. The chief present role of the ICC is to frustrate the economic benefits which both the users and providers of transportation might derive from the vastly increased potential scope of competition.

In the environment field, Government has a proper role, since those who discharge wastes into water and air impose costs on others—those living downstream or downwind. But heavyhanded governmental intervention by the EPA simply telling producers what environmental practices they must follow is likely to be the most costly and least effective way of dealing with the problem. One alternative is to use the marketplace for allocating the burden of reducing pollution to tolerable levels, by assigning in each case the ultimate costs of pollution back to the productive processes which created it.

Similar problems are noted throughout the regulatory spectrum, whether it be contained in the time-consuming trivia requested by OCR mandatory school reporting forms, or in the indiscriminate regulations promulgated by OSHA regarding "hazardous" substances. The problem for Government is to use the marketplace and expand opportunities for public participation in the rulemaking process, rather than surreptitiously superseding them.

For too long, we in Congress and in the Federal Government have arbitrarily made regulatory decisions without concern for the impact of the proposed regulations on the economy. Rather than consistently examining the quality of Government and reviewing the efficacy of promulgated regulations, we in Congress have exacerbated the problem with more unnecessary requirements. We must now reverse the trend where every business is treated as an enemy of the State trying to circumvent its laws, rather than as its actual provider. To do so, we must eliminate regulatory overkill, by arming the public and Congress with information about present regulations, by strengthening oversight of the regulatory agencies, by measuring the cost versus benefits of new and existing regulations, and by reducing Federal report filing and recordkeeping requirements.

The time for regulatory reform has arrived. Restoring the public's confidence in our Government demands that we get the Government bureaucrat off the individual's back. Government must serve the people and not continue as a dictatorial parasite. Government can exist only on the production of the private citizen. Strangling that production is both immoral and suicidal.

Mr. President, regulatory reform is a Republican issue whose time has arrived.

For years, Republicans have been speaking out against the excesses of Government regulation and warning the American people of the consequences of continued growth and concentration of power in Washington.

At last, the message seems to have hit home. The taxpayers are beginning to realize that not only must they foot the tab to support a vast army of faceless bureaucrats to administer the agencies and regulations, but they also pay a hidden tax as a result of regulation in the form of higher prices for essential goods and services.

Consumers are learning that more expensive production methods mandated by Government agencies lead to higher costs imposed on the private sector which are passed along to them in the marketplace. Labor has discovered that higher production costs, induced by regulation, force companies to reduce output or close down, causing a loss of jobs.

Businessmen, too, complain about a maze of unreadable, often unworkable rules and regulations, costly delays and frustrating redtape, mounting paperwork and endless recordkeeping and report-filing requirements. They find that they can no longer make ordinary man-

agement decisions without prior clearance from remote bureaucrats who are unconcerned with cost-benefit ratios or profit and loss considerations.

In short, there has been a widespread realization among the people, sparked by economic recession and the energy crisis, that Government overregulation produces domestic shortages, stifles productivity, reduces competition, retards innovation, increases consumer costs, and contributes to inflation and unemployment.

As a consequence of this new public awareness everyone—from business to labor, from scholar to consumer, from editorial writer to politician, from left to right—has been talking or writing about the harmful effects of Government regulation and the urgent need to do something about it—echoing the Republican message of so many years.

Yet, at the same time that we hear all this rhetoric about regulatory overkill and reform, we find ourselves in the midst of a regulatory boom, a period of unprecedented expansion of Government in American life. In fact, regulation may well be the biggest growth industry in our Nation today.

In fiscal year 1976, the expenditures of the major Federal regulatory agencies came to almost \$2.8 billion, a whopping 48 percent increase over the costs of these same regulatory authorities in fiscal 1974. The costs of regulation are increasing far more rapidly than the sales of the companies being regulated.

One OMB study stated that the total cost of regulation, direct and indirect, to the U.S. economy amounted to roughly \$130 billion in 1976, or 8.1 percent of the Nation's GNP. General Motors estimates that it costs that company \$1.3 billion each year to comply with various Federal regulations. Its administrative and reporting costs alone run to \$190 million annually.

In 1974 new car buyers paid over \$3 billion extra for the equipment and modifications needed to meet Federal standards. We are all familiar with the fate of the interlock system. Mandatory buzzers and harnesses were so disliked that over 40 percent of the automobile owners found ways to disconnect and otherwise avoid using them, and Congress finally abolished them altogether

as a result of the public outcry. Unfortunately this "catalytic converter" mentality persists in Government, for our Secretary of Transportation has promised us compulsory air bags in our cars, whether we like them or not, by—guess when?—1984.

The Commission on Federal Paperwork estimated the annual cost of Government paperwork alone is about \$40 billion. There are over 4,400 different types of approved Government forms, excluding tax and banking forms. Individuals and businesses spend over 143 million man-hours each year filling them out. One small 5,000-watt radio station in New Hampshire reported that 2 years ago it spent over \$26 just to mail its license renewal application to the FCC—and that was before the postal rate increase.

Concerning the size and growth of regulation at the Federal level, I quote James C. Miller III, economist and resident scholar at the American Enterprise Institute:

Over the period 1970 through 1975 . . . the number of pages published annually in the *Federal Register* more than tripled—from 29,036 to 60,221. From 1955 to 1970, the number of pages in the *Federal Register* grew at a compound rate of just under five percent. But between 1970 and 1975, the compound rate of growth was nearly 25 percent since 1970, the number of major regulatory agencies has grown from 20 to 27, a 35-percent increase. Between 1970 and 1975, the budgets of the major regulatory agencies grew from \$1.6 billion to \$4.7 billion, also a 35-percent increase. While the budgets of these regulatory agencies are insignificant compared with the total Federal budget (\$325 billion in fiscal 1975), one should bear in mind that the effects of regulations on costs, and, presumably, benefits are great multiples of the expenditures of the individual agencies.

These statistics give some idea of the dimensions of the problem of Government regulation. I shall leave other horror stories to my colleagues to relate, as I know they, like myself, have received much correspondence on this subject from their constituents.

Mr. President, Dr. Murray Weidenbaum of Washington University has written extensively on regulatory matters, and I call my colleagues' attention to an article on the "The Rising Cost of Government Regulation" by that

distinguished economist and Robert De Fina, published on January 31, 1977, by the Center for the Study of American Business. I ask unanimous consent that the complete text of the article be printed in the *RECORD* at this point.

The point is that Congress, which enacted the laws setting up the agencies, has the primary responsibility for oversight and overhaul of the regulatory system, and we face a formidable task if we are to undertake regulatory reform in a responsible and effective manner.

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

THE RISING COST OF GOVERNMENT REGULATION

(By Murray L. Weidenbaum and Robert DeFina)

(NOTE.—Mr. Weidenbaum is Director of the Center for the Study of American Business at Washington University, St. Louis. Mr. DeFina is a graduate student in the University's Department of Economics.)

The direct cost of federal government regulation of business hit a high of \$2.9 billion in the fiscal year 1976. On the basis of appropriations already enacted, these costs are estimated to reach \$3.5 billion in the current fiscal year, a 21 percent increase. The budget for fiscal 1978 recently transmitted by the outgoing Ford Administration would bring the annual total federal regulatory cost to approximately \$3.8 billion next year, an 85 percent rise over the 1974 level.

As shown in Table 1, the budgets of the regulatory agencies continue on a steadily upward growth trend. Any additions that will be proposed by the Carter Administration—such as a new consumer advocacy agency or a strip mining control law—would push these numbers higher still, if not offset by reductions in other areas.

The most expensive sectors of federal regulatory activity are not the traditional economic regulating commissions which typically focus on an individual industry. Rather, the largest budgets have been assigned to a broad category of social activities including environment, energy, and consumer safety and health; the major agencies in this latter group include the Environmental Protection Agency, the National Highway Traffic Safety Administration, the Food and Drug Administration, and the Animal and Plant Health Inspection Service. The jurisdiction of these agencies generally extends to the great bulk of the private sector, including manufacturing and service industries which are not generally thought of as "regulated." Tables 2 through 6 contain detail on each of the major sectors of federal regulation.

TABLE 1.—EXPENDITURES ON FEDERAL REGULATORY ACTIVITIES

[In fiscal years and dollars in millions]

Area of regulation	1974	1975	Annual increase (percent)	1976	Annual increase (percent)	1977	Annual increase (percent)	1978	Annual increase (percent)	Increase, 1974-78 (percent)	
Consumer safety and health	1,094	1,299	19	1,419	9	1,621	14	1,755	8	60	
Job safety and other working conditions	310	379	22	446	18	536	20	564	5	82	
Environment and energy	265	438	65	499	14	708	42	756	7	185	
Financial reporting, and other financial	36	45	25	53	18	62	17	62	0	72	
Industry—specific regulation	325	355	9	486	37	591	22	627	6	93	
<b>Total</b>	<b>2,030</b>	<b>2,516</b>	<b>24</b>	<b>2,903</b>	<b>15</b>	<b>3,518</b>	<b>21</b>	<b>3,764</b>	<b>7</b>	<b>85</b>	
Percent distribution of Federal regulatory expenditures, fiscal year 1978:											
Consumer safety and health											46
Job safety and other working conditions											15
Environment and energy											20
Financial reporting and other financial											2
Industry—specific regulation											17
<b>Total</b>											<b>100</b>

Source for tables 1-6: Computed from details in the "Budget of the United States Government, Fiscal Year 1978," Washington, Government Printing Office, 1977.

TABLE 2.—EXPENDITURES ON FEDERAL REGULATORY ACTIVITIES, CONSUMER SAFETY AND HEALTH

[In fiscal years and millions of dollars]					
Agency	1974	1975	1976	1977	1978
Department of Agriculture:					
Animal and Plant Health Inspection Service.....	314	345	377	429	437
Packers and Stockyards Administration.....	4	5	5	6	6
Subtotal.....	318	350	382	435	443
Department of Health, Education, and Welfare:					
Food and Drug Administration.....	165	201	218	240	277
Department of Housing and Urban Development:					
Office for Consumer Affairs and Regulatory Functions.....	1	2	(1)	2	5
Department of Justice:					
Antitrust Division.....	14	18	21	27	29
Drug Enforcement Administration <sup>2</sup> .....	98	132	146	176	184
Subtotal.....	112	150	167	203	213
Department of Transportation:					
National Highway Traffic Safety Administration.....	157	150	151	182	224
Federal Railroad Administration.....	7	9	15	19	21
Subtotal.....	164	159	166	201	245
Department of the Treasury:					
Bureau of Alcohol, Tobacco, and Firearms.....	79	95	103	122	135
Customs Service <sup>2</sup> .....	228	299	334	358	383
Subtotal.....	307	394	437	480	518
Consumer Product Safety Commission.....	19	34	38	46	39
National Transportation Safety Board.....	8	9	11	14	15
Total.....	1,094	1,299	1,419	1,621	1,755

<sup>1</sup> Less than \$1,000,000.<sup>2</sup> Activities extend beyond business regulation (breakdown not available).

TABLE 3.—EXPENDITURES ON FEDERAL REGULATORY ACTIVITIES, JOB SAFETY AND OTHER WORKING CONDITIONS

[In fiscal years and millions of dollars]					
Agency	1974	1975	1976	1977	1978
Department of the Interior: Mining Enforcement and Safety Administration.....	59	68	84	102	105
Department of Labor:					
Employment Standards Administration.....	56	72	84	99	106
Labor-Management Services Administration.....	24	27	37	49	54
Occupational Safety and Health Administration.....	69	90	109	129	132
Subtotal.....	149	189	230	277	292
Equal Employment Opportunity Commission.....	42	56	59	68	72
National Labor Relations Board.....	55	61	67	82	88
Occupational Safety and Health Review Commission.....	5	5	6	7	7
Federal Metal and Nonmetallic Mine Safety Board of Review.....	(1)	(1)	(1)		
Total.....	310	379	446	536	564

<sup>1</sup> Less than \$1,000,000.

Mr. McCLURE. Mr. President, the American people are demanding reform, and Republicans are responding to that demand. The Ford administration made regulatory reform a national policy by instituting a series of internal reforms to make executive branch agencies more efficient and more responsive to the public, reduce Federal paperwork, eliminate bureaucratic redtape, and by proposing sweeping improvements in regulation in the transportation field.

The 1976 Republican Party platform called for a reduction of Federal regulation and paperwork, a functional realignment of Government programs, an extensive reassessment of the combined effects of all Government regulations and a cost-benefit analysis for every Federal regulation.

At the present time, Republican Members of the Congress are working on major legislative efforts to reform the CAB's regulation of airlines, require a systematic, comprehensive review of all Government programs, "sunset" outmoded, ineffective, and unnecessary programs and regulations, increase public

participation in the rulemaking process, and strengthen congressional oversight over the regulatory system.

Regulatory reform is consistent with Republican principles and our party's commitment to individual liberty, limited government, sound fiscal management, and a strong, competitive free market economy. Clearly this is our issue as much as it is the concern of reform-minded Democrats, liberals, and conservatives, and all Americans who cherish their freedom and democratic form of Government. Moreover, it is our duty to see that regulatory reform is not just another political slogan or showy Washington fad that is soon forgotten. Clearly, as Republicans, we have our work cut out if reform is to succeed in this era of big government.

It is to the problems of Government regulation and the prospects of reform that we address ourselves today.

Mr. President, I am pleased that we are having this colloquy to discuss the subject of regulatory reform, and I thank my colleagues who are able to participate today. Reform is long overdue, in

TABLE 4.—EXPENDITURES ON FEDERAL REGULATORY ACTIVITIES, ENVIRONMENT AND ENERGY

[In fiscal years and millions of dollars]					
Agency	1974	1975	1976	1977	1978
Environmental Protection Agency.....	232	317	363	471	487
Federal Energy Administration.....	33	121	136	237	269
Total.....	265	438	499	708	756

TABLE 5.—EXPENDITURES ON FEDERAL REGULATORY ACTIVITIES, FINANCIAL REPORTING, AND OTHER FINANCIAL

[In fiscal years and millions of dollars]					
Agency	1974	1975	1976	1977	1978
Cost Accounting Standards Board.....	1	1	1	2	2
Council on Wage and Price Stability.....		(1)	1	2	2
Securities and Exchange Commission.....	35	44	51	58	58
Total.....	36	45	53	62	62

<sup>1</sup> Less than \$1,000,000.

TABLE 6.—EXPENDITURES ON FEDERAL REGULATORY ACTIVITIES, INDUSTRY—SPECIFIC REGULATION

[In fiscal years and millions of dollars]					
Agency	1974	1975	1976	1977	1978
Civil Aeronautics Board.....	89	81	91	99	93
Commodity Futures Trading Commission.....	13	13	11	14	13
Federal Communications Commission.....	38	48	53	57	60
Federal Maritime Commission.....	6	7	8	9	9
Federal Power Commission.....	27	34	36	43	43
Federal Trade Commission.....	32	39	44	54	58
International Trade Commission.....	7	8	10	12	12
Interstate Commerce Commission.....	38	44	47	61	62
Nuclear Regulatory Commission.....	80	86	180	236	271
Renegotiation Board.....	5	5	6	6	6
Total.....	325	355	486	591	627

<sup>1</sup> Expenditures for Commodity Exchange Authority.

my opinion, and our discussion today—and future such colloquies which I hope we will have—should reflect the concern and commitment of the Senate Republicans to follow through with specific and necessary improvements in the Federal laws, regulatory programs, and administrative practices.

Finally, Mr. President, I wish to insert into these proceedings a statement concerning the problems and approaches to obtaining regulatory reform by James C. Miller III, when he was Assistant Director of the Council on Wage and Price Stability. Dr. Miller discusses economic and social regulation and suggests a seven-point program for regulatory reform which merits our attention as we debate this complex subject. I request unanimous consent that the text of Dr. Miller's remarks before the American Management Association's "First National Forum on Business, Government and the Public Interest" on December 2, 1976, be printed in the RECORD.

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

## TEXT OF REMARKS

## I. ECONOMIC REGULATIONS

Federal economic regulation began with the establishment of the Interstate Commerce Commission (ICC) in 1887, and by the beginning of the Second World War most of it was firmly in place: the Federal Trade Commission (FTC) was established in 1914, the Federal Power Commission (FPC) in 1930, the Securities and Exchange Commission (SEC) in 1934, the Federal Communications Commission (FCC) in 1934, and the Civil Aeronautics Board (CAB) in 1938. More recently, we have seen the establishment of the Federal Energy Administration (FEA) in 1973 and the Community Futures Trading Commission (CFTC) in 1975. As you will note, the 1930's saw the initiation of much of the industry-specific economic regulation—at a time when the public generally thought that government should and could solve many perceived social and economic problems.

Because most of the economic regulatory agencies have been around for quite awhile, there has been ample opportunity for a large amount of research into this regulatory phenomenon. Literally thousands of Ph.D. dissertations, books, and scholarly articles have been written on the performance of agencies such as the ICC, the CAB, and the FPC. While, of course, there are notable exceptions, the vast majority have been highly critical of the agencies' performance and of regulation in general. And while depending on methodology adopted, data utilized, and the time periods examined, their estimates of the social costs of economic regulation vary, one conclusion stands out very firmly: the aggregate cost to society is very high. Whether one chooses to rely on economist A's estimate or that of economist B, as Senator Dirksen was fond of saying, "A billion here and a billion there, and pretty soon it adds up to real money."

Some of these studies have also addressed certain equity aspects of economic regulation. This is important, since decisions of elected officials are more likely to hinge on equity concerns than on questions of economic efficiency. The typical congressman, for example, cares little about economists' esoteric demonstrations of what regulation actually costs, but does respond when a constituent complains about rising prices, deteriorating service, or capricious, arbitrary, or high-handed regulation.

Economists have long noted that the redistributional aspects of regulation have been a major source of its support. Proponents of regulation have gone pretty much unchallenged with respect to the direction of wealth transfers. Under close scrutiny, however, one observes that economic regulation often has "perverse" effects. For example, in the trucking industry, ICC regulation has proven to be a significant barrier to upward mobility for minority groups. As a case in point, I understand that a few years ago the State of Illinois began a crackdown on so-called "gray market" trucking. I understand that of those (illegal) operators arrested, over half were black entrepreneurs.

But while there are exceptions, in most cases—at least where there is "competition" rather than "monopoly"—one finds that regulation has very little effect on the distribution of wealth. A major reason is that regulated firms are neither philanthropic nor eleemosynary. If they earn excess profits in one market, they are unlikely to throw away their ill-gotten gains; and they are not likely to provide "losing" service if they can avoid it. We observe in the airlines, for example, that allegedly profitable routes such as the transcontinental markets aren't really profitable after all. Competition results in excess capacity, driving down the excess profits that are the alleged source of the alleged cross-subsidy. Service to small towns is not cross-subsidized but is simply poor. A

similar case holds in the trucking industry. The result is that consumers in both markets are worse off than they would have been in the absence of such regulation. Passengers and shippers in high-density, long-haul markets get extraordinarily good service in terms of the capacity offered but would prefer to pay lower rates commensurate with some reduction in excess capacity. Passengers and shippers in low-density, short-haul markets are worse off inasmuch as they would prefer a slightly higher level of service, even though this might mean paying slightly higher rates.

A final equity concern that is receiving increasing public notice is the close, symbiotic relationship between many of the economic regulators and the industries they regulate. As Senator James B. Allen of Alabama said in a guest editorial in the *Washington Post* on December 5, 1974:

"Truckers, major airlines, drug companies, and other highly regulated lines of industries, though they may be lithe and snarling when captured, appear to grow fat and sluggish in their Federal circus cages.

"It is easy to forget the competitive jungle where you belong if you are forced to learn to jump through hoops, let your trainer stick his head in your mouth, and submit to similar experiences.

"But you can take comfort in the realization that cages also can be used to prevent your natural enemies from coming in. And if, as you grow old with the man holding the whip, you find that he considers your relationship with him his most valuable asset, it can get downright cozy."

## II. SOCIAL REGULATION

The effects of social regulation are less thoroughly understood and less well documented. A major reason is that we have gone about this type of regulation in a systematic way for a comparatively short period of time. While the Food and Drug Administration (FDA) is now some 40-odd years old, other major social regulatory agencies are fairly new. For example, the Environmental Protection Agency (EPA) was established in 1970, the Consumer Product Safety Commission (CPSC) was established in 1972, and the Occupational Safety and Health Administration (OSHA) was established in 1973. Another reason is that social regulation is a many-faceted phenomenon which involves an exceedingly broad spectrum of society. Whereas the CAB, for example, has jurisdiction over a few hundred firms and the ICC's jurisdiction reaches a few thousand, hundreds of thousands of firms, nonprofit institutions and State and local governments are affected by regulations promulgated by EA and OSHA. Obtaining hard data on these effects is obviously a horrendous problem.

The evidence we do have on the effects of social regulations suggests that the costs are enormous and in many cases overwhelm any reasonable estimate of benefits. For example, several studies have questioned whether OSHA has had even the slightest impact on worker safety, despite having imposed detailed and costly regulations, ranging from standards for sawhorses to definitions of what constitutes a hole one should not fall into.

According to the Council on Environmental Quality, EPA regulation is expected to cost the economy some \$40 billion annually by 1984. While this activity will surely secure sizable benefits in terms of a cleaner environment, the results of some studies question whether in particular cases the benefits exceed the costs. For example, in the case of EPA control of auto emissions, a study by the National Academy of Sciences estimated that the benefits would be approximately \$5 billion per year but that the annual cost would be \$11 billion. One recent study places the net cost of FDA regulation of drugs at

hundreds of millions of dollars per year because of the slowdown in the introduction of new drugs and the lengthening of the period required for a new drug to be approved. Of course, these are merely selected examples—small pieces of a large puzzle. But the puzzle has many pieces, and, as Senator Dirksen would say, these costs do add up.

More often, concerns about social regulation stem from questions over equity—particularly isolated cases of what are termed "horror stories." For example, a Congressional aide recently told me that a farmer-constituent from a Southern State where the land is relatively flat had complained bitterly about an OSHA employee's having fined him for not having a roll bar on his tractor. In another, more substantive, example, the Federal Water Pollution Control Act, as promulgated by EPA, requires pulp and paper producers to initiate secondary treatment of their liquid effluents. This applies equally to those located along the Pacific Coast with outcroppings into the ocean, even though expert scientific opinion questions whether this has any deleterious effect on overall water quality.

## III. KEYS TO OBTAINING REFORM

As the discussion to this point suggests, regulation, like many other institutions, is imperfect and is in need of substantive reform. Yet, there is a big step between recognizing the problem and getting something done about it. In my judgment there are two keys to success. First, reformers must recognize that the task will not be easy and must be willing to approach it with great determination. As George Eads said recently in addressing his fellow economists about the chances for reform of the economic regulatory agencies:

"It is quite clear that we are not likely to see a repeat of Joshua's remarkable victory at Jericho—the mere publication of our results will not bring down the walls of the ICC, CAB, FMC, and so on with a great crash. The "battle" for deregulation more likely will resemble a classical medieval siege with much logistical preparation, slow and dirty slogging in the trenches, small assaults that will often be repulsed, and victory through attrition and exhaustion."<sup>1</sup>

A major problem in obtaining reform of the economic regulatory agencies is that the major would-be beneficiaries—consumers—are largely unaware of their stake in the outcome. Another kind of problem is that the benefit per person is small in comparison with the cost of bringing about change. Also, there is the related "free-rider" problem, where each hopes that someone else will take the initiative. Consequently, the major beneficiaries of economic regulatory reform constitute a weak force in the political arena.

On the other hand, those that stand to lose from economic regulatory reform know well their stake in the outcome. They are relatively small in number, they are extremely well organized, and they bring their position to bear on decision-makers in an articulate manner. They also participate in a coalition that is very powerful. As columnist David Broder said a year ago in the *Washington Post* (November 19, 1975):

"There is no stronger political-economic power in this country than the triangle formed by the Congressional Committees that authorize and fund a program and agency, the bureaucrats who administer it, and the interest groups who are its beneficiaries."

With respect to reform of social regulation,

<sup>1</sup> George E. Eads, "Economists Versus Regulators," in James C. Miller III (ed.), *Perspectives on Federal Transportation Policy* (Washington, D.C.: The American Enterprise Institute for Public Policy Research, 1975), p. 108.

one problem is that since the agencies are relatively new there is a general feeling that we should give them more time to work out the difficulties of administering their statutes. Even more importantly, people generally are unwilling to place an economic value on human pain, suffering, and death. The problem arises in part from a confusion over a "statistical" event and a specific event. As Harvard economist Thomas Schelling was quoted in Mondaf's *Washington Post* as saying:

"Let a 6-year-old girl with brown hair need thousands of dollars for an operation that will prolong her life until Christmas and the post office will be swamped with nickels and dimes to save her . . .

"But let it be reported that without a sales tax the hospital facilities of Massachusetts will deteriorate and cause a barely perceptible increase in preventable deaths—not many will drop a tear or reach for their checkbooks."

As I know from experience, those who question regulatory proposals in the health and safety areas are invariably painted as ogres who get their jollies out of seeing 6-year-olds go without that last visit with Santa Claus. If the truth be known, what the reformers are really saying is that with a given resource expenditure a lot more lives could be saved, if only regulators were willing to approach the issue analytically.

Finally, most of the public harbors the illusion that social regulation is a "free lunch." That is, they believe that if government regulation imposes higher expenses on an industry, these higher costs come out of that well-known ubiquitous fund called "business profit." However, since the U.S. economy is reasonably competitive, over the long run the consumer pays the full amount of the cost increase.

The second key to success, in my judgment, is that reformers must realize that the array of regulations and regulatory problems is very diverse and that a "mix" of approaches is required. Obviously, some regulations need to be terminated. This is particularly true of anticompetitive regulations in the areas of transportation and communications. On the other hand, some regulations may need to be strengthened. But for all regulations retained and added, it is most important that we find ways of reducing the cost of achieving a given regulatory objective or increasing the benefits from a given regulatory cost. Just as nature abhors a vacuum, the public should no longer tolerate regulatory waste, and if my year's experience at the Council on Wage and Price Stability has taught me anything, it is that countless opportunities exist for improving the efficiency of regulatory action.

#### IV. A SEVEN-POINT PROGRAM FOR REGULATORY REFORM

Any regulatory reform initiative should contain two major elements. First, it should attempt to change the enabling legislation under which agencies operate, and second it should incorporate measures designed to improve agency performance under those statutory mandates. The seven-point program outlined below contains both elements and represents, in my judgment, an appropriate plan for action.

First, we must be wary of legislation which emphasizes reorganization and procedural reform and instead demand substantive reform of the basic regulatory authority. It is my considered judgment that pushing boxes around on an organizational chart or speeding up regulatory processes in order to reduce procedural delays will not improve the overall quality of regulation. As a matter of fact, it could make matters worse. As an example, I am convinced that if instead of the ICC there were mini-commissions for each of the various modes of surface transportation—rail-

roads, trucks, barges, and pipelines—there would be a great deal more efficiency in surface transportation. Combining agencies simply puts a monopoly on inefficiency. Also, since it is at least arguable that regulations presently being promulgated create more costs than benefits, speeding up the process would merely increase the net cost to society.

Second, we should build on the legislative initiatives that were considered at length by the last Congress. As you know, so-called "fair trade" was abolished by the Consumer Goods Pricing Act of 1975, signed into law on December 12, 1975. Also, for the first time in its history, ICC regulation was pointed in the direction of more competition by the Railroad Revitalization and Regulatory Reform Act, signed into law on February 5, 1976. Extensive hearings have been held in both the House and the Senate on various versions of an aviation regulatory reform proposal, and even the airlines are coming around to the view that "deregulation" is inevitable—the only questions are when and what form it is going to take. Proposals to reform the regulation of financial institutions and of trucking are not as likely to be enacted soon, but the prospects for eventual success appear good.

Third, we should support legislative proposals which would force regulatory reform proposals out of committee where they tend to become buried. We have on the Hill the playing of a strategic game, not unlike multinational disarmament. While there is a general consensus that "something must be done" about regulation, few committees are willing to take unilateral action to give up the power that flows from overseeing a regulator and its regulated industry. Thus, we have proposals such as the Regulatory Reform Act of 1976, sponsored by Senators Percy and Byrd, and the Agenda for Regulatory reform submitted by President Ford. Under these initiatives, the Congress would agree collectively that regulatory reform proposals would be reported out of committee by a certain date or else the reform proposal submitted by the President would become the order of business before the full Congress. In my judgment, such initiatives hold great promise for breaking the legislative logjam and should be given broad support.

Fourth, there is a need to appoint and confirm good regulators. While I am not a proponent of the so-called "good man" theory of regulation, I do believe that the right person at the right time can have a sizable impact. By a "good regulator," I mean a person who is intelligent, who has integrity, and who possesses good judgment. The person may or may not have come from the industry, may or may not be an economist or lawyer, and may or may not have had similar experience in the past. It must be understood, of course, that regulatory appointees are as much the responsibility of Congress as of the President. Not only does the Senate confirm most senior regulatory policymakers, but as anyone familiar with the process can attest, regulatory nominations are usually "cleared" with the relevant committee before the names are submitted. Obviously, if we are to have good regulators, then Congress as well as the executive is going to have to set very high standards.

Fifth, we need to do something about the kind of bureaucrats we are recruiting and the incentive structure that molds their behavior. Make no mistake about it, low- and middle-level bureaucrats wield enormous power. As any agency head can tell you, one is almost helpless in dealing with the bureaucracy. As one old-line, departmental bureaucrat told me recently, "I've seen Secretaries come, and I've seen them go." Part of the problem is that of natural selection. For both supply and demand reasons, employees at regulatory agencies tend to "believe" in regulation.

For example, the ICC is not likely to hire anyone who has strong reservations about the need for regulating surface transportation, nor is someone of that view likely to apply to the ICC for a job. Thus, to improve the quality of regulation, I would respectfully recommend that procedures be established so as to bring on board some opponents of regulation at the ICC. At least the outlook would be a bit more balanced, and the decision-making, I would allege, more rational.

Just as importantly, there should be significant changes in the structure of bureaucratic incentives. Rather than reward bureaucrats for the number of fines they impose and how strongly they write regulations, reward them for exhibiting justice and moderation. Rather than protect the incompetents who get ahead by getting along, make it easier for government executives to hire and fire, and hold such executives responsible for the performance of their employees.

Sixth, regulatory agencies should be required to perform economic analyses of proposed regulations and to prepare periodic reviews of existing programs. Such analyses and reviews should be placed in the public record. From my experience in having a major responsibility for the President's Inflation Impact Statement program, I can tell you that in general agencies neither like doing such analyses nor do they have the competence to do them well. However, I am certain that this kind of activity—imperfect though it is—can have a positive impact on the quality of regulatory decision-making. Understandably, agencies do not like revealing the ramifications of their actions to public scrutiny, for on occasion it brings upon them ridicule and scorn. Nevertheless, since bureaucrats seek to avoid adverse publicity, such a program can be quite effective in eliminating nonsense and poorly conceived regulatory proposals.

Finally, on a related note, it is highly desirable that an "outside critic" be funded and participate in major regulatory proceedings. On a limited scale, the Council on Wage and Price Stability has played this role, having intervened before a score of agencies. In the future that role could be played by the Council, an Agency for Consumer Advocacy, and/or some other governmental or government-sponsored instrument. While we have not observed that agencies are inclined to modify regulatory proposals just because of our criticism, we do have evidence that bureaucrats wish to avoid having us criticize their work and therefore are improving the quality of their initial proposals.

#### CONCLUDING REMARKS

This year we are celebrating not only the Bicentennial of our nation's birth but the bicentennial of the publication of the most influential book in the history of economics—Adam Smith's *Wealth of Nations*. In one passage, Smith noted:

"Consumption is the sole end and purpose of all production; and the interest of the producer ought to be attended to, only so far as it may be necessary for promoting that of the consumer."<sup>2</sup>

The relevance of Smith's point to the problem of economic regulation is obvious. In Smith's time, there was little in the way of "social" regulation, but if there had been, I am confident that he would have recommended that decisions be grounded on proper assessments of benefits and costs.

Mr. McCLURE. I thank the Senator for yielding.

<sup>2</sup> Adam Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations* (Canadian edition; New York: The Modern Library, 1937), p. 625.

Mr. SCHMITT. I thank the Senator from Idaho.

Mr. President, I yield such time as the Senator from North Carolina may require.

Mr. HELMS. Mr. President, I thank the Senator from New Mexico and all my other colleagues who are participating in this colloquy on the regulatory reform.

**OVERREGULATION OF PRESCRIPTION MEDICINES  
DOES NOT PROMOTE HEALTH OF AMERICANS**

Mr. President, I am very pleased to join so many of my colleagues in speaking out for regulatory reform. For my part, I would emphasize how overregulation by the Food and Drug Administration adversely affects the health and welfare of every American.

As our drug regulatory system is now structured, the Food and Drug Administration must determine that a prescription drug is both safe and effective before it may be used in the United States. The tremendous difficulty in proving a drug "effective" under FDA procedures has resulted in greatly increased costs to the consumer, decreased competition and innovation in the drug industry, and significant delay in the marketing of new drugs. Most importantly, this self-imposed "drug lag" has resulted in needless suffering for millions of Americans in need of medical treatment.

Bureaucratic overregulation which is today blocking the use of important, new, effective drugs stems from the "effectiveness" provision of the 1962 amendments to the Food, Drug and Cosmetic Act. The adverse effect of this legislation upon American production of prescription drugs is dramatic. American production of new drugs has fallen from an average of 43 per year before 1962 to 13 per year, with many drugs entering the American market 4 to 6 years after successful use in Europe. In many instances, the most effective medications are available only to those wealthy enough to travel outside the United States to obtain treatment with prescription drugs still banned here.

Several days ago, in remarks on the Senate floor, I referred to a recent speech by Prof. Yale Brozen of the Graduate School of Business of the University of Chicago before the National Coordinating Council for Constructive Action in Los Angeles.

In this study, Professor Brozen found that the 1962 amendments have reduced the number of new prescription drugs to one-third the number annually introduced before the "effectiveness" requirement was added. He also concluded that the 1962 amendments have failed in their purpose to remove all so-called "ineffective" drugs from the American market in that the instances of ineffectiveness of the new drugs marketed with FDA approval have remained constant. As a result, Professor Brozen calls for the repeal of the 1962 amendments to substantially increase the number of important, new, effective drugs in the United States.

**SELF-IMPOSED "DRUG LAG" COSTING THOUSANDS  
OF LIVES**

According to many experts, thousands of Americans are needlessly suffering and

even dying as a result of the FDA's overregulation of American pharmaceutical production.

Dr. Ray Gifford, president of the American Society for Clinical Pharmacology and Therapeutics, recently stated that the existence of a "drug lag" in the United States is undeniable and that "it would be naive to deny that the drug lag has cost some Americans their lives or well being." Dr. Myrvin Ellestad of the American College of Cardiology is more emphatic. He charges that FDA implementation of the 1962 amendments "is costing thousands upon thousands of American lives"—Private Practice, February 1975 at 41.

At a recent conference on Pharmaceutical Innovation sponsored by American University in Washington, D.C., Prof. William Wardell observed that—

If even one new drug of the stature of penicillin or digitalis has been unjustifiably banished to a company's back shelf because of excessively stringent regulatory requirements, that event will have harmed more people than all the toxicity that has occurred in the history of modern drug development.

In an article entitled "Breaking the Drug Barrier," Richard Spark described the present "drug lag" for the New York Times magazine—March 20, 1977—as follows:

Over the past 15 years, many important new drugs have been developed that represent advances in controlling life-threatening . . . disorders. These medications have been widely used throughout the world but have been unavailable to American patients. Eventually, many of these drugs have been or will be sanctioned for use in the United States. But "eventually" usually means a delay of between 2 to 10 years. This bureaucratic embargo on new drugs has been referred to as the "drug lag" . . .

A graphic example of the adverse effect of the 1962 amendments in terms of human suffering is the delay they have caused in the introduction of a new family of drugs called beta-blockers. These drugs were developed over the past 15 years and are very effective in treating heart disease, a condition afflicting over 23 million Americans.

Although more than 20 beta-blocker drugs have been developed, only the oldest is presently available in the United States, and that one—propranolol—was approved in 1963. Frederick Roll, in his study of drug regulation makes the following observation:

The modern use of beta blockers for a variety of important new indications has been pioneered abroad, with the U.S. following 10 years behind. Current studies are showing that beta blockers can prevent heart attacks and sudden death.

The estimated potential saving in the U.S. is at least 10,000 lives per year.

The use of these drugs for that indication is at least five years away in the U.S. (Of Politics and Drug Regulation, Jan., 1977 at 20.)

Last month, I introduced S. 1683, the Medical Freedom of Choice Act to repeal the so-called effectiveness requirement of the 1962 amendments so as to make safe and effective drugs readily available to the American public. If enacted, this legislation would return consideration of a new drug's effectiveness to the pre-1962

policy when "effectiveness" was considered in light of the drug's safety. The American public will still be assured of drugs which have been rigorously tested for safety, and "effectiveness" will again be considered by FDA as part of that review.

Mr. President, I yield back the remainder of my time to the distinguished Senator.

Mr. SCHMITT. I thank the Senator for his remarks and now yield 3 minutes to the distinguished Senator from South Carolina.

Mr. THURMOND. Mr. President, I thank the distinguished Senator from New Mexico. I wish to commend him for his outstanding leadership in arranging for these presentations to be made at this time.

The Senator from New Mexico is a new Senator in the Senate, but he has developed already the high respect of the Members of this body and is rendering his State a good service.

Mr. President, I am pleased to join my distinguished colleagues on the floor today to speak on government regulation and to warn of the consequences of continued concentration of power in Washington.

It is my firm belief that Americans want more freedom and less redtape. Government regulation now costs \$120 billion annually, which is in excess of \$2,000 per American family each year. It engages the efforts of over 63,000 Federal Government workers.

Unfortunately, the Congress is day-by-day passing additional legislation to add to the overregulation burden. While much recent legislation has embodied the worthy goals of improved health, safety, or environment, I have been equally concerned about the expansion of Federal power, uncertainty about compliance obligation on the part of small business and individuals, confusion over standards, limited access to Government advisory services, lack of knowledge about how to contest Government citations and enforcement actions, and additional recordkeeping and reporting burdens.

Mr. President, government overregulation should be attacked at its source, and I submit that the place to begin deregulation of our economy and society is in the Senate.

One of my greatest concerns has been the fact that nonelected, nonaccessible Government officials have, in fact, been legislating national policy. Accordingly, I have in the past cosponsored legislation to prevent a rule proposed by a regulatory agency from becoming effective until it has been reviewed by the Congress. Similar legislation will be proposed this year, and I intend to cosponsor it again.

Mr. President, in the realization the Congress bears great responsibility for the increased regulation of our economy and society, I hope my colleagues will hold early hearings on this legislation and will move it expeditiously to the Senate floor where it will be a vehicle to attack the burden of government overregulation.

Mr. President, Prof. Murray Wiedebaum made this statement:

Regulation, requiring action on part of business, causes price increases resulting in

government-mandated price increases, and this results in more inflation.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. SCHMITT. I yield the Senator 1 more minute.

Mr. THURMOND. Mr. President, I have cosponsored legislation to provide that where the Government initiates action and small business is successful in defending it in OSHA matters, that the Government will have to pay attorney fees.

Mr. President, there is no question in my mind that there is entirely too much overregulation in Government and that the people of this country are sick and tired of it.

I hope Congress will take action to remedy this situation.

Again, I commend the able and distinguished Senator from New Mexico for his leadership in this matter.

Mr. SCHMITT. Mr. President, I thank the distinguished Senator from South Carolina for his comments, both political and personal.

Mr. President, I yield 5 minutes to the Senator from Missouri (Mr. DANFORTH).

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. DANFORTH. Mr. President, we live in the 20th century. I think it is fair to say that the days of laissez faire are a thing of the past. Government is not going to become insensitive to the needs of the American people. It is not going to adopt a hands-off policy to the concerns of our citizens. We are not, as a country, going to return to the law of the jungle. We are not, as a country, going to tolerate a system of predatory practices by monopolistic businesses; nor do the American people want a Federal Government that is going to shut its eyes to such serious problems as hazards on the jobsite, unsafe products, and the power of special interests operating within Government.

People do not want government to go away. But the problem we have gotten into as a Congress is that every time a need of the American people is perceived, we tend to meet that need by passing yet another law, establishing another agency, authorizing that agency to promulgate more regulations and to dispatch inspectors throughout our country in order to determine whether there is compliance with those regulations.

In other words, we have addressed ourselves to the real needs of the American people simply by adding layer on layer of Government, statute on top of statute, regulation on top of regulation.

Now there is an increasing concern on the part of our people as to whether Government is truly solving the problems of America, or whether Government is simply messing things up by increasing regulation, adding to redtape, and devising more forms for people to fill out. I do not think it is enough simply to criticize overregulation. I do not believe it is enough simply to devise gimmicks for regulatory reform.

What we have to do, in my opinion, is to begin rethinking the role of Gov-

ernment in addressing the real needs of our country and try to fashion methods of dealing with these needs which are more consistent with decisions being made in the marketplace, in the private sector, in our own lives, and in local and State government, and more consistent with local decisionmaking and less with simply adding regulation and concentrating more responsibility in Federal agencies.

I do not think the American people want to return to the days of laissez faire in the marketplace, but it seems to me that it is no answer to say that Government should do absolutely nothing and that what we need, instead of Government regulation by regulatory agencies, are strong and effective antitrust laws, particularly antitrust laws which encourage consumers and encourage people in their own lives to file treble damage suits in order to enforce the antitrust laws.

We in Congress are now going to be faced with whether or not we are going to overrule by statute the decision of the Supreme Court in the case of Illinois Brick versus the State of Illinois. I believe we should do that, because I think the Illinois brick case in effect guts antitrust enforcement. If we gut antitrust enforcement, we have created a vacuum; and if it is going to be filled, it is going to be filled by Federal regulation. Rather than filling it by more regulation, I say we should patch up the antitrust law and restore it to an effective method of trying to create a competitive marketplace.

Similarly, with respect to job safety, the Government has addressed itself to this real problem not in an effective way but simply by establishing a very burdensome regulatory agency—namely, OSHA. There are ways to address ourselves to job safety which are more consistent with marketplace decisions, as opposed to simply more and more detailed regulation. I believe that a progressive way to address ourselves to that problem is to think about the possibility of creating tax incentives in order to reward the creation of safe jobsites.

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

The time allotted to the Senator from New Mexico has expired.

Mr. SCHMITT. Mr. President, it is my understanding that the order today does not entail any further mandated business until 1 o'clock. I ask unanimous consent that this colloquy may continue until that time.

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

Mr. SCHMITT. I yield 2 additional minutes to the Senator from Missouri.

Mr. DANFORTH. Therefore, it seems to me that, rather than just saying that the Federal Government has no role at all to play with respect, for example, to job safety, that we, as Congress, should be doing is to address ourselves to alternate methods of dealing with this real problem, as opposed to the present system of simply having a very complex set of regulations enforced by a heavy-handed regulatory agency. Specifically, my proposal would be to utilize the tax

laws in order to provide a system of rewards or penalties for meeting or failing to meet general standards of job safety.

In sum, Mr. President, my position is that we cannot return to the past but that regulatory reform is something that has to be addressed, and has to be addressed in a way which is consistent with meeting the needs of the American people. This can be done by methods such as effective antitrust laws and a progressive system of tax reform, so as to provide incentives for such things as job safety, rather than just piling regulation on top of regulation and further complicating our federal system.

Mr. SCHMITT. Mr. President, I thank the distinguished Senator from Missouri for his comments. I also thank all other Senators who have commented in this area of regulatory reform.

Mr. President, I ask unanimous consent that further statements that may be submitted for the record in this area today be included en bloc with these four statements relative to this subject.

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

Mr. SCHMITT. Mr. President, during some of the time remaining, I wish to add a few comments triggered by the comments of my colleagues.

It is clear that there are many examples of how excessive and unnecessary regulation has distorted various sectors of our economy. There are also many examples of situations in which necessary and appropriate regulation has assisted areas of our economy and particularly has assisted the consumer and the public in general to avoid the abuses of monopoly or other unfair, noncompetitive practices.

However, these distortions should be noted. They should be sought out and eliminated wherever possible. I think it is clear now, from the experience of history in the last several decades, that there are many such areas where we should be looking toward legislation, both specific and general, that will remove the distortions to our economy that have been produced by unnecessary regulation.

I have in mind a problem of energy supply relative to natural gas and the growing energy supply problem relative to oil. Both these problems have been created, I think, in almost everybody's book by excessive Federal regulation of the price of those commodities at artificially low levels. The products were very cheap. Therefore, they were used in increasing amounts. However, they were sought in increasingly less amounts. Therefore, we have a crisis of supply that we saw illustrated very vividly last winter in our natural gas situation. I am afraid that, even with a normal winter, we will see that crisis of supply repeated in the next winter.

In the area of the airlines, we have seen an extremely distorted airline economy develop through several decades of regulation. Now most people feel that the time has come to restore the airline industry to a much more competitive situation. A bill is before the Commerce Committee at the present time to deregulate to some degree the airline industry, and

I think it is appropriate that we consider that type of legislation.

However, in the process of the removal of those distortions and of any distortions in our economy produced by excessive regulation, we must remember that individuals in the public and individuals in industry have become dependent on the existence of those regulations and, therefore, in our zeal to remove the distortions we should insure that sufficient time is available for the economy and the individuals within that economy to adjust to the removal.

I think we can do that without sacrificing our total aim toward a much more competitive national economy wherever competition is possible.

Finally, Mr. President, I think it is important as we enter into another day of debate on the issue of public financing of congressional elections and, specifically, senatorial elections, that we bring into context this discussion of excessive regulation relative to the problem of elections because the bill we will be considering and are considering, which is S. 926, does, in fact, create a vast new bureaucracy that will regulate not an industry but a very fundamental process of our Government, a very fundamental process by which that Government perpetuates itself.

This is a major change in our philosophy of governing ourselves, in our philosophy of a republic, of a representative democracy, and it is not a change we should ever debate lightly or take lightly if it does, in fact, occur, because we will create, as we have in many other areas of our society, a bureaucracy with a vast power over the election of candidates to public office. They will have the power of the purse in many cases; they will have the power of general regulation in others, and I think this Nation and, in particular, the members of the press, must take due note of this change in our way of doing things if, in fact, it is going to occur, and report the implications of that change to the American people before this body acts on such an increase of regulation in our electoral process.

Mr. President, I do believe we will have one or two more statements before 1 o'clock. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. GOLDWATER. Mr. President, I ask recognition—I think I have how many minutes?

The PRESIDING OFFICER. The Senator from New Mexico has 3 minutes.

Mr. SCHMITT. I yield the remainder of my time to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, I want to apologize to my colleagues who have been addressing themselves to the regulatory problems of this country, but we have been in session since early morning on the cruise missile, and I think that is of such importance to our

country that I had better spend my time there.

I do welcome the opportunity to make a few short remarks about the problem facing this country. I think we have to remember that the Founding Fathers framed our Constitution and formed our Government from the experiences they had had in England and in Europe, namely the experiences under which they could not practice freedom or enjoy freedom. The whole Constitution was written with the idea that the American received his freedom from God, and it was our responsibility to maintain that freedom.

The Founding Fathers certainly recognized the dangers inherent in any government of that government's gaining control over the people's lives by the concentration of powers in one particular branch of government. That is why we have a tripartite system of government.

Yet we have seen since the early or middle thirties in this country a growing concentration of power in the administrative branch. We may think in Congress that we have powers. But, Mr. President, I suggest we have turned these powers over to the bureaucratic end of the administrative branch of Government by our passing laws creating agencies and not taking the time or the patience to prepare the regulations under which those laws will be operated.

Every agency of Government has been created this way, and every agency of Government so created has, in turn, made its own regulations, and these regulations seriously affect not just the daily lives of people, not just the business, the economy of our country, but they affect freedom and, Mr. President, that is what bothers me.

There has never been a country in the history of the world that has completely fallen from outside pressure. The great civilizations of the world, the great cultures of the world, the great governments of the world, have fallen because of what we are going through today, and we are not paying any attention to the way we have been losing our freedoms because of Congress giving these freedoms to executive agencies over which Congress has no control except the control of the coin or money.

Mr. President, I admire President Carter's position on trying to cut down the regulatory end of our Government. In fact, I got myself into national politics just because of that reason.

I wish I had a little more time, but I do thank the Chair for allowing me the time that I have had.

#### ADDITIONAL STATEMENTS SUBMITTED

Mr. HEINZ. Mr. President, the people across this country are becoming restless, and rightly so. They are becoming increasingly annoyed and angered at the reams of regulations pouring out of the numerous agencies created by the Congress. A January 1977 Gallup poll found that 39 percent of the people believe that big Government is the "biggest threat to the country in the future"—way ahead of big labor, 26 percent, and big business, 23 percent. Last year, a Harris survey found that 76 percent of the people feel that "the trouble with Government is that the

elected officials have lost control over the bureaucrats, who really run things."

Some of the better-known regulatory offspring of Congress that are responsible for generating this feeling in the public are the SEC, FTC, ICC, FCC, and CAB. Then there are the executive agencies such as the EPA and the FEA. And if these were not enough there are various agencies within executive departments such as the FDA, FAA, and OSHA.

When confronted with this collection of alphabets I am reminded of the alphabet soup placed before a child. However, the American people are not children and they are becoming increasingly vociferous and telling all elected officials that the alphabet soup being dished to them in the form of myriad of regulatory agencies does not suit their taste.

With the creation of any new agency the individual stiffens his back and wonders, "What will the Government do to me now?" Regulation and regulatory agencies have become so pervasive that large sectors of the public believe that the Congress is attempting to protect them from themselves. The overwhelming consensus is that all of this regulation is not necessary.

One reason the public is so enraged at the regulatory process is because of the way the Congress has traditionally created agencies and the way these agencies have traditionally promulgated regulations. Traditionally, both agencies and regulations have had pretty much an everlasting lifespan. The public becomes annoyed and outraged because there is no reason that any agency or program—no matter how well designed and/or operated—should live in perpetuity unchallenged or unreviewed. Regulatory agencies and rules promulgated by these agencies are governmental responses to particular societal problems. As the societal problems change so too should the regulatory agencies and regulations that dealt with that problem.

However, agencies and regulations very often do not reflect the changes that have taken place in society. Outdated regulations frequently impose senseless requirements on the public. And outmoded agencies continue their existence unaltered even though the problem that it was created to solve has changed.

Herbert Kaufman suggests in his recent Brookings Institution study that if Government organizations are not immortal, they certainly have a high probability for prolonged life. Only 6 percent of the governmental agencies in his sample of over 400 have been terminated since 1923. Similar records of longevity are less common in private industry because of the forces of the economic marketplace.

Both the Congress and the regulatory agencies are held in contempt when the public perceives that either the agencies or their regulations are antiquated. And the public's perception is quick and sharp because it is on the receiving end of the mass of regulations.

Some of the same criticisms leveled at regulatory agencies and regulations are also made of Federal spending programs. The public justifiably points out that traditionally once a Federal spending

program is enacted, Congress too often casts a blind eye toward it and shortsightedly moves on creating still more programs. The Congress never thoroughly or adequately reviews Federal spending programs to see how they are working or if they are still needed. These programs are continually refunded without question.

Congress has created a morass of Federal programs, many of them unnecessary, many of them wasteful, and all of them in need of close scrutiny. Most of these programs were well-intentioned when they began, but too often these programs have slipped into the bad habit of throwing money at a problem that may not still exist.

The number of Federal programs is so large that even Secretary Joseph Califano of HEW has difficulty stating exactly how many are presently in existence. In recent testimony before the Subcommittee on Intergovernmental Relations, of which I am a member, Secretary Califano placed the number of Federal programs someplace between 381 and 1,000. If we have so many programs that we cannot adequately keep an accurate count of them how can we have any hope of responsibly supervising them? How is Congress to determine if these programs are achieving their goals, or if the programs even have any goals?

All of these deficiencies lead me to ask one basic question: Can the Congress afford to create and operate agencies and programs it has little hope of evaluating? My answer to this question is an obvious and resounding "no." To succumb to the evaluation problem is a virtual admission of congressional irresponsibility.

Congress must begin to once again assume responsibility for the programs and agencies that it has created. For Congress to create a multitude of programs and agencies and turn them loose on the public without anyone in Congress ever seriously and strenuously reviewing them is analogous to parents bearing children and then casting them out of the household onto the public without any supervision. Such behavior is justifiably frowned upon when engaged in by neglectful parents or a neglecting Congress.

For this reason I have become an active cosponsor of both S. 2 and S. 600, the two major pieces of "sunset" legislation being considered by this session of Congress. S. 2 would sunset Federal programs and S. 600 would sunset regulatory agencies. These two bills are designed to make sure that there is an examination of the: First, timeliness; second, effectiveness; third, performance; and four, practicality of all regulatory agencies and Federal spending programs.

I am a fervent supporter of the sunset principle because I believe it forces Congress to do the job it is elected and paid to do. The sunset requirements of both S. 2 and S. 600 mandate congressional oversight by requiring the appropriate committees of Congress to review and evaluate on a regular and systematic basis their own legislative acts.

These sunset bills require Congress to define in operational terms a program's

objectives and evaluation measures. In addition, these bills permit Congress to correct or redress possible deficiencies that this review process might uncover.

Perhaps most importantly, it forces the Congress to come back and look at previous legislation. I believe that if the Congress is forced to review its previous legislation it cannot help but be confronted with evidence of duplication and unnecessary programs and functions that should be terminated. In short, I believe that S. 2 and S. 600 will force the Congress to face and struggle with some of the problems and difficulties that would have otherwise plagued the public.

I believe that the basic questions which must be asked by the appropriate committee of any program or agency it is reviewing are:

First. Is this agency or program or regulation necessary?

Second. Can any part of this agency or program or regulation be eliminated?

Third. Is there any way that this agency or program or regulation can be made to be less burdensome on the public?

Fourth. Has the program or agency undergone a process of self-analysis in an effort to weed out unnecessary regulations or procedures?

With this type of sunset review I hope we can convince the public that Congress is doing something to cut the redtape and burdensome regulation and waste. I believe that if we pass S. 2 and S. 600 and properly execute the roles assigned us by these bills we will be well along the road of alleviating the overwhelming dissatisfaction and disenchantment reflected in the polls of the public's attitude toward the Government.

#### GOVERNMENT REGULATION THREATENS OUR FREEDOM

Mr. CURTIS. Mr. President, as we embark on the third century of our Nation's history, we find our Government has evolved into such a huge Federal bureaucracy that our future as a nation of free people is in jeopardy. The cost to taxpayers of maintaining the unwieldy, uncontrollable, unresponsive bureaucracy we now have could very well dwarf the oppressive wrongs which prompted the early American colonists to revolt against Great Britain.

I would like to cite a few examples of the oppressiveness and restrictions of Federal influences on the public. These come from my own files in recent months.

#### OSHA

The Occupational Safety and Health Administration spent \$293.3 million between April 1971 and July 1975, and its budget is growing more each year. But the budget of OSHA is only a fraction of the cost to business to comply with OSHA regulations. The costs of OSHA to American business is now running more than \$3 billion per year, and these costs are being passed on to consumers through higher prices. The costs to consumers and business will increase even further with the displacement of workers that results in many going on welfare rolls and of the tax rolls. The loss of busi-

nesses, especially small ones which are forced out of business by OSHA fines and tough enforcement, can stifle the economy of many small communities.

#### FPC

Delay in construction of the Gerald Gentleman Station powerplant in Nebraska is a prime example of how Federal regulation and redtape costs taxpayers many millions of dollars. Plans for the coal-fired plant, needed to meet the State's growing energy demands, were initiated in 1973. The Sierra Club, in November of the same year, filed a complaint with the Federal Power Commission on environmental grounds after a court suit and other attempts failed to halt the plant. The Nebraska Department of Environmental Quality had approved the powerplant construction plans as complying with State and Federal environmental quality standards. The EPA upheld the Nebraska State agency decision in this regard, and Federal courts also upheld the construction of the plant.

Yet the Sierra Club was able to have its complaint against the powerplant construction taken up by the FPC under the authority of the FPC over an original hydroelectric project built some 40 years ago. At the same time the Federal Power Commission agreed to process the claim of the Sierra Club, it refused to act on applications filed by the Nebraska Public Power District to amend the original hydroelectric project boundary to allow expeditious construction of the new plant.

Based on the Sierra Club complaint, the FPC issued a cease and desist order on any further construction of the plant. The FPC decision resulted in relocation of the plant facilities at a cost of \$9 million, and in further delay in the planned operation of the 650 megawatt plant for 1976. According to information supplied by the power district and the Midcontinent Area Power Pact of which the Nebraska Public Power District is a member, the Gerald Gentleman Station had been planned to meet power needs in 1977 to keep electrical shortages to a minimum in the Midwest.

As a result of the delays, brownouts and power shortages are forecast for the Great Plains States by 1978. Furthermore, annual additional expenses of \$38 million are forecast for the Nebraska Public Power District and the consumers of Nebraska to purchase the supplemental electricity that the delayed station would have otherwise been producing.

After 2 years the FPC granted approval for continuation of construction of the powerplant. But, that was after the citizens of Nebraska had been harnessed with additional debts and costs.

The irony of this case is that the FPC acted on an environmental complaint against the project and failed to recognize that it had met requirements of the Nebraska and Federal Environmental Protection agencies. This is an example of Federal overregulation that has cost consumers of one State alone more than \$100 million. In this instance, overlapping and duplication of Federal agencies and regulatory functions cost the taxpayers and citizens.

## ICC

A regional motor carrier purchased a smaller company about 5 years ago and received temporary approval from the Interstate Commerce Commission to continue operation of the small company's routes. The smaller firm served a large Nebraska city and several other communities, and was one of several motor carriers serving the area. The regional carrier was highly regarded in Nebraska for good service and the situation drew no complaints. But then the ICC directed the company to dispose of the routes formerly operated by the local carrier. That was another example of Federal regulation costing consumers by the restrictions on competition by the ICC.

## CAB

The Civil Aeronautics Board took more than 4 years to approve airline service proposals of several airlines for service between Omaha and Des Moines and other points east. For many years Omaha had been served by just one major airline, though several others had petitioned to add the city to their schedules for north-south and east-west service.

Such regulatory functions of the CAB added to the time, inconvenience, and costs for the public to travel to and from America's heartland. Clearly the CAB has functioned as a hindrance to competition and efficiency in airline travel.

## NLRB

The National Labor Relations Board in 1973 ignored the wishes of Wyoming miners and required that they be represented by the United Mine Workers of America. After many petitions and local disputes in which UMW employees from the East were brought into Wyoming, the local miners were allowed to hold a new election. They reinstated another labor group in place of the UMW. Yet during all that time, the desires, wishes, and rights of some 100 American workers were denied by an oppressive Federal agency through its regulatory stranglehold.

## EPA

The regulations and requirements of the Environmental Protection Agency are so voluminous, restrictive and complicated that virtually every Federal, State and local government, and many citizens, have been loaded down with ridiculous paperwork requirements.

In a central Nebraska newspaper editorial, the Federal regulations were questioned when an environmental impact statement was required for installation of crossing signals and gates at a rural highway intersection in the State. The editorial said that installation of the signals and gates had been delayed almost a year while the environmental impact statement was being prepared. The crossing guards were to be installed for safety, and it is beyond my comprehension how anyone could perceive an effect on the environment by the installation of two flashing red lights and gates at a railroad crossing.

I wonder at the wisdom of Federal regulations that cause heavy cost increases while appearing to be more concerned with railroad crossing signals disturbing quail roosting nearby, or flashing red

lights blinding sparrows in flight, than with the safety of human beings. The importance of the railroad crossing gates in providing safety for motorists seems to have been lost in the Federal regulatory scramble for ability to impose a new control somewhere.

Another example of the folly of EPA regulations occurred in Nebraska last year when a new highway bridge designed to replace an older bridge was delayed because of need for an environmental impact statement. The new bridge was located only 100 feet to the side of the older bridge. In reading the information in the environmental impact statement letter, I found that the study was concerned more with tree placements surrounding the bridges, than with relocation of the road.

## HEALTH

A General Accounting Office study recently reported that private insurers had processed medicare forms at less cost than the Federal Government was doing, and that the private insurers provided a speedier payoff time for claims. The September 30, 1975, study stated that the Social Security Administration was spending an average of \$12.39 in 1973 to process the same medicare hospital or nursing home bills that private insurers could process for \$6.45.

The study concluded that it took the Federal Government longer to pay medicare claims, with only about half of its incoming bills handled within 15 days. On the other hand, private firms averaged processing of 79 to 89 percent of bills in the first 15 days. The delays and inefficiency ultimately cost all Americans more because our tax dollars are paying higher costs of Federal Government processing.

## DOT

An irrigation district in Nebraska last year was directed to formulate an oil spill plan by the U.S. Coast Guard, even though in its environmental impact statement on construction of a small reservoir, the district said that motor craft will be prohibited from the reservoir. There was to be no oil drilling in or near the lake, and the small lake was well isolated from any commercial barge transportation streams. Yet the Coast Guard insisted on the ridiculous preparation of the oil spill plan. There is no telling how many thousands of dollars of taxpayers' money were poured into interpreting the useless plan by the Coast Guard or the Department of Transportation.

## SOCIAL SECURITY

I am appalled at the continuing amount of stories such as the one in the Washington Star last year which quoted medicare officials in the Social Security Administration as saying millions of dollars in public funds were being spent for needless equipment rentals. The medicare officials said, "They are powerless to stop it." To make matters worse, these officials whom we have hired to economically and efficiently administer the agency with public funds say they are not sure how much money has been mispent in this way.

Another article last year quoted Social

Security Commissioner James Cardwell, in a letter to the House Ways and Means Committee and the Senate Finance Committee on which I serve, as saying the federalized welfare program had overpaid clients by \$547 million in the last 2 years.

## HEW WASTE

A House Government Operations subcommittee last year charged that the Department of Health, Education, and Welfare risks "an unparalleled danger of enormous loss through fraud and program abuse" because the \$120-billion-a-year agency does not adequately investigate how its money is spent. Federal officials involved with another agency's welfare program also admitted they had a 15-percent rate of waste which they claimed was "as low as we can get."

Clearly from these examples, the American public is not getting its money's worth for the Government it is supporting. Conversely, the Government is not taking care of the people, and massive bureaucracy doesn't support freedom of the people.

## FISH AND WILDLIFE SERVICE

Mr. President, I saved what I consider to be the best example of Federal foolishness for the last. It is best in that it is the funniest, but also because it is the most ridiculous and most frightening example of the power the Federal Government holds over the citizens.

Last year I learned of an instance in my State of Nebraska involving two Federal agencies and concerning construction of a waste treatment system for the community of Henderson in central Nebraska. Henderson has a population of about 1,000 and it has outgrown its waste treatment system which was designed for a population of 500.

The community took all the steps necessary to qualify for a new waste treatment system under the grant program of the Environmental Protection Agency. About 2 years ago the total estimated cost of the project was \$108,000, but it had grown to more than \$281,000.

The project design met all the specifications of the EPA. It was approved by the EPA, the Nebraska Department of Health, and all other affected agencies. The first phase of the planning was completed. The second phase was about to be completed and approved by EPA when the project was stopped by the Fish and Wildlife Service. A representative of the Fish and Wildlife Service visited the community and discovered that the two lagoons to be built would have an environmental effect.

Now, the citizens of the community didn't deny that the new waste treatment system would have an effect on the environment. They knew that the new system would lessen the dangers that existed to the health of the community because the city had to bypass its present treatment system and dump the raw sewage into a draw the community owned for its sewage system. The people of Henderson knew that by containing all of the community's sewage in a proper treatment system they would remove the pollution of the city's system that was being bypassed into the draw.

But can you imagine that the Fish and Wildlife Service determined that the manmade pool of raw sewage created by the bypass of the community's sewage treatment system was a wetland that should be preserved? Yes, the Fish and Wildlife Service determined that the sewage pool constituted a wetland, and as such the community could not build a waste treatment system that would endanger that wetland.

Well, Mr. President, not believing that even some of our wildest eyed bureaucrats could be so stupid, I sent my field representative to the community to observe the situation firsthand.

The report I received from him confirmed the information I just shared with you here. The Fish and Wildlife Service declared the sewage area to be a wetland beneficial to wildlife, and because of its opposition to the already approved waste treatment system, the EPA concurred and went through a whole process to change the system.

Engineers were again called in, the plan was redrawn for the community's waste system, and the two lagoons of 12 and 14 acres were relocated and reduced to lagoons of 12 and 6 acres. The result is that the capacity of the system for effectively handling the sewage for Henderson was reduced from 15 to 7 years. At the same time one of the new lagoon sites would have required the relocation of a communications relay tower.

All of this created a delay in the construction of the community's waste treatment system. The project had more than doubled in cost. The health of the community was endangered through continual delay.

Here is a case of Federal agencies reducing the benefits of a project, adding to other disadvantages, and causing considerable extra economic effect on the community by higher costs. All to save a manmade sewage site as a wetland that, when the waste treatment site was constructed, probably would disappear anyway.

Mr. President, I personally visited the area myself last year, and can state that if the area in question was to be protected as a wetland, then I think every pigsty, cesspool, and waste treatment lagoon should be considered a wetland.

The community of Henderson was dumping raw sewage into the so-called wetland under a permit from the EPA until June of 1977. Indeed, the raw sewage is what made the so-called wetland in the first place. The community did not want to have to reduce or relocate its waste treatment system, and it wanted to have the health threat of the raw sewage site removed.

Yet the Federal Government acting through the Fish and Wildlife Service and Environmental Protection Agency said that the raw sewage site must be preserved as a wetland for fowl and wildlife.

I do not think the wildlife would have been dumb enough to have used such a sewage site. They are smarter than the Fish and Wildlife Service and the EPA.

Only after considerable pressure, numerous telephone calls, and visits to

the community by Federal officials from all over the country, were we able to get the Fish and Wildlife Service to withdraw its position. But, again it took thousands of dollars to combat the ridiculousness of an overgrown bureaucracy and its henchmen.

#### ECONOMIC IMPACT

Mr. President, most of the extensive Federal regulations have required additional personnel in Government and the private sector to handle the paperwork and reporting requirements. In the case of the Occupational Safety and Health Administration, regulations and requirements have increased costs for small businesses and farmers and in several instances have forced the bankruptcy and closing of small companies. In one instance, a small agricultural manufacturing company closed its doors after OSHA cited the firm for violations which would have cost about \$3,000 to rectify.

OSHA ignored the fact that the company had absorbed another firm which was in financial distress only shortly before the inspection and that it had but a short lease on the building under question.

The changes needed to comply with OSHA standards were economically impossible under terms of the lease. The community lost an industry vital to its economy, and lost employment opportunities for 12 persons.

While the Federal Government compounds regulation upon regulation, little attention is paid to the effects of these regulations on the citizens and the economy. I know of no effort by OSHA to determine or record the closings of businesses or losses of jobs as a result of the enforcement of its regulations.

There is one agency that has made an attempt to analyze the impact of its regulations on business, labor, and the economy. At least until recently the Environmental Protection Agency monitored effects of its regulations on the economy and reported its findings to the Secretary of Labor.

In a June, 1975 letter, EPA reported that for the period between January, 1971, and March, 1975, cumulative data showed that 108 manufacturing plants had job losses due to compliance with EPA requirements. The report said that actual job losses totalled 12,560 in 71 plants during that time. It states further that another 37 plants were threatened with closing or curtailments that would result in the unemployment or displacement of 33,850 workers.

Surely the impact of EPA regulations on business, labor and the economy is significant. Then, when we consider the effects of other Federal agencies such as the Occupational Safety and Health Administration, Federal Trade Commission, Federal Power Commission, Interstate Commerce Commission, and Civil Aeronautics Board, along with many other departments and bureaus, I believe it is plain to see that Government regulations are fast pricing the country into bankruptcy.

Of the 11 principal departments under the executive branch, many have overlapping jurisdictions. I continually hear from constituents who ask questions of

various Federal agencies, only to have their queries go unanswered or delayed for 6 months. There are 36 major independent agencies, bureaus, and administrations in the Federal organization, with hundreds of other minor and smaller agencies. Each has its own volumes and reams of regulations and requirements which directly and indirectly affect the economy in general and the availability of jobs, and which threaten our very free enterprise system.

Mr. TOWER. Mr. President, I note that a number of my colleagues have taken this opportunity to discuss a problem which has just about achieved the "household word" status here in this country—that is the need for effective regulatory reform. It is anticipated that we will shortly have an opportunity here in the Senate to consider certain reform measures that my colleagues on the Government Operations Committee have worked long and hard to devise. As I understand it, these measures will focus on efforts to revise the Federal regulatory structure, hopefully reducing wasteful duplication and inefficiency.

While structural changes are important, I am hopeful that the result of this effort will also be a more satisfactory method of exercising congressional oversight over the regulatory process. Each week I receive literally hundreds of letters from my constituents, complaining about the costly and unwarranted morass of Federal regulations. I would expect that my colleagues are receiving similar input, and I would sincerely hope that we can make some headway in reducing this insidious problem.

In some cases, of course, regulation is not only justified but is, in fact, necessary for the health and well-being of our citizens. But in other cases, even the best intentions cannot justify the absurd demands made upon the American people.

Congress has too little control over the regulations implementing the laws we pass. As a recent example, one sentence prohibiting discrimination against the handicapped spawned 26 pages of regulations. Congress had neither the time nor the opportunity to compare the details with our original intent. The ideals we legislate become a nightmare of specifics.

We have not only the regulations themselves to answer for, but we must also contend with the quality of interpretation filtering down to that last bureaucrat who puts them to work. In the final analysis, the original law is enforced by persons of varying intelligence experience, and sympathies. Reality may bear little resemblance to our intention. Let me give a couple of examples.

In the first case, the work of regulation bureaucrats will affect more than 66,000 students in 15 school districts in Texas alone.

In January of this year, HEW published in the Federal Register a proposed change in the implementing regulations of the Emergency School Aid Act. In publishing the proposed new amendment, HEW gave notice that it intended to restrict the eligibility criteria for ESAA assistance to majority/minority school districts. In addition, HEW also gave no-

tice that the Commissioner of Education would consider as qualifying plans only those which provided for the reassignment of children or faculty within the schools of a local education agency.

Mr. President, the purpose of emergency school aid funding is to provide financial assistance to schools in order to reduce minority group isolation among students and teachers and to help students overcome educational disadvantages. It was the intent of Congress to mold the broadest approach possible to the problem of segregation and discrimination in schools. Congress certainly did not intend to prohibit assistance when minority groups constituted a majority within a school district needing relief.

Mr. President, in my State's lower Rio Grande Valley, and in other States as well, there are school districts where no movement of students among the schools of a district is possible. The reason very simply is that no amount of movement will change the overall student enrollment percentages of racial or ethnic groups in such districts.

This dilemma for Texas school districts seeking assistance under ESAA was originally resolved in February 1973 by the Office of Education in region VI. It was resolved that a school district could become eligible for emergency school aid under an approved desegregation plan, even if there was no movement of students required, according to guidelines established in the Supreme Court decision dealing with student movement, *Swann against Charlotte Mecklenburg*. Consequently, as of February 1973, a number of my State's school districts, and certain districts in New Mexico and Oklahoma, too, have received ESAA funding on an annual basis under this revised interpretation.

However, as I have said earlier, regulation technicians in HEW moved again on January 21, 1977, to restrict severely the ESAA eligibility of school districts through an unnecessary and unjustified bureaucratic meddling. I invite my colleagues to note carefully that HEW has not yet officially rejected the February 1973 legal interpretation rendered by region VI, Dallas, on grounds that it has no legal standing; or officially declared that its new interpretation of January 21 is the "only" legally acceptable and mandated interpretation possible under the act.

The technical obstacle created for those school districts with atypical minority populations is not consistent with HEW's policy or position on equal educational opportunity, comprehensive educational planning, or the elimination of discrimination and segregation among and within the school districts of the Nation. I urge HEW to rectify the untenable position it has been placed in by its regulation technicians and withdraw immediately its new interpretation. If HEW is unable or unwilling to do that, I call on the Department to send a proper request to Congress for clarifying legislation to support under the authority of law the agency's action to narrow the scope of ESAA assistance.

My second example illustrates another type of distorted and counterproductive implementation of the law.

Last week, I received a letter from a very small school district in Texas. Two students had filed a complaint with HEW charging that the school district imposes discriminatory disciplinary sanctions against minority students. The two students had been suspended after what I assume was an exchange of blows with a teacher.

The regional office of civil rights swooped down on the school for an onsite investigation. After demanding an accounting of all disciplinary actions covering the previous 3 years, the investigating team determined that minority students were significantly higher recipients of suspensions and expulsions than nonminority students. The team immediately leaped to the conclusion that discipline was therefore discriminatory.

There were approximately 818 students enrolled in the District; 339 or 41 percent were minority students and approximately 479 or 59 percent were nonminority. During the 3 years studied, 16 students were suspended or expelled. Of this number, 15 or 94 percent were minority suspensions while 1 or 6 percent represented nonminority student suspensions.

No allowance at all was made for possible social or economic conditions that might have shed more light on the educational atmosphere and perhaps justified disciplinary policy. But let us consider what an absolute relation between the ethnic percentage enrolled and the ethnic percentage disciplined would have done to those statistics.

If a perfect ratio is to be maintained, only 6.5 of those minority students should have been disciplined, letting 9.5 get off scot free for whatever it was they did that evoked disapproval. Or legitimately to punish all 16 whose behavior may have been legitimately unacceptable, the school should have made sure that it also disciplined 23 nonminority students, even though only 1 had truly deserved it according to existing expectations.

Surely this must seem a little ludicrous by any standard. We cannot expect administrators or teachers to operate this way—according to a disciplinary quota system. Discipline therefore becomes meaningless.

Let me point out that school districts are not now required to keep the kind of disciplinary records that the Office of Civil Rights asked to examine. However, there is a regulation implementing title VI of the Civil Rights Act that allows investigators to demand such information to enforce the nondiscrimination provisions of that act. It is, therefore, wise for school districts to maintain such information as a defense—provided such information is defensive. For it to be defensive, teachers and administrators will have to think twice and check their statistics before disciplining a student.

Once the investigation team for this Texas school district had determined that discipline was discriminatory, a letter was sent from the regional office listing the requirements to be met if the district could not rebut the allegations. And this is where we get down to the interpretation of that last bureaucrat. The school district has been ordered to

report to the Office of Civil Rights every semester—in great detail—all of its disciplinary sanctions of any kind for 2 years. Those reports must even include accounts of the why's and wherefore's of student withdrawals.

In addition, those two students whose discipline brought the school to the attention of the Office of Civil Rights must be allowed back into school, and the school must provide a detailed description of a 2-year program designed to meet their individual educational needs towards graduation. Those students have it made; do they not? After all this, no teacher or administrator in his right mind would dare take them to task for future infractions.

The school has written to me for help. I must have my staff examine all the requirements—only a few of which I have discussed here—set by that individual in the regional Office of Civil Rights. Are they fair? Are they punitive or corrective? Do they conform with what Congress intended? Are there extenuating circumstances that the investigative team did not consider?

Obviously, I do not have the staff resources to make sure that the school district is being justly treated. None of us do. We only pass the laws. We have almost no control over the regulations and the regulators who enforce them. We are giving others too much authority not to be deeply concerned about injustices that may arise out of the free exercise of that authority—to say nothing of the confusion and delay and expense involved and the very quality of life we are changing. I think we have good reason to be alarmed, and I hope that there will be some substantial and positive result.

I believe it is incumbent upon this body to challenge the often mindless bureaucratic excesses that occur primarily because the regulation technicians and the enforcers enjoy an unrestrained latitude that results in conflicting and unwise policy. We must make a consistent effort to insure that the intent of the original law is not dissipated through the bureaucracy and that the law itself does not become destructive or a tool of harassment. We are going to have to start anticipating more of the details of lawmaking effect and make allowance for them in our committee reports and in our debate on the floor. It may mean fewer and more carefully constructed laws, but that would be a benefit in itself.

Mr. PACKWOOD. Mr. President, government regulation is a good thing. That statement, I am afraid, would attract few supporters. We have reached a point where the very term "government regulation" elicits exasperated cries from both the public and the regulated industries. How is it that Federal, State, and local governments have managed to almost universally alienate and dissatisfy both groups?

The original concept behind government regulation was certainly benevolent enough. Who else would intervene to protect the public in cases where an industry was engaging in deceptive practices, overcharging for essential services, unfairly using a monopolistic position, or not adequately protecting employees

from occupational hazards? Only Government had the authority, and the enforcement powers, necessary to check such activities. So, long before any of us were here, lawmakers at all levels began to exercise their discretion in this area. Utilities, transportation, and communication facilities were among the first groups to be affected. For the most part, the rules which were instituted proved beneficial to the public, while at the same time allowing business enough profit incentive to encourage innovation and responsiveness.

Slowly, however, in an attempt to provide protection from largely unavoidable and unintentional injuries, Government began stepping in more frequently. Regulation moved from the area of essential services to almost every type of business. Legal codes were developed to cover new industries almost as quickly as they appeared, and old ones were reregulated—always with new rules being added—until there were virtually no businesses left, regardless of size, which were not in some way covered by Government regulation.

In particular, it is the Federal Government that is viewed as the worst offender. Both the public and industry feel they have fallen under the control of a government run by commissions, councils, boards, and agencies. Every day the press reports new rules and regulations being promulgated by a mass of seemingly unreachable three letter bureaucracies: CAB, FAA, FCC, FPC, ICC, FTC, SEC, EPA, FDA, NRC, DEA, and so on.

Hopefully, this trend toward overregulation has begun to reverse itself. Over 30 bills have been introduced already this Congress which address the need for regulatory reform.

Many different approaches are being taken; some offer sunset clauses, and some call for congressional reapproval of all agencies and the rules they propose. But no matter what tack is chosen the legislation is aimed in the right direction. The regulatory reform which has been sorely needed for so long is finally gaining momentum.

Of particular note during this session are several bills which could have far reaching and beneficial effects. S. 263, which passed the Senate on June 10, as well as other recent legislation, has resulted in the statutory reevaluation of more than half a dozen boards and commissions with wide ranging powers. It is essential that such examinations take place on a regular basis if Congress is to be able to take any accounting of the many organizations it has created.

Also before Congress at this time are measures affecting the airline and broadcasting industries. Obviously, both these groups have a pervasive effect on the quality of life in this country, and should be closely analyzed to insure that government regulation is aiding and not hindering their ability to serve the public.

As far as the basic approach which regulatory reform should take is concerned, I would like to suggest the following guidelines.

Congress should not go too far in

attempting to protect people from themselves. We have too often taken the attitude that we know better than the general public what is good for them. Laws have been passed and agencies created which we may deem necessary, but which the people see as interference.

Congress must also be careful to see that regulations are not just promulgated in negative terms. Instead of simply preventing actions, we should be encouraging that which is beneficial. Protection is fine, but it must be accompanied by a progressive attitude so that people might begin to see Government as an ally instead of an enemy.

Another approach to regulatory reform which has seldom failed is to return more power to the States. Except in cases where it is essential that nationwide uniformity be maintained, I believe it is almost axiomatic that the States can do a better regulatory job. This notion can also be effectively carried to the State-local level.

Through a rational program of regulatory reform, government at all levels can become more effective and obtain a better image among the populace. The idea that regulation and progress are mutually exclusive must be eliminated. It is possible for the two to go hand in hand, but only if Congress continues the course we have already begun.

#### THE COSTS OF REGULATION TO CONSUMERS

Mr. LAXALT. Mr. President, the average American is beginning to realize that he is paying a heavy price for the benefits of Government regulation. As a taxpayer, he contributes to the support of a vast machinery of Federal agencies and a host of Government bureaucrats which exercise tremendous control over his life, property, and business, but over which he has no direct supervision. As a consumer, he perceives that regulation drives up the costs of the goods and services he needs and frequently creates shortages in essential products he uses.

Is Government regulation worth the price of these hidden taxes? What can be done to improve the operation of the regulatory system to cut direct and indirect costs and eliminate many problems for the public?

These are the issues which I will discuss briefly during this colloquy on regulatory reform.

Mr. President, I have seen numerous estimates of the actual costs of regulation to American consumers. The direct cost of Federal Government regulation of business hit \$2.9 billion in fiscal year 1976. Total expenditures in Federal regulatory activities in all areas of the economy amounted to over \$2.9 billion last year, and I have seen estimates that these costs could reach \$3.5 billion in the current fiscal year, a 21-percent increase.

The Federal Trade Commission found \$80 billion of waste in the American economy attributable to regulatory overkill. Perhaps a more meaningful figure is the \$130 billion direct and indirect costs to consumers estimated last year by the President's Council of Economic Advisers. This means that the average American family pays approximately \$2,000 each year for the full costs of

regulation; that is, the expense of supporting the Federal regulatory machinery plus the waste and high prices resulting from excessive regulation.

Estimates of the costs of ICC regulation alone vary from about \$4 billion to \$9 billion annually. One study indicated that various ICC rules banning backhauls and straight line routing waste up to 460 million gallons of fuel each year and contribute 150,000 tons of pollutants into the air we breathe.

The size of the bloated Washington bureaucracy is staggering. Prof. Murray Weidenbaum of Washington University's Center for the Study of American Business says that in 2 years employment in major Federal regulatory agencies rose from 55,000 to about 64,000. The Office of Management and Budget last year estimated that there are almost 101,000 Federal regulators at work. The total number of Federal agencies, according to GAO, has gone up from 77 to 102 in the past 10 years. This is a huge army of Federal bureaucrats living at the taxpayers' expense and a growing political force in our society.

No one knows for sure how many Federal regulations are now on the books or are issued each year, but it has to be in the hundreds of thousands. It took 45,000 pages of very small print in the Federal Register to publish the rules and regulations promulgated in 1974 alone. This once prompted former President Ford to remark:

I mourn for the trees that fell in American forests to make this exercise in government nagging possible.

Worse yet, these rules are cumbersome, complex, and obscure and are often written in very legal and bureaucratic jargon which is difficult for the average layman to understand, let alone comply with.

Let me cite a few examples of Government-regulated waste in the economy.

As a result of ICC regulations, along the main crosscountry interstate routes between Cleveland, Ohio, and Jacksonville, Fla., trucks roll along with trailers empty—even though shippers at both ends of the line would eagerly give them cargo. The truckers are permitted to haul freight one way only and must make the 1,000-mile return trip empty.

Or take the glaring examples of how the Civil Aeronautics Board increases consumer costs. A small airline operating only in Texas flies passengers between Dallas and Houston for as little as \$15 per trip. An interstate airline, meanwhile, operating under CAB authority, must charge \$31 for the same trip. A similar disparity exists in California on flights between San Francisco and Los Angeles. In both cases, the State-regulated airlines will charge lower fares, yet return comfortable profits.

A GAO report on the effects of environmental and land use regulations found that more than 6 billion board feet of mature timber in national forests dies every year because Federal rules prohibit its harvest.

Mandatory safety standards for power lawn mowers developed for the Consumer

Products Safety Commission could increase the costs to consumers of a \$100 lawn mower to \$186 and might put 25 manufacturers out of business, according to a Stanford Research Institute Study.

Let me cite another example involving the Consumer Products Safety Commission which also indicates the extent of the overkill in the Commission's approach to safeguarding consumers from potential hazards. In 1974 the CPSC filed a suit against a manufacturer of windshield-washer solvent. The Commission alleged that there were 1,494 containers of solvent which were without child-proof caps and were not labeled with the required statement, "Cannot be made non-poisonous." Instead of ordering the manufacturer to change the caps and add the necessary four words of bureaucratise on each of the bottles, the Commissioners ordered that each and every one of the 1,494 containers of windshield washing material be destroyed, thereby contributing to the Nation's pollution problem. The effect of this stupid decision is that motorists who use that kind of solvent in their cars wind up paying the higher price that results from this federally mandated waste.

A tire quality grading system being developed by the National Highway Traffic Safety Administration could cost consumers as much as \$150 million a year, and yet be too confusing to be of use to tire buyers, according to a report issued by the Rubber Manufacturers Association.

Three different Federal regulatory agencies have begun to collect internal data on the activities and methods of large businesses. Such disclosures could ultimately damage the public interest and virtually destroy some firms economically. The FTC, for instance, proposes to collect and reveal publicly "line of business" data on sales, profits and product lines from 345 of the Nation's biggest manufacturers. These firms have asserted that the costs of providing the Commission such information would average \$548,000 per company, a cost that ultimately would be passed on to the consumers.

An Alexandria, Va., trucking contractor who specializes in hauling heavy machinery has tried for 3 years to obtain a permit to contract with the steel fabricator. His application to enter the market was challenged by six other truckers who already had the authority to operate over substantially the same routes. The ICC upheld the existing carriers, thereby keeping a bona fide competitor out of the marketplace.

As a member of the Senate Energy and Natural Resources Committee, I have been increasingly concerned by the effects of Federal regulation in the energy field. In my opinion, Government interference in the free market has contributed substantially to our Nation's energy crisis.

For instance, controls on the price of oil have discouraged domestic production and thereby increased America's dependence on costly foreign oil at a time when we should encourage energy self-sufficiency. Similarly, EPA's environmental standards have delayed the de-

velopment of alternate sources of energy and have exacerbated the shortage of electricity and power in many areas of the country.

It would appear that too often consumer preferences are simply ignored by the regulatory guardians of the public welfare. One of the most notorious indications of this is in the area of automotive safety and pollution control. The mandatory seatbelt-interlock system tured out to be a nuisance imposed by Government which the consumers didn't want and yet were obliged to pay for. Only a massive public outcry resulted in its elimination by Congress from the automobile.

Or look at the catalytic converter which the environmentalists so ardently championed as a means of controlling the automobile emissions. After requiring that the auto industry adopt this costly improvement, the Environmental Protection Agency discovered that the device can actually contribute to air pollution by releasing platinum and sulphuric acid mist into the air. To make matters worse, the EPA is now spending \$6 million to study the adverse environmental impact of its own hasty decision.

As a result of such regulation, Professor Weidenbaum calculated that federally mandated costs increased the price of 1974 passenger cars on an average of \$320 a car. Given the 9 million new car purchases for that year, the total cost of Government-imposed price increases was \$3 billion.

Mr. President, these are but a few of the many "horror stories" I have seen about how Government overregulation imposes "hidden taxes" on consumers. I am sure we will hear other examples this morning. Fortunately, there is a growing awareness among the American people that Government regulation results in harmful economic and social costs. The cost to taxpayers has become so high that consumers are beginning to demand action. Our economic problems and the energy crisis have helped to focus public attention on all forms of Government waste, and clearly Government regulation is one of the major sources of waste in America today.

Unfortunately, Government has grown too fast in too short a time. The Congress had added agencies upon agencies, programs upon programs, and regulations upon regulations so rapidly that they have not had a chance to follow through and consider the results. Moreover, the bureaucracy within the agencies have built their own constituencies and it has become very difficult to get rid of unnecessary agencies, expensive programs, and costly and outmoded regulations.

Fortunately, Mr. President, taxpayers and consumers, liberals as well as conservatives, are demanding regulatory reform. The debate has now begun to focus on the means for achieving such reform.

Mr. President, I offer no magic formulas for reducing regulatory costs. I would suggest, however, that consumers should have a stronger voice in the regulatory process. What is needed is not an Agency for Consumer Advocacy or another layer of bureaucracy to represent one class of

consumer at the expense of all others. Consumers neither want nor need another Government bureau to define and protect their interests. A better approach would be to insure that the people's elected representatives exercise greater control and supervision over Federal regulatory agencies.

One way to improve congressional oversight is to have the Congress review and approve major regulations proposed by Government agencies before they can be put into effect. At a minimum, we should demand that the regulators move cautiously, consider the impact of their activities, and prove to Congress that the benefits of regulations they propose exceed the cost to consumers. My colleagues may prefer alternative approaches. The important thing is that we recognize that Government regulation yields costs as well as benefits, that those costs often outweigh projected benefits, that the agencies and the Congress should know what these costs are likely to be, and that the Congress must take positive and responsible action to reform the regulatory system in order to reduce the costs to consumers.

Mr. President, I appreciate the opportunity to participate in this discussion. As a Republican who has long advocated an end to Federal overregulation of American industry, I sincerely hope that this colloquy will lead to meaningful, positive regulatory reform. I shall certainly support strong Republican and Democratic legislative efforts to that end.

Mr. ROTH. Mr. President, I am pleased to join my Republican colleagues in once again calling attention to the need for effective legislative reform.

Our Republican Party has always stood for a minimum of governmental interference in the private lives of Americans—whether in their business or in their personal lives.

Today overregulation by Government is strangling our free enterprise economy, inflating the prices we pay for goods and services, wasting literally millions of hours of our time each year, and intruding in a major way on our freedom as individuals.

The General Accounting Office estimates the cost of Government regulation at more than \$1,000 per family annually. Federal paperwork alone costs more than \$40 billion a year.

But no dollar figure can be placed on the real cost to our society. We cannot measure in dollars and cents the cost of the frustration each American feels when he is confronted with confusing, incomprehensible, and burdensome forms—such as his Federal income tax form. Or the cost to our way of life of the small businessman who is forced out of business because he does not have the resources the large corporation has to cope with Government regulation. Or the small entrepreneur or inventor who finds that some Government regulation or other prevents him from even making a start.

Unless checked, overregulation can destroy our reputation as a land of opportunity.

Today polls show that many people regard excessive Government regulation

as a greater problem than even taxes or inflation.

Over regulation is not easily susceptible to legislative solution because so much of the problem lies with the huge Federal bureaucracy. Our executive agencies have become a sprawling fourth branch of Government with an enormous capacity to affect our lives, but without direct accountability to the American electorate.

Each year these departments and agencies grind out more than 10,000 new rules and regulations, many of them absurdly complex and incomprehensible to the average citizen.

An individual seeking a Federal contract for mousetraps, for example, must wade through and comply with a 120,000-word product specification. The Interstate Commerce Commission has more than a trillion rates on file which tell truckers how much they can charge to carry different kinds of products between different locations. The list goes on and on.

While those at the top of the bureaucracy are often appointed by the President and subject to removal, the bulk of the agencies work is done by officials farther down the line who are entrenched in their positions and subject to little Presidential, congressional, or public scrutiny. In practice, as former Congresswoman Edith Green recently wrote, "the regulations and guidelines are issued, the laws are interpreted, the contracts are let by third, fourth, and seventh-ranking officials who too often are immune to constituency complaints."

Legislation may help. But there is also something more that no legislation can accomplish. That something is a new ethos in our Federal bureaucracy, a fresh reminder that our Government officials are supposed to be the servants, not the masters of the people. We have many Federal officials who are also disturbed by the power of the agencies, by the inconsistency of many Government regulations and rulings; and by the growing gap between Washington and the rest of the country.

I strongly believe that what will give people confidence in their Government is performance. The Congress, working with the President and with those in the Federal agencies who want change, can make government simpler, more effective, and more responsive to the people. At the same time, we will be restoring our freedom to shape our own lives and fortunes, free of the burden of excessive Government regulation.

Mr. DOLE. Mr. President, the claim that regulatory agencies were created to serve and protect the public interest is no longer a valid statement. It hasn't been for quite some time.

Currently, Government regulation has become all-encompassing and pervasive, but is serving smaller and smaller sections of the population at a tremendous cost to all. There is, without a doubt, an overwhelming public demand for regulatory reform.

Throughout my campaign travel I had the opportunity to talk with many people about many issues. One of the major

topics of interest and concern was the need for regulatory reform. These comments came from farmers, bankers, students, construction workers, school teachers—all expressing concern for too much Government intervention.

The point that has been clearly made by the American people regarding Government regulation is that it has a definite expensive price tag. Cost incurred by Government intervention are passed on to consumers in the form of higher prices for goods and services.

Between 1970 and 1975 spending by major social regulatory agencies more than tripled. During the same period spending by major economic regulatory agencies jumped from \$166 million to \$428 million. Without a doubt, this is an alarming trend.

I am convinced that the taxpayer is demanding, and rightfully so, the Federal Government be just as thrifty with their tax dollars as taxpayers are with the take-home portion of their paychecks.

The time is right for reform. Both the administration and Congress seem to agree that the subject is appropriate for serious action.

I further believe that Congress is in the best position to begin this movement toward less but more effective Government. I believe it is incumbent on us, as representatives of the public, to uphold this responsibility.

#### PUBLIC FINANCING OF SENATE ELECTIONS

The PRESIDING OFFICER (Mr. ANDERSON). Under the previous order, the hour of 1 p.m. having arrived, the Senate will now resume consideration of S. 926, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (S. 926) to provide for the public financing of primary and general elections for the U.S. Senate.

The Senate resumed the consideration of the bill.

#### AMENDMENT NO. 570

The PRESIDING OFFICER. The pending question is on agreeing to amendment No. 570, on which there shall be 30 minutes debate, to be equally divided and controlled by the Senator from Oregon (Mr. HATFIELD) and the Senator from Nevada (Mr. CANNON), and with the vote thereon following at 1:30 p.m.

Who yields time?

Mr. HATFIELD. Mr. President, I yield myself sufficient time to cover my remarks.

Mr. President, the central issue facing the Senate this afternoon is whether the sponsors of S. 926 are really serious about campaign reform. The vote we will soon have on my amendment to reinstate, and I want to emphasize to reinstate, primaries into the public financing bill will be a test of their sincerity and consistency on this issue. My amendment is an opportunity for the sponsors and other supporters of S. 926 to affirm the courage of their convictions. If they think that public financing is a real reform, and

not a public relations gimmick, then surely they will wish to extend it to all Senate elections.

I might state again that this was originally in one of the first of the bills of public financing; that is, the primaries were included.

I must emphasize, Mr. President, that it was the sponsors of S. 926, and not its opponents, who moved in committee to delete primaries from this bill. In the committee debate, the Senator from Iowa offered three reasons for this curious step. Let us analyze their weak justifications.

First, the Senator claimed:

The fact of the matter is that there are more problems with primary elections than with general elections in many different ways.

That is surely a fuzzy rationale. And I must ask the Senator why the same reasoning does not apply to Presidential public financing, a system the sponsors have loudly praised in this Chamber. We are told that the alleged success of Presidential public financing is reason enough to adopt a similar framework for Senate races. If that is correct, then let us truly follow the Presidential model, and let us fund primary campaigns for Senators, just as we finance primary campaigns for the Presidential elections. Consistency demands we do no less.

Further along in the committee debate, the Senator argued:

The House of Representatives is not giving serious consideration to Primary elections—and I think it would probably be inappropriate if the Senate were to adopt public financing of primaries and not the House of Representatives.

The Senator thus claims that we must follow the lead of the House in these matters.

I believe it is contrary to the traditions and integrity of the Senate to take a backseat to the House, so I reject that conclusion. In my view, Mr. President, what the House might eventually do regarding its own public financing scheme is, at this point, immaterial to the Senate. As the Senator from Iowa knows, the two Houses of Congress often disagree and, for that reason, a conference committee mechanism has been established. That is the time and place to compromise our convictions if we must, but to do so now is premature.

No Mr. President, speculation on what the House might do cannot be an excuse to ban primaries from this bill. The sponsors have told us that comity dictates we cannot consider public financing for House races in this legislation. If comity is so meaningful, then surely the House will allow us to design our own system of public financing for Senate campaigns. If we think primaries must be included, comity will dictate that the House will let us have them. So, Mr. President, the House may well not dissent from this bill. We have a right to go forward with a comprehensive package. Should the House disagree, then we can worry about working out our differences at the conference committee level.

Finally, Mr. President, the Senator contended in committee that:

There is concern over whether there will be enough money in the checkoff fund to cover primary elections at this time.

In addressing the Senate on Monday, the Senator from Massachusetts, one of the proponents of the bill, argued that public financing dollars are a small price to pay for the cleanup of our political system. I personally think that even one tax dollar for this is a dollar down the drain, but if the sponsors are right on this point, then we must leave no stone unturned.

The sponsors understand the importance of primaries in the electoral system. They know that private money contributed in primaries buys just as much or just as little influence as that given in general election, according to their rationale. Surely, they would agree that the increment of funds needed to insure the integrity of primaries is a small enough price to pay in tax dollars.

It is abundantly clear, Mr. President, that the reasons offered by those who would delete primaries from this bill simply do not wash. The sponsors' action to this effect in committee was not really grounded in any of these reasons, but instead was a clear question of political expediency. They have thus brought us a prostituted bill which cures none of the problems they claim need reform.

I will take the Senator from Iowa at his word. He is a man of great integrity. In committee, he stated:

I have always supported public financing for both primary and general elections—I believe strongly in them:

The Senator and his colleagues who support this bill now have their chance to demonstrate consistency and conviction rather than expediency. If they mean what they say about S. 926, they will vote for my amendment.

May I add, Mr. President, that even if the amendment passes, I will continue to oppose S. 926. Let the record be clear. My disagreements with the basic tenets undergirding the bill are too fundamental for me to do otherwise. But, if this amendment succeeds, at least the Senate will have before it a measure that is logically consistent and comprehensive. If the amendment fails, the sponsors will show that their true concern is for political convenience and partisan expediency, and not for genuine campaign reform.

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

The PRESIDING OFFICER. Who yields time?

Mr. CANNON. Mr. President, I yield 7 minutes to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized for 7 minutes.

Mr. CLARK. Mr. President, one of the ironies of the debate on this particular amendment, as I am sure the Senator from Oregon will agree, is that the proponents of this amendment do not believe in public financing and, yet, are extending it to primary elections, while the opponents of the amendment believe in public financing but are going to oppose it for primary elections. I believe it is a very interesting and unique situa-

tion because, as the Senator from Oregon has pointed out very clearly, those of us who sponsored the legislation believed strongly in public financing of primary elections as well as general elections.

The fact of the matter is that we wrote such a provision in the bill. We wrote similar legislation, with I think all of the same sponsors, in 1974, and passed it in the Senate. So the Senator is quite correct in saying that the proponents of this measure are very strong supporters of public financing of primary elections, and remain so.

Again, as the Senator from Oregon has accurately said, in the committee I moved to strike primary elections, and I did it for the very reasons the Senator has suggested: First of all, because we know very well that if primary elections stay in this bill and go to the House, we will have no bill at all.

I do not think it is accidental that the proponents of this amendment are offering an amendment that they know will kill the bill. That is very clear. Furthermore, it is quite right to say that with the checkoff funds we have provided for, it is clear we will not have enough funding as far as primary elections are concerned, and that would also kill the bill.

So I in no sense back away from the idea that it would be good to have primary elections included, just as in Presidential elections. It would be very good. But I find it, again, not very compelling that the proponents of the amendment say that if this amendment passes and we get primary elections included, they will not vote for the bill either. Obviously they will not. Obviously they want to have primary elections included because they are confident that it would kill the bill.

I do not understand the argument at all that public financing of elections is a bad idea, bad for a number of reasons, and at the same time the proponents of this amendment want to extend it from general elections to primary elections. If indeed it is a bad idea, why would the proponents of this amendment want to extend it to primary elections? We have heard the proponents of the amendment over and over again say this is a raid on the Treasury. But this particular proposal would increase the cost of this measure by probably double, according to the estimates of the FEC by an additional \$10.5 million to \$17.5 million, by extending it to primary elections. Is that a raid on the Treasury, from their point of view?

It does not seem to me there is any great inconsistency in the proponents of this measure arguing, "We would like to have primary elections, but are prepared to take half a loaf rather than none." That is what it finally comes down to: Are we prepared to have public financing of general elections in the hope that we can extend it to primary elections at a later period, when we are confident we have money in the fund and can get it enacted?

There have been many cases on this floor when we have been prepared to take less than we would like, in the hope of

getting a bill. We are prepared to take half a loaf in this case.

I think it is strange that most of the proponents of this amendment have gone on record as saying they are opposed to any public financing, and that most of the proponents of the amendment voted against general election and primary election public financing in 1974. That ought to tell us something about whether the proponents of this amendment really wanting public financing of primary elections.

With the elimination of the coverage of primaries, the issue is clearly drawn, in the way most Members see it: Namely, are we going to move toward a system of public financing of elections by adopting, as a first step, the public financing of general elections? That is really the issue.

The plain fact is that most of the proponents of this amendment have no interest at all in public financing of any election at any level. They have stated on this floor all week long that clear fact. They prefer the status quo, where incumbents dominate and the special interests foot the bill.

Mr. President, primary elections will have to be covered eventually, in my judgment. As the Senator from Oregon has clearly indicated, primaries are a critical part of our political process. But I believe that the case for covering primaries will be stronger once we show that public financing can work and will work in general election campaigns. For that reason, I certainly urge my colleagues to support this idea of trying it in general elections, with the clear idea of going ahead, then, in primary elections at a future point.

Mr. President, I yield back the remainder of my time to the manager of the bill.

Mr. HATFIELD. Mr. President, I yield myself 2 minutes.

Mr. President, the statement of the Senator from Iowa compounds the curiosity that I already had about this whole procedure. We have a very interesting demonstration now. First of all, we have introduced a separate bill to deal with our own financing. The House has not even acted on their bill, or reported it out of committee. Now we hear we are only going to get half a loaf. I would like to know what kind of assurances or commitments have been made that the House of Representatives will not accept this amendment, when the House has not even acted on its bill. I do not understand how we could cave in on primary financing now in hopes of getting part of a loaf, before we even know what the other half is. The House has not enacted 'ts half a loaf.

I have often heard it said, on the floor of the Senate, "Let us enact our bill on this floor, and then we can compromise it out in conference, because we want as much as possible to compromise with the House committee." But here we say, "Let us compromise, and cave in before we know what the House position is."

Mr. DOLE. Mr. President, will the Senator yield for one quick question?

Mr. HATFIELD. I yield for one question.

Mr. DOLE. For someone who is opposed to public financing generally, as the Senator from Iowa charges, would it be consistent to vote for the Senator's amendment? At least then it would be indicated that we are not voting for an incumbent bill, if this amendment passes.

Mr. HATFIELD. Yes; the suspicion would be eliminated that it is an incumbent bill, if for no other reason than because the southern Democrats would not support it.

Mr. DOLE. If the primary is included, at least those of us who are incumbents might have more competition; is that not correct?

Mr. HATFIELD. Exactly. Exactly.

Mr. DOLE. That is another reason why it might be supported on the other side.

Mr. HATFIELD. Exactly, on the basis as we established it in the Presidential Public Financing Act, by helping fund one's opponents.

Mr. DOLE. I am opposed to big honoraria in any event, but I think this amendment is consistent and makes a great deal of sense.

Mr. HATFIELD. I thank the Senator.

Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator has 2 minutes.

UP AMENDMENT NO. 702

Mr. HATFIELD. Mr. President, I have two technical amendments. I ask unanimous consent to further modify my amendment by adding the words "or his" after the word "campaign" on page 5, line 21 of my amendment.

This modification is only of a technical nature. With it, if my amendment is accepted by the Senate, then page 32, line 17, will read as follows:

In his primary election campaign or his general election campaign.

The same is true as to the second unanimous consent request for a second technical amendment.

The PRESIDING OFFICER. Without objection, the amendment will be so modified.

The modification is as follows:

On page 25, line 25, of S. 926 will read as follows: "For his primary 'or' general election campaign"

On page 32, line 17, of S. 926 will read as follows: "For use in his primary election campaign 'or his' general election campaign"

Mr. HATFIELD. I yield 1 minute to the Senator from New Mexico.

Mr. SCHMITT. I thank the Senator.

Mr. President, I would add just a comment on why the opponents of public financing, of whom I am one, would feel this amendment is appropriate at this time.

I think the basic thing comes down to the question that public financing is a bad idea that is made worse by excluding the primary. We hope we will be able to defeat this bill, but if the bill should pass, there is no question in my mind but that it must include primaries.

By excluding primaries, special interests will be greatly encouraged to apply their efforts to primary elections, and there will also be, I believe, a strong trend, with primary elections dominated by the sitting Senator, to move primary

elections closer and closer to the general election, so that any challenger who might appear will have an increasingly difficult time beating an incumbent because of the time remaining between the primary and the general election becoming increasingly short.

I think we are going to see special interests, if the bill is passed, rise in their influence on the general elections, but particularly on the primary elections, and I would urge the adoption of the amendment.

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

Mr. CLARK. Mr. President, I must say, I am surprised, having heard the debate of the Senator from Kansas yesterday about this being a major honoraria, that public financing was a terrible thing, and again today that he is opposed to public financing.

The Senator from Kansas certainly participated in that process. Last year, something like \$21 million went to the Ford-Dole campaign. I never heard any rejection of that as a major giveaway, an honorarium, to the Senator from Kansas. He must know it was optional, that the Ford-Dole ticket did not have to take what he describes as this major honorarium. Does he interpret the decision by the Ford-Dole ticket to take public financing as an incorrect one, or does he interpret it to be a question of it being a major \$21 million honorarium for the Ford-Dole ticket?

Mr. DOLE. I might say that decision was made before they even decided about me. That was made, of course, early in the year. I would say there is some advantage not having to raise money. I do not deny that. I suggest we are now launching into a whole new area, not just the Presidential race, but all of us, and then the House Members, then Governors, then State legislators, then county sheriffs. We will be owned by the Government sooner or later. That is the point the Senator objects to. I have referred to this as a big honorarium and it would be, a quarter million dollars.

Mr. CLARK. It would be in the Presidential as well as the senatorial campaigns, is that correct?

Mr. DOLE. That is correct.

Mr. KENNEDY. Will the Senator yield?

Mr. CANNON. I yield 3 minutes.

Mr. KENNEDY. Mr. President, the proposal by Senator HATFIELD to extend the public financing provisions of S. 926 to Senate primary elections is the right idea but it comes at the wrong time, and I hope the amendment will be defeated by the Senate.

The present posture of the debate is not without its obvious ironies. S. 926 contains far-reaching proposals for public financing of Senate general elections. Supporters of public financing and election reform are in the unusual present position of opposing the extension of public financing to primaries. Die-hard opponents of public financing and election reform are in the position of vigorously promoting the extension of S. 926 to Senate primaries—although supporters of S. 926 may be forgiven for feeling that the current amendment is a

Trojan horse intended to make the overall bill impassable.

There are a number of reasons for our opposition to the pending amendment.

First. Precedent versus the reaction of the House of Representatives:

I believe it is fair to say that all of us who are the chief sponsors of S. 926 would favor in principle the use of public financing for Senate primaries as well as Senate general elections. As we originally introduced S. 926 last March, the bill would include Senate primaries, too. Twice before, in 1973 and 1974, the full Senate has voted for coverage of Senate primaries as part of comprehensive public financing legislation, only to see the entire concept rejected by the House of Representatives for all congressional elections—both primary and general.

Although Congressman Wayne Hays, the chief antagonist of congressional public financing in the past, is no longer leading the House opposition, there is scant evidence that public financing of congressional primaries would fare any better in 1977 than it did in 1974 or 1973. The principal House bill contemplates public financing only for congressional general elections. That bill itself represents major progress over the previous House position. Time is short. A Senate effort to push public financing of congressional primaries might well become a pyrrhic victory—winning on the Senate floor, but defeating the whole legislation in the ensuing controversy with the House, and thereby prohibiting the application of public financing to the 1978 congressional general elections.

In other words, a push now for public financing of primaries would be a clear case of the "best as the enemy of the good." S. 926 is a good bill. It deserves to be enacted in time for the 1978 elections, without regret over the decision to omit coverage of primaries at this time.

Second. Cost:

Given the present status of the dollar checkoff funds, it would not be possible to extend public financing to congressional primaries without providing an additional source of funds to cover the primary races.

According to FEC estimates, an additional \$23 to \$36 million would be required to provide the public funds needed if Senate primaries are to be covered in the 1978 and 1980 elections. A similar amount, if not more, would be required to cover House primaries. Thus, the total cost of public financing for congressional primaries would be about \$50 to \$75 million in additional public funds.

These additional funds would almost certainly not be available under the dollar checkoff in its present form, according to current projections of likely future receipts from the checkoff. One of the major advantages of S. 926 is that the existing checkoff will be adequate to fund Senate and House general elections in 1978 and 1980, in addition to meeting the needs of the 1980 Presidential campaign. No new source of funds will be required under S. 926.

If primaries are added to the bill, however, an additional source of funds will be needed. There are two possible sources of such funds—either general appropria-

tions or an increase in the dollar check-off. But both of these alternatives are highly controversial, as the proponents of the pending amendment are well aware. It is curious, to say the least, that they are proposing this amendment without also proposing a way to pay for it.

Third. Administrative burden on the Federal Election Commission:

An additional source of the reluctance to extend public financing to congressional primary elections at this time is the obvious additional administrative burden that will be imposed on the Federal Election Commission to implement such public financing.

It will be challenge enough for the FEC to monitor public financing in the 33 Senate races and the 435 House races in the 1978 general elections, with two or more candidates likely in each race. The additional administrative burden of monitoring public financing for congressional primaries, with the possibility of multiple candidates in many States and congressional districts, could well be too much for the FEC to handle all at once.

Fourth. The benefits of experience and a gradual approach:

In the Election Reform Act of 1974, congressional public financing coverage was deleted partly for the reason that many Members of the House of Representatives preferred to wait and see how well public financing worked in the 1976 Presidential elections. We know now that public financing passed this test of experience with flying colors. It worked extremely well in the 1976 Presidential elections, and that successful experience has been a major factor in the new impetus in the present Congress to extend public financing to general elections.

The logic of the past argument has a certain merit in the present case. Given the cost and other factors mitigating against the immediate extension of public financing for congressional primaries, it is appropriate to defer action in this area, until we learn the results of public financing for congressional general elections in the 1978 Senate and House races.

I am confident that the successful application of public financing to Senate and House general elections in 1978 will enhance the prospects of public financing for Senate and House primary elections in 1980. As we have done so often in the past, we shall return again and again to the issue, until this long overdue reform has been achieved, and we have cleaned our own houses and ended the abuses that undermine public confidence in our congressional elections.

It is a fair question that the Senator from Oregon asks those who are sponsoring this legislation about the support in the past for public financing of primaries for the U.S. Senate. History, logic, and principle would argue in favor of it. If we look back to other times that the Senate has considered this issue, we will find those who were the primary sponsors of this legislation supported public financing of primaries in 1973 and 1974, when we were facing arguments in opposition to public financing.

To summarize again, there are, basically, several major reasons why we

do not support the amendment at this time. But I think the cost issue is the most obvious point. As has been pointed out by the Senator from Iowa, cost is a factor. Those who support the amendment of the Senator from Oregon are apparently not willing to pay for it. They do not ask the Treasury to provide the direct appropriations needed to fund the primary as well as the general election. I doubt very much that we would get any favorable consideration from them of that way of funding the primaries.

If we went to the Senate and said, "Let us alter and change the \$1 checkoff to a \$2 checkoff to make up the difference," I do not hear any indication from the sponsors of this amendment that they would agree.

What we would be doing is adding an immense amount of confusion to the limited resources we have. Cost is an important factor. If we do not have a direct appropriation or an increase in the checkoff, we will not be able to fund it.

Another major objection to the amendment is the legitimate concern of those who are worried about the administrative burden on the FEC. The Commission did face some administrative problems during the Presidential election. That was partly because the Supreme Court's decision in the *Valeo* case came in the midst of that Presidential campaign. Requiring them to review the requirements of 33 Members of the Senate and 435 Members of the House in general elections is burden enough. It would be too much to add primaries as well.

It seems to us that, attempting to be responsible, we should take the issue step by step. Having taken a major step in 1974 in terms of the Presidential campaign, it is entirely appropriate, to say we will take the next step in terms of Senate general elections now, and wait until the next opportunity to act on primary elections.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. CANNON. Mr. President, I rise in opposition to the amendment offered by the distinguished Senator from Oregon which would provide for public financing of Senate primary elections. It is certainly an unusual proposal from such a strong opponent of the concept of public financing as my colleague from Oregon who, I recall, opposed the enactment of public financing of Presidential elections, and has opposed its extension to congressional elections in the past.

Mr. President, the question of financing of primary elections was before the committee during its consideration of S. 926. At that time, the committee decided, on a rollcall vote of 6 to 3, to delete primaries from the bill and recommended that the Senate extend the principle of public financing at this time to Senate general elections alone.

I note for the record that the first time the Senate passed a congressional public financing bill, on November 27, 1973, it provided only for the financing of general election campaigns. Upon consideration of the issue, the committee decided it was advisable to defer the

question of possible application of public financing to primary elections to a later date, after the Congress and the Federal Election Commission have both had an opportunity to review its operation during the general elections of 1978.

Public financing of the Presidential elections involved the funding of 15 Presidential primary candidates, the two major political parties for their conventions, and the two nominees of the major parties in the general election. As Senate general elections alone will require the Federal Election Commission to certify funds and audit the campaign accounts for approximately 66 candidates, over three times the number in the Presidential elections, the committee felt that a gradual, step-by-step extension of public financing would help assure its successful administrative implementation by the Commission. Adoption of the pending amendment would result in an estimated 108 additional Senate primary candidates, not to mention the number of House candidates, in the event public financing were to be extended to House primaries. Consequently, adoption of the proposed amendment would, in my opinion, greatly impede the initial administration of the bill.

In addition to assuring the successful administrative implementation of Senate public financing, deferring application of the bill to primaries would result in substantial cost savings. The Commission estimated that financing of Senate primaries under the formula presented in this amendment would require paying out an additional \$10.5 million to \$17.5 million from the checkoff fund in 1978. This would reduce the estimated surplus in the tax checkoff fund at the end of 1980, after financing Presidential and Senate races alone, from a projected range of \$53.4 million to \$46 million down to a range of \$30.3 million to \$11.4 million. Additional administrative costs for the FEC over a 2-year period would amount to \$946,000, based on Commission estimates.

It is clear, Mr. President, that substantial administrative cost benefits would accrue by implementing public financing for Senate elections on a graduated basis. Deferral of primary financing will thus help assure that the financing of Federal elections can be maintained from funds designated by citizens to the Presidential Election Campaign Fund, without having to either increase the amount permitted to be designated to that fund or reduce the funds which could be available to candidates. I would therefore urge my colleagues to vote against this amendment.

Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator has 1 minute remaining.

Mr. CANNON. Mr. President, if no one desires additional time—

Mr. GRIFFIN. Mr. President, will the Senator yield 1 minute?

Mr. CANNON. I yield 1 minute.

Mr. GRIFFIN. Mr. President, I received a letter, as I believe most Senators did, from the chairlady of the National

Women's Political Caucus, Audrey Rowe Colom and Carol Randles, director of the Women's Campaign Fund. These ladies are representing the American Coalition of Women's Organizations, which is for public financing. Their letter, in general, urges support for it. This very interesting and important paragraph, however, I believe should be noted:

We would remind you that if public financing applies only to the general election, it is ultimately an ineffective means of equalizing opportunities and access. It is in the primary that women and other underrepresented groups face the most difficult obstacles in public office.

Mr. President, it is obvious that their interest and their rights have been sold out in what is going to happen in a few minutes in order to pick up some votes from Southern Democrats to pass this bill.

Mr. SCHWEIKER. Mr. President, I rise in strong support of the amendment of the Senator from Oregon.

I have believed that the right kind of public financing could make significant improvements in the conduct of our elections by reducing the impact of big money and special interest money, and by giving our people fairer and better informed choices.

But it is vitally important that the public financing bill we enact is the right one. If we enact a bad bill, the best we can hope for is that the idea of public financing will be discredited and the law repealed after one or two elections. The worst that can happen is that the law will favor one group over another, or will entrench incumbents, or will otherwise warp the electoral process in a way that the incumbent party is happy to make it permanent.

Therefore it is essential that the Senate conduct full debate on this bill, carefully consider all amendments, and make sure any bill we approve is the right bill for America. The bill in its present form is badly flawed. There are a number of serious problems with it. Certainly one of the most serious is its failure to provide public financing coverage for primary elections. Public financing of Presidential elections pushed special interest money into congressional elections. And this bill, in its present form, would now push that special interest money into the primaries. In a primary the special interest money is not going to take a chance opposing an incumbent. So the present money edge already enjoyed by incumbents will become even greater.

Therefore, Mr. President, I believe it is imperative that we adopt the amendment of the Senator from Oregon. I urge that my colleagues support it if they are serious about getting a good public financing bill passed rather than one which will give incumbents a special interest edge at public expense.

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to vote on the amendment, as modified, of the Senator from Oregon.

Mr. HATFIELD. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there

a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

(Mr. ABOUREZK assumed the chair.)

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. McCLELLAN), the Senator from South Dakota (Mr. McGOVERN), and the Senator from Maine (Mr. MUSKIE) are necessarily absent.

I also announce that the Senator from Hawaii (Mr. INOUE) is absent because of illness.

Mr. STEVENS. I announce that the Senator from Connecticut (Mr. WEICKER) is necessarily absent.

I also announce that the Senator from Maryland (Mr. MATHIAS) is absent on official business.

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

The result was announced—yeas 37, nays 56, as follows:

[Rollcall Vote No. 317 Leg.]

YEAS—37

Baker	Hatch	Packwood
Bellmon	Hatfield	Pearson
Brooke	Hayakawa	Roth
Case	Helms	Schmitt
Chafee	Javits	Schweiker
Curtis	Johnston	Scott
Danforth	Laxalt	Stafford
Dole	Leahy	Stevens
Domenici	Lugar	Tower
Garn	McClure	Wallop
Goldwater	Metzenbaum	Young
Griffin	Morgan	
Hansen	Nelson	

NAYS—56

Abourezk	Eagleton	Metcalf
Allen	Eastland	Moynihan
Anderson	Ford	Nunn
Bayh	Glenn	Pell
Bentsen	Gravel	Percy
Biden	Hart	Proxmire
Bumpers	Haskell	Randolph
Burdick	Hathaway	Ribicoff
Byrd	Helms	Riegle
Harry F., Jr.	Hollings	Sarbanes
Byrd, Robert C.	Huddleston	Sasser
Cannon	Humphrey	Sparkman
Chiles	Jackson	Stennis
Church	Kennedy	Stevenson
Clark	Long	Stone
Cranston	Magnuson	Talmadge
Culver	Matsunaga	Thurmond
DeConcini	McIntyre	Williams
Durkin	Melcher	Zorinsky

NOT VOTING—7

Bartlett	McClellan	Weicker
Inouye	McGovern	
Mathias	Muskle	

So Mr. HATFIELD's amendment was rejected.

Mr. CANNON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. CLARK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

AMENDMENT NO. 528

Mr. PEARSON. Mr. President, I call up my amendment No. 528 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

Mr. PEARSON. Mr. President, may we have order? This is a very short amendment. It is very simple. I think we can understand it if we hear the clerk read it.

The PRESIDING OFFICER. The Senator's point is well taken. If the clerk will suspend, the Chair will attempt to obtain order in the Chamber.

The Chair will ask all Senators to cease conversations and remove themselves from the Senate floor. The clerk will not proceed until order has been restored in the Chamber.

The Chair would ask that all Senators cooperate in the request of the Senator from Kansas that they pay attention to his amendment.

Mr. LEAHY. Mr. President, would the Senator yield for a unanimous consent request?

The PRESIDING OFFICER. I have asked the clerk to suspend. Would the Senator wait just a minute until we have order?

Would the Senators over in the corner kindly stop conversing?

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. PEARSON) proposes an amendment numbered 528:

On page 30, line 19, immediately after the period insert the following: "No amounts from the general fund of the Treasury shall be deposited into such account, nor shall any moneys from such general fund be used for payments under this title."

Mr. PEARSON. Mr. President, I yield to the Senator from Vermont for a unanimous-consent request.

Mr. LEAHY. I thank the Senator from Kansas.

Mr. President, I ask unanimous consent that Martin Franks of my staff be granted privilege of the floor during the debate and voting on all matters concerning the public financing bill up to the conclusion of that bill.

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

Mr. PEARSON. I yield.

Mr. DURKIN. Mr. President, I ask unanimous consent that Ann Schlesinger, of my staff, have the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered, as to both requests.

Mr. PEARSON. Mr. President, this amendment provides that none of the funds that shall be used to finance congressional elections shall be those except that are provided into the fund from the checkoff. The bill itself, by inference, indicates that that would be the mechanism, and it provides that if there are not enough funds by virtue of the checkoff, they will be depreciated and allocated down the line with the priority provided.

This amendment merely says that the fund shall be from the checkoff. It makes no mention of what the checkoff amount shall be, but none of these funds will come from the general fund.

I have discussed this amendment with the manager of the bill, and he has indicated that it is acceptable at least to

him and to the ranking member of the committee.

Mr. CANNON. Mr. President, I have discussed this amendment with the distinguished Senator.

In the Presidential campaign financing law, there is a similar provision. It reads as follows:

In any case in which the Secretary or his delegate determines that there are insufficient moneys in the fund to make payments under subsection (b), section 9008(b)(3), and section 9037(b), moneys shall not be made available from any other source for the purpose of making such payments.

That is an intent similar to the present proposal. In the present bill, we have on page 31:

If the Secretary of the Treasury determines that the moneys in the account are not, or may not be, sufficient to pay the full amount of entitlement to all candidates eligible to receive payments, he shall reduce the amount to which each candidate is entitled under section 503 by a percentage.

So it is clear that the intent of the bill as drafted was that no other funds would be made available but that the funds from the check-off account would be prorated in the event there was not enough money in the fund.

If the author of the bill has no objection, and I presume he does not, the manager of the bill will be willing to accept the amendment.

Mr. PEARSON. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. JAVITS. Mr. President, I ask unanimous consent that Barbara Washburn may have the privilege of the floor during the debate on this measure.

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

#### AMENDMENT NO. 572

Mr. GRIFFIN. Mr. President, I call up my amendment No. 572.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows: The Senator from Michigan (Mr. GRIFFIN) proposes amendment numbered 572:

On page 41, after line 3, insert the following language:

#### EFFECTIVE DATE AND NATIONAL REFERENDUM

SEC. 513. (a) Part I of this Act shall be subject to and effective only after a national referendum shall be held to ascertain approval of or disapproval of the diversion of funds currently held, and in the future accumulated, in the Presidential Election Campaign Fund.

(b) On the form 1040 for the taxable year 1977, there shall be included, immediately after the place for designation of funds for the Presidential Campaign Fund, the following question:

"Do you approve of the use of any excess of the Presidential Election Campaign Fund for public financing of senatorial campaigns?"

Yes  No

(c) Part I of this Act shall be effective only if a majority of those taxpayers who have filed their 1977 returns on or before May 15, 1978, have responded to the question stated in (b) above in the affirmative. Otherwise, the provisions of part I shall be null and void.

Mr. GRIFFIN. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. GRIFFIN. Mr. President, this amendment is designed to accomplish two purposes.

First of all, it is intended to eliminate what I must regard as a measure of unintended deception in this bill in referring to a fund that will be used for financing senatorial campaigns as the "Presidential campaign fund."

Under existing law, there is established a Presidential campaign fund for the public financing of Presidential election races; and without changing the name of that fund, this bill purports to make the money accumulated in the Presidential campaign fund available for Senate races.

I think there is something not quite straightforward about that, and it certainly would be misleading to the taxpayer who fills out his form 1040.

Furthermore, this bill proposes to utilize some \$23 million that has accumulated in the Presidential campaign fund for Senate races. I think that is a breach of trust, without going back to the people who indicated earlier that they were checking off a dollar, not for Senate races but for Presidential races. I do not see how you can call it anything other than a breach of trust now to appropriate that money, after the people indicated very clearly that they only wanted it to go to Presidential races.

How would they have voted if they had had the choice: "Do you want this dollar to go to either a Presidential race or a Senate race?"

Would they have voted the same way? Who can say? My guess is that there would have been quite a few of them who would not have checked off for the dollar if they had known that the money was going to go into congressional campaigns.

In any event, we do not know. It seems to me that this bill, as it stands now—unintentionally, of course—is something of a deception and a fraud on the people, to continue the use of the name "Presidential campaign fund," to seek to accumulate funds in the future by calling it that, and to go ahead and use the excess for a purpose that the taxpayers did not approve.

This amendment would give the taxpayers a chance to pass judgment on this very basic change in our system.

It seems to me that to go to the financing of campaigns out of the Federal Treasury is such a basic, fundamental change in our whole system of Government that it should not just be brought about by a vote in Congress. I think it actually should be brought into effect by a referendum of the people. This would accomplish that as well.

It would provide that this public financing of congressional campaigns would take effect if a majority of people filing their 1040 forms by May 15, 1978, indicate that they approve of this particular procedure. I do not know what

could be fairer. I do not know what could be more reasonable.

It seems to me that if this law were to be in effect after that, it would be at least on a solid foundation and basis, knowing that the public, in fact, supported it. It is my prediction that the public would reject it.

It has been said before, and it should be repeated, that in the years when the public has had an opportunity to indicate whether or not they wanted a dollar to be checked off and allocated to the public financing of Presidential campaigns, in no year has more than 27 percent of the taxpayers filing their forms so indicated. Some 40 percent indicated that they did not want their dollar so used, and the remainder did not make any indication at all.

It is a sad commentary, it seems to me, if Congress, in the light of that kind of indication by the taxpayers, is going to go right ahead anyway and pull through a public financing bill to buy for the elections and campaigns of Senators out of the Federal Treasury. It is a total disregard of the principles upon which Congress is supposed to be operating, and that is to represent the people.

The people have indicated that they do not want this, and there is nothing to indicate otherwise.

It might be noted that in Oregon, where a proposal for public financing of State campaigns, for State office, was put on the ballot and put to a referendum, the people voted 2 to 1 against it.

Nevertheless, the majority here apparently is determined to go right ahead disregarding the views and the interests of the people of this country and put this into effect, taking the money for their campaigns out of the public treasury. I think it is a shocking thing, and I would hope that the very least we would do would be to adopt this particular amendment.

I yield to the distinguished Senator from Wyoming.

Mr. HANSEN. Mr. President, if I understand the distinguished Senator from Michigan correctly, his amendment would require that on next year's 1040 income tax reporting form there be included a box providing an opportunity for taxpayers to indicate whether or not they wished to have the \$23.9 million balance that was left over after the 1976 election, that amount of money, as I understand, being the amount in excess of what was afforded candidates in the Presidential election, to be diverted to the use of senatorial, or congressional, campaigns. The amendment would permit taxpayers to indicate what their desires were. Am I right in assuming that?

Mr. GRIFFIN. That is absolutely correct. I think questionable enough are the merits of whether we want to in the future use money that is accumulated in tax years hereafter for congressional races—that is a question itself. But a more serious question to me involves the requirement of recognition of the trust we have with respect to \$23 million that was accumulated under a prior law where the taxpayers were asked did they want to check off and have a dollar go into a Presidential campaign fund?

Mr. HANSEN. Is it not a fact there was nothing at all, no indication at all, in the checkoff on the prior option, to which the Senator has just referred, that there might be a diversion—

Mr. GRIFFIN. Absolutely not.

Mr. HANSEN (continuing). Of money from that account into this account?

Mr. GRIFFIN. Absolutely none.

Mr. HANSEN. Well, is it not also a fact that while some, if I recall correctly, 27 percent of the persons polled on this issue of the financing of Presidential campaigns, have indicated they wanted the money, their tax dollars, to be used for that purpose, was it in the 1040 form, or was it in a private poll that it was discovered or determined that in excess of 40 percent of the taxpayers of this country were on record as saying they did not want their money used for this purpose? Would the Senator help me on those statistics?

Mr. GRIFFIN. Yes.

The fact is the taxpayers who filled out their 1040 forms have indicated, 27 percent of them, they wanted a dollar checked off and allocated to the Presidential campaign fund, and some 40 percent indicated they did not want that—40.9 percent.

Mr. HANSEN. Yes.

Mr. GRIFFIN. And 32 percent of the taxpayers elected not to check off either box, not to check in either box.

Mr. HANSEN. I do not know how it might be interpreted by the pollsters, but it would occur to the Senator from Wyoming that those persons who failed to check in either box certainly were not, at the very least, enthusiastic about the proposition that taxpayers' dollars should be used to finance Federal election campaigns. Would the Senator from Michigan reach that same conclusion?

Mr. GRIFFIN. I certainly would.

Let me be more specific. The figures I have used are the figures for the 1976 tax year which were filed by April 15 of 1977, those figures, 1976 figures.

Mr. HANSEN. Were those the figures to which the Senator earlier referred?

Mr. GRIFFIN. Yes; that is correct.

Mr. HANSEN. That while 27 percent favored the use of their tax dollars for Federal election campaign purposes, 40.9 percent indicated they did not want their money so used; and was it—

Mr. GRIFFIN. Thirty-two percent.

Mr. HANSEN (continuing). Thirty-two percent failed to indicate—

Mr. GRIFFIN. Either way.

Mr. HANSEN (continuing). Either way; that is correct.

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

Mr. GRIFFIN. I would be glad to yield to the Senator from West Virginia.

Mr. HARRY F. BYRD, JR. The way I interpret it is that 72 or 73 percent of the people do not favor using their tax dollars for this purpose.

Mr. GRIFFIN. I would think it is a reasonable interpretation, I would say to the Senator from Virginia, and I think it should be of great concern that the money that has been accumulated from the 27 percent on the basis that it was going to be used for Presidential campaign funds is now about to be diverted and used for a different purpose.

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

Mr. GRIFFIN. Yes.

Mr. HARRY F. BYRD, JR. Is that what this bill does?

Mr. GRIFFIN. Yes.

Mr. HARRY F. BYRD, JR. This bill takes money from those people who checked off this box for a Presidential campaign and diverts it to a senatorial campaign?

Mr. GRIFFIN. I was hoping I would get the attention of the members of the Committee on Finance because they were, of course, very instrumental in the enactment of the earlier law. Under the earlier law the fund is designated as a Presidential campaign fund. On the 1040 form the taxpayer is asked whether or not he wants a dollar to go to that particular fund. There is a \$23 million surplus left over from the 1976 campaign which otherwise would carry over until the 1980 Presidential campaign.

Now we come along with this law, without going back to the taxpayers, without even changing the name of the fund, and it seems to me the bill might at least say "Presidential and senatorial" in the title or the designation of the fund, which the bill does not, and it just goes blithely along and diverts that money and, it seems to me, it is a breach of trust.

Mr. HANSEN. I would have to agree with the distinguished Senator from Michigan that the most charitable thing that could be said about it is that it is a breach of trust. I would also add, with the Senator from Virginia, the observation that while it is true that the members of the Senate Committee on Finance indeed have a role to play insofar as this concept did involve action by the Committee on Finance, it does not follow that all members of the committee supported this concept. The Senator from Wyoming was not one who endorsed it, and the Senator may speak for himself, but I can assure you that the people of Wyoming, insofar as I am able to determine, do not embrace the idea that their tax dollars ought to be used for purposes of conducting Federal elections.

I think it is also noteworthy and should be observed that we do not view, in Wyoming, the legitimate right of a person or of a business or an interest group to make an appeal to a Member of Congress as an inappropriate contact.

It seems as though threaded through this whole bill we have before us is the idea that there is something sinister, and wrong about a citizen of this country approaching his elected representative. I conclude that, based upon the efforts of those who would try to insure that there is little, if any, opportunity for one person or an interest to gain any more attention than anyone else, or indeed any nonentity in an election process.

I make that observation, because of things that have happened here just this year when we were debating the ethics bill. A great concern was expressed by the committee charged with drafting that legislation that we ought not to be able to earn outside income. The effective date of that particular provision was set forward so as to make it effective, as I recall, January of 1979.

Along with that seems to be a feeling if anyone wants to talk to a Member of Congress or, in this instance, a Member of the Senate, and has any legitimate business interest, we must presuppose that that is wrong, that there is something bad about it.

I would ask my friend from Michigan if he reads into this legislation some philosophical underpinning that might warrant such a conclusion.

Mr. GRIFFIN. Well, I think the Senator from Wyoming makes a very good point.

If I could have the attention of the two Senators from Oregon and the chairman of the committee, I would like to be even more specific in this presentation.

Let me call attention to the first page of the tax instructions that were issued to taxpayers who were paying their 1976 taxes due by April 15, 1977. Those official tax instructions read like this:

Please note the presidential election campaign fund checkoff on line 8 of your 1040. Without increasing your tax or decreasing your refund you have a right to earmark \$1, on a joint return \$1 each for husband and wife, of your taxes for a general fund to meet expenses of the 1980 presidential election.

That is the representation on which this \$23 million was accumulated.

On the 1040 form, itself, the reading is as follows:

Presidential Election Campaign Fund. Do you wish to designate \$1 of your taxes for this fund? Yes or no.

I say again that we are about to breach the trust that was created on that tax form and take \$23 million that was designated for one purpose and use it for another purpose unless my amendment is adopted. If my amendment is adopted even, of course, then the people will have the opportunity to approve the diversion of that money for the purpose which this bill contemplates. I do not understand and I hope that I would have the support of the floor manager and the majority on this bill. It seems to me it is the only right and appropriate thing that we could do which would be to go back to the people who made this allocation and ask them, "May we use this \$23 million that you gave and put in the Presidential campaign fund now for a different purpose?"

Surely we cannot do any less than that, and I hope the managers of the bill will support this amendment.

The PRESIDING OFFICER (Mr. BIDEN). The question is on agreeing to the amendment.

Mr. CANNON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. CANNON. Mr. President, the Senator from Michigan sets forth a rather unusual course of action here. I was just thinking a little bit about this. If we are going to adopt a referendum policy of government we could almost do away with most of our jobs here and just refer all proposed legislation back to the people by way of referendum to see if they desire to approve it. I do not know of any authorization or appropriation procedure where we have followed that in the past, but I think it might be a rather dangerous precedent if we were to require everything to go back to a vote of the people before it became effective.

So I would say that I could not support it on that basis alone if I were inclined to for any other reason. I think we would find the Government hopelessly bogged down and unable to get things done if we had to go to a referendum of the people on every major item or every solitary item of importance that came before the Senate.

So I hope my colleagues see the fallacy of this type of an approach and disapprove the amendment.

Mr. HANSEN. Mr. President, I wish to make a couple observations to my good friend from Nevada.

In the first place, it seems to me that it is not indicated to suggest that by adopting this amendment we would change substantially or significantly the way in which this Government operates, by turning it over on a referendum basis. It seems clear to me that what this amendment does is to recognize the facts of life. Congress gave the people of the United States an opportunity to indicate on their 1040 form if they wanted a dollar of their tax funds to be used for a specific purpose. Now the question arises: Are we going to take those funds which the taxpayers said could be used for a specific purpose and use them for another purpose? I do not think there is anything unusual about that kind of a referendum.

It would seem to be analogous to a situation where a school district would propose a bond issue and have it voted upon by the people, and they would say, "We want to support the schools, and we are going to make some money available." Then given the chicanery that I suggest may be evident in the Senate at this present moment, the county commissioners, who are custodians of the funds of county government in Wyoming, could very well say:

We have decided that instead of using the funds to build the schoolhouse, we are going to build a new road or a new bridge, or something else; in other words, we won't be using the money for which the voters of the county determined and authorized its use, but we will make some other use of it.

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

Mr. HANSEN. I am happy to yield.

Mr. HATFIELD. I think the Senator makes a very telling point. But does not the Senator agree that if Congress in the first place, in setting up a Presidential Public Financing Act, had been concerned, as the Senator from Nevada has indicated today, about a referendum system, we would have passed a Public Financing Act and appropriated funds out of the general Treasury? But we embarked upon at that point a referendum action by referring it to the form 1040 with a little box, "Do you want it or not?" That in itself is a referendum.

All the Senator from Michigan is trying to do is maintain the integrity of that referendum, as I understand it. So when the Senator from Nevada raises this question about the possibility of embarking upon a referendum system of government, I think the argument falls apart. It is like a sieve. He is pouring water into a sieve with that kind of an argument, because we have already indi-

cated to the people that they had a right to determine whether they wanted their money going for Presidential financing by providing that referendum on the 1040 form.

Does the Senator from Wyoming agree with that observation?

Mr. HANSEN. Mr. President, I have to agree completely with that observation. It seems to me that whether or not this is a departure from normal legislative government is not the issue. The fact is, by legislative action of Congress we, indeed, did precisely what the Senator from Oregon says. We asked the people of the United States by referendum, to indicate whether or not they wanted a certain amount of their money to be used for a specific purpose and they did so indicate by that referendum. Now without going back to them, as I understand is the objection raised by my good friend from Nevada, we want to take money that they specifically authorized earmarking for a specific purpose and to use it for yet another purpose. I think the analogy made by my good friend from Oregon is precisely correct. That is exactly what has happened. It seems to me that the argument falls apart completely when one makes the contention, as has been made, that this is a departure from the norm.

Mr. HATFIELD. If the Senator will yield for another question, will the Senator not agree that by using this sort of back-door approach, this sort of under-cover smuggling up to the Presidential financing program, that we are a little bit reticent to take to the people head on the question of financing senatorial elections as perhaps we want to do something in this rather indirect way because we are fearful that the people of the United States would not provide us with a checkoff on the 1040 form. So it seems to me that again what the Senator from Michigan is trying to do is to bring this thing from under the cover, bring this thing from under the bed and bring it out of the closet. He wants to trust the people to have the intelligence, the judgment to determine in their own minds whether they want to set up a campaign financing program for the Senate of the United States. Will the Senator from Wyoming agree that is certainly not a farfetched observation?

Mr. HANSEN. I could not be more in agreement with my friend from Oregon. There is nothing farfetched about that observation. It seems to be very precise and to the point. It just follows as the night the day; that is the way it is.

I was hoping the distinguished floor manager of the bill on the majority side might respond to a question that arises in my mind. It seems as though, when we talk about the Presidential election campaign fund, that what we are talking about now implies at least a change in name, or a change in the purpose for which that fund may have been set up. I would ask my good friend from Iowa if that is not a fact.

Looking, for example, at page 72 of the report of the Committee on Rules and Administration on Public Financing of Senate General Elections Act and Fed-

eral Election Campaign Act Amendments of 1977, I find—

Mr. CLARK. The fund would be set up, yes.

Mr. HANSEN. The heading, "Projection of Estimated Receipts and Expenditures of the Presidential Election Campaign Fund Through 1980." And it is there, on that page, in the first line item, "Approximate balance in fund after 1976 election, \$23.9 million."

Now, that fund is designated the "Presidential Election Campaign Fund." It does not say "senatorial election campaign fund." Will the Senator from Iowa agree that I have read it honestly?

Mr. CLARK. I do, yes.

Mr. HANSEN. Then it seems as though we are talking about taking moneys in one fund and putting them to use for another purpose, other than the purpose for which they were collected and allocated in the first place. Am I right about that?

Mr. CLARK. I have a different interpretation of that matter than the Senator from Wyoming.

Mr. HANSEN. Would the Senator from Iowa be good enough to share his interpretation with us?

Mr. CLARK. Yes, if I may take 2 or 3 minutes to discuss what has been discussed by the distinguished Senator.

Mr. HANSEN. If I might say so, if the Senator from Iowa will permit an interruption, let me observe, Mr. President, that I have been in the Energy and Natural Resources Committee since 8 o'clock this morning until 12:45, marking up a part of the President's energy proposal, and I regret that I was not able to be on the floor sooner. I would just observe that I was trying to discharge what I thought was the responsibility of the ranking Republican member of that committee, and I was there just exactly 4 hours and 45 minutes this morning.

That may explain, in part, why I was not able to be here this morning.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. HANSEN. Happy to.

Mr. ROBERT C. BYRD. That is a heavy responsibility, and the Senator from Wyoming can always be counted on to shoulder and to discharge with dedication his responsibilities.

Mr. HANSEN. I appreciate very much the kind words of our esteemed colleague from West Virginia, our distinguished majority leader.

Mr. CLARK. Mr. President, I think I would start off with a basic disagreement with the interpretation that has been stated by the Senator from Wyoming, the Senator from Oregon, and others, that the existing checkoff is itself a referendum. The fact is that it is not a referendum; it is an individual choice by each taxpayer as to whether he or she wishes \$1 to go into this fund, the Presidential Election Campaign Fund. That is really the question that is put to the American people, and there has never been a majority response, as the Senator from Michigan pointed out a few days ago. The most who have even chosen to put the money in is about 27 percent. There has never been a referendum, either, to establish a Presidential fund.

It has been an individual choice by each American.

If we go to the principle involved in the pending amendment, we are saying we are not going to let each individual American decide whether or not they are going to continue to fund the Presidential fund or the newly created Federal fund, which would include congressional elections. If we are going to have a real referendum, 50 percent, or something over 50 percent, will decide whether or not individuals may appropriate money to the congressional fund.

It seems to me that is really a violation of the principle that was established in 1971, with the Presidential fund. Therefore it seems to me that the amendment would really be in conflict with the existing law with regard to that.

I could say further that it really does become the issue, as the Senator from Nevada describes it, that we would be turning to a national referendum. If we can turn to a national referendum on this question, it seems to me we can turn to a national referendum, on the IRS forms, on other issues, the neutron bomb or whatever issue we may decide to use them on.

Mr. HATFIELD. Mr. President, will the Senator yield at that point?

Mr. CLARK. Let me take another minute to finish, and then I will be happy to yield, because this is all one idea, it seems to me.

We, of course, are talking about creating, in this law, a new Senate fund and taking that money and segregating it in the Treasury by the creation of this law. It does not exist now; that fund will have to be created, obviously, or is created in the law if it becomes law. If it does not become law, obviously, it remains the Presidential fund.

The question does arise, certainly, if the Congress and the President pass this legislation, it becomes law, and we create a new fund, then obviously on the next tax form next January, to cover the 1977 taxes that are due in April of 1978, the question will have to be asked, "Do you want \$1 to go into the presidential and congressional"—or I assume it will just be "Federal"—"campaign fund?" And then each individual, based on that, will say yes or no.

Mr. HANSEN. Or maybe not check it at all.

Mr. CLARK. Or maybe not check it at all; and based on past history the majority will not. I think some 27 percent checked "yes" and 40 percent checked "no" on the last count that we had. A majority did check the form one way or the other.

So the real question becomes, will there be enough money in the fund that is created by this law to fund congressional elections?

I do not know. I think that is a debatable issue, as to whether there will absolutely be enough money from that separate fund. If one assumes that there will or that there may be, then clearly the point of the Senator from Michigan is not well taken at all; it is obvious that we would have collected enough funds under the so-called new Federal fund to cover congressional elections. If not, then

certainly it is at least a debatable point; the amendment is at least debatable. But I must say I think if you want to go to a referendum to decide that, and get 51 percent to vote for it, you are undertaking a vastly different principle than was involved in the Finance Committee's and Congress's present decision to go to a checkoff system.

Mr. HATFIELD. Mr. President, the Senator indicates, or did I misunderstand, that there is a separate or segregated fund here?

Mr. CLARK. Yes. On page 30, line 9, the bill reads:

The Secretary of the Treasury shall maintain in the Presidential Election Campaign Fund established by section 9006(a) of the Internal Revenue Code of 1954, in addition to any other accounts he maintains under such section, a separate account to be known as the Senate Campaign Account.

Mr. HATFIELD. Account?

Mr. CLARK. Yes.

Mr. HATFIELD. All right. But will the Senator yield for a further question?

Mr. CLARK. Surely.

Mr. HATFIELD. Where is the money coming from which goes into this fund?

Mr. CLARK. The money is coming from the checkoff.

Mr. HATFIELD. Checkoff of what?

Mr. CLARK. The checkoff. This is the debating point, as I said. Either from moneys which have already been collected—

Mr. HATFIELD. Collected for what?

Mr. CLARK. Collected under the existing checkoff fund.

Mr. HATFIELD. For what office?

Mr. CLARK. For the President.

Mr. HATFIELD. The Presidential fund, is that correct?

Mr. CLARK. Absolutely. That is correct.

Mr. HATFIELD. We have a surplus now in that fund which would go over to the 1978 election.

Mr. CLARK. I am not saying that it would. It seems to me that is the essential issue in the debate on this amendment. Would enough money be collected under the new law, under the new designation, to go into congressional funding?

Mr. HATFIELD. It would be from the Presidential campaign fund?

Mr. CLARK. No, I am talking about money collected in April of 1978 for the 1977 taxes.

Mr. HATFIELD. What would be on the 1040 form for the checkoff? What would be the question?

Mr. CLARK. I assume that the question which will go on the checkoff is, "Do you want \$1 of your money to go to either the Presidential, Senate, and congressional" or just Federal, on the assumption it involves both.

Mr. HATFIELD. What does the bill call for?

Mr. CLARK. The bill obviously does not say, and I think neither does the present law say. There are many things which are going to be implemented in this legislation which are not spelled out word for word in the bill?

Mr. HATFIELD. I will say that is very true. The Senator and I agree on that 100 percent. The Senator has indicated pretty much the statement that I was looking for, that the moneys which are in that

fund now were checked off for the Presidential campaign. Is that correct?

May I have the attention of the Senator from Iowa?

Mr. CLARK. I am sorry.

Mr. HATFIELD. The funds which would be used in 1978 in the campaign for the Senate races, if this bill passes, are actually funds which were checked off by the citizens of this country on form 1040 for a Presidential campaign fund, is that correct?

Mr. CLARK. No. I am not at all certain that is correct. The money may well be collected in 1978 under a different title on the IRS form. I assume that the IRS would devise that or, indeed, if the Senator and the Senate feels that an amendment is needed to so designate, that is fine. But I am not suggesting that the only money which can be used in the 1978 congressional elections is money which has been collected prior to 1977. That is really what the Senator is asking.

Mr. GRIFFIN. Will the Senator from Oregon yield?

Mr. HATFIELD. I yield.

Mr. GRIFFIN. It seems to me the Senator from Iowa could agree to an amendment, which could be offered if he would support it, to make it clear that the \$23 million surplus which was accumulated for the Presidential campaign fund will not be used in the senatorial campaign races. Does the Senator from Iowa go along with that?

Mr. CLARK. I have never said for a moment that I felt none of the money would or could be used from the Presidential campaign.

Mr. HATFIELD. The Senator wants to use the money, is that right?

Mr. CLARK. If the Senator will allow me to answer after having been asked the question, what I have said is that it seems to me the essential debating point of the amendment of the Senator from Michigan is the issue of whether previous funds would have to be used. As a matter of fact, I would support an amendment which would allow each individual taxpayer to determine on that checkoff, when they check it off, whether they would prefer or not prefer to allow the money that was previously collected to be used in that fund. I think that is a much fairer way than saying we are going to have everybody vote on it even though they did not make a determination to allow their money to go into the fund. In answer to the question of the Senator from Michigan, would that seem to be a fairer way to do it?

In other words, in April 1978 the taxpayer chooses whether or not to allow the previous money to go into the congressional fund and the money could not be transferred then without the consent of that individual who made that selection. That seems to me to be fairer than having a general referendum in the country on the IRS files.

Mr. LONG. Will the Senator yield at this point?

Mr. HATFIELD. I will be happy to yield.

Mr. LONG. Might I just say to the Senator that this money was received on the theory that we were going to let each taxpayer designate how \$1 of his money

was to be spent, if he wanted it spent in this particular manner. Incidentally, that was my amendment when it first became law. The question was to be asked on the tax return, "Do you want \$1 of your money to be spent for the presidential campaign election fund?"

Here is the language which appeared on the 1976 tax return, and we did a lot of fighting with the IRS to try to get them to display it so everybody would know about it, would understand it, and have the opportunity to be well advised:

Please note the presidential election campaign fund checkoff on line 8 of your 1040. Without increasing your tax or decreasing your refund you will have a right to earmark \$1, on a joint return \$1 each for husband and wife, of your taxes for a general fund to meet expenses of the 1980 presidential election.

If we tell a taxpayer that he has a right to request that \$1 of his money be available for a presidential election, and then we use that money for a senatorial election, I submit there are laws in 50 States of the Union against doing that kind of thing which cause people to go to jail. It is known as misappropriation of public funds.

Admittedly, we do not have a law prohibiting that and we can legalize something that is purely corrupt on the face of it. But in talking about trying to eliminate corrupting influences, what do we call it but corruption to take people's money which was earmarked to be used for a Presidential race and then, without their consent use it to support candidates for Congress that they would rather see die and go to Hades than see have their money?

That is clearly not what the people of this Nation who checked off \$1 for the Presidential election campaign fund want to see happen.

In Louisiana we have abolished the distinction between embezzlement, obtaining money by false pretenses and larceny, and we call it all one word: theft. What would we call it when we tell the taxpayer that his request that \$1 be spent for one purpose will now be used for something he did not give his consent to at all?

Mr. HATFIELD. And would be opposed to, perhaps.

Mr. LONG. Yes; he may be against it. For example, here is some fellow who could not get enough votes to wad a shotgun, who might have a horrible reputation, and taxpayers' money is being used to support that man for office, when that money was supposed to be used in a Presidential campaign fund.

I submit there is no distinction whatever between doing that kind of thing and what is known in the laws of 50 States of the Union, one way or the other, under the term of misappropriation of public funds. The funds were made available for one purpose and now we are being asked to permit them to be used for another purpose.

If one wanted to follow the theory that we followed in the Presidential election campaign fund, we would give everybody the chance to mark his tax return on, "Do you want your money used to

finance senatorial campaign funds?" That would be an affirmative authorization.

The way to do it, if we wanted to follow that procedure, would be to put a second checkoff on the tax return and ask, "Do you want to earmark some of your money for senatorial elections?" That would be an entirely different matter.

Mr. HATFIELD. A third checkoff for House elections.

Mr. HANSEN. If the Senator will yield, it seems to me the Senator from Iowa misses the point entirely when we refer to the fund we are talking about now and the fund being addressed by the amendment of Senator GRIFFIN. The Senator from Iowa is not talking about the funds which may be collected on this year's 1040 form or the year after, but he is talking about money Senator LONG was talking about, money which was indicated specifically and precisely by each taxpayer to be used for a special purpose; that is, to finance the Presidential elections in 1980. Is that exactly the way the Senator from Louisiana understands the situation to be?

Mr. LONG. That was the whole idea.

Mr. HANSEN. It is not about what we are going to do prospectively, it is keeping the faith, and being honest, simply being honest. I like the word, "theft," and I like the word "honesty," because I think most Americans understand what we mean by those words.

That is exactly what this debate is about. We can say that the point in contention is something else, but what we are talking about is \$23,900,000 that was left over from unexpended funds, which taxpayers had earmarked to be used for a specific purpose.

Mr. HATFIELD. If the Senator will yield at that point, I think his point is well taken. The Senator from Louisiana remembers that this whole proposal came in under the guise of "Let us restore integrity in elections."

Mr. LONG. Yes. "We want honor."

Mr. HATFIELD. The whole point was integrity. Yet here we are now, raiding a fund that has been decided by the taxpayer as to how it is going to be expended, and we are going to do that on our own initiative, unilaterally.

Mr. CURTIS. Will the Senator yield?

Mr. HATFIELD. I yield.

Mr. CURTIS. I concur in all that has been said about breaking faith with the people. They are asked to make a designation, told what it will be used for. Congress decides that we shall violate that. I agree with all that has been said in condemnation of that.

I also call attention to the fact that section 506 amends the Internal Revenue Code. If section 506 should stay in there, it ought to be referred to the Committee on Finance. It says:

The Secretary of the Treasury shall maintain in the Presidential Election Campaign Fund established by section 9006(a) of the Internal Revenue Code of 1954, in addition to any other accounts he maintains under such section, a separate account to be known as the Senate Campaign Account.

Then it goes on.

What they are doing is amending the

Internal Revenue Code. I think that, if that is to be done, it ought to be referred to the Committee on Finance.

Furthermore, if the bill were to pass as is, I am not too sure that a court would not restrain the Secretary of the Treasury from paying out any money for senatorial campaigns or congressional campaigns, on the ground that there has never been any checkoff, and that something else was checked off.

I thank the Senator for yielding.

Mr. BAKER. Will the Senator yield to me for a moment?

Mr. HATFIELD. I yield.

Mr. BAKER. I am pleased and delighted that the Senate has this measure before it, because this is something that has troubled me since it was first brought to my attention.

As some of my colleagues know, I did not favor the enactment of legislation for the financing of Presidential campaigns, at least in part, with Federal funds. I felt as Senator Ervin felt, that we were throwing the baby out with the bath water, when we were financing elections with public funds originally.

Many of my colleagues may recall that I spoke against and voted against the \$1 checkoff—not just because I am opposed to public financing of political races, which I think is a dangerous thing to do, dealing with the most intimate part of the American effort at self-government, but because I think there is a patent unfairness in a system that arbitrarily and unilaterally allocates a portion of that contribution to both candidates or more than one candidate, for President.

I think a fundamental right exists in the opportunity to contribute to the candidate of my choice or not to contribute to anyone at all in the campaign. I can assure my colleagues in the Senate that, in 1972, I did not choose to contribute to both candidates for President. In 1976, I would not have chosen to contribute to both, with the exquisite impartiality that this sort of thing tends to provide, because impartiality is anathema to free choice in public declaration of one's point of view in America's public life.

To carry that one step further, Mr. President, and to provide that this \$1, divided between the parties and the candidates for President, is now going to be divvied up with Members of the Senate as well, I think, is carrying things too far. A national referendum on that subject, I believe, would produce an overwhelming vote against its inclusion.

Mr. President, I am troubled that the country is not fully aware of the nature of this legislation before us. I think the amendment now pending would help bring to the attention of the electorate the essential elements and the inherent dangers that exist in this plan.

I am concerned that some public opinion polls that are published show that a majority of Americans are in favor of public financing of political campaigns. I rather suspect that the people answering in the affirmative, or at least a large number of them, may have thought that we were choosing Federal funds in pref-

erence to private funds, and we are not doing any such thing. What we are doing is putting Federal funds as an icing on the cake. We are adding \$1 for whipped cream on the top of private contributions that are going to come in significant and generous amounts.

This is not public financing. It is a Federal supplement to private financing. I think these matters should be brought to the attention of the country, a country that has been remarkably right in the major decisions that she has been called upon to make in our 200 years of existence, when the country fully understood the issues.

Mr. LONG. Will the Senator yield at that point?

Mr. BAKER. I am happy to yield.

Mr. LONG. The Senator is eminently right in making the point that what we are talking about here is not public financing and it is not private financing. It is neither one nor the other; it is a mixture of public plus private.

The Senator knows that the whole idea of the Presidential campaign fund started out with the general election. We arrived at the conclusion that, in a general election, you ought to decide if you wanted to take advantage of the checkoff. If there was enough money there to provide the amount that we hoped would be available, both sides would get the same amount of money.

When it was initiated, the public was not familiar with it. It was a new idea. I think the first year, only a few million people marked the checkoff. We did, as a precaution, say that if there were not enough to take care of all expenses, the limited funds available would be divided among the candidates as far as the money could be made available.

The Senator is entirely correct that what we are talking about here is not public financing, because there would still have to be private financing. And, public financing depends on the amount of private financing each candidate gets. So, in the last analysis, it would be the private money that determines how much public money is to be distributed.

The Senator is correct in saying that this is not really public financing and it is certainly not private financing. It is neither fish nor fowl; it is something in between, which the public certainly could not be expected to understand.

As far as I am concerned, my objection to the proposal is not so much the thought of public financing as it is to the way this bill would work. The feature that this amendment has directed itself to is clearly one of the problems involved. This money was not made available for senatorial races. This money was to be made available for Presidential campaigns. It may be that very few people would want their money spent in the fashion prescribed by this bill.

If we are going to follow the theory of the Presidential election campaign fund, with people knowing what they were supporting and how the money was to be used, then we ought to let people again clearly make the decision that they want \$1 of their money spent to support senatorial elections.

Mr. BAKER. Mr. President, I thank the Senator from Louisiana. I entirely agree with his point of view. There is one aspect of that that I think should be observed and commented upon.

The Presidential race and a race for the Senate are two very different things. It may very well be that one would choose to check the dollar box on his income tax returns, thinking that the Presidential race—which, after all, is the only race, other than the Vice Presidential race, where everybody participates—is worthy of his blind contribution; that is to say, without his designating on whose behalf that will be spent. A Senate race is a different thing. I am not sure the people in California or Oregon or Louisiana had any idea, when they checked that box, that they were contributing to the campaign of the Senator from Tennessee or the Senator from Delaware, the distinguished occupant of the chair. I think it is highly unlikely that, if we could go back and find out from people who checked that dollar box on that 1040 form previously, we would find very many who said they expected part of that money in the future to be used for the election campaign of the nominees in Louisiana, Tennessee, Alaska, or Michigan, or wherever.

These are two very different things.

Mr. CLARK. Will the Senator yield?

Mr. BAKER. I am delighted to.

Mr. CLARK. Would the Senator feel that it would be appropriate for those people who put the money in the Presidential fund, as their IRS form would indicate, to indicate whether they feel that the money they put into the Presidential fund should be used for Presidential and congressional elections?

That seems to me to be the issue here. Because as we have said earlier in the colloquy with the Senator from Michigan, that seems to me to be much more sensible than to have a general referendum in the country, for those people who did not put money in the fund—I believe 73 percent of whom did not—to decide whether or not that money ought to be put in.

Mr. BAKER. I suppose that is better than our deciding it.

Mr. CLARK. Yes.

Mr. BAKER. If I may say to the distinguished Senator from Iowa.

Mr. CLARK. I agree.

Mr. BAKER. I would feel less like I was cheating the people who did that.

But I wonder why we are afraid of a national referendum? I am not. I would be willing to abide by it.

Mr. CLARK. But we are talking about the sanctity of the money put in the Presidential election.

I think it is an excellent point that the Senator from Louisiana and others made.

Why is it if we put this money into a Presidential fund that it can be just automatically used for a congressional fund?

Why not ask those people who put it in the Presidential fund, those people, not other people who did not put anything in, as the Senator from Michigan's amendment would do, but let us ask

those people who put that money in the fund in April of 1978, on the tax form, whether or not they want that money to go back?

The Senator from Louisiana had his bill, in 1971, to go to a checkoff. Then in 1974, I believe it was, we decided we were going to not just use the checkoff for general election funds, we were going to use it for primary elections.

We never asked about primary elections in the form, but just added that on without getting the people's approval to go and use it in that way.

Mr. BAKER. Without my approval.

Mr. CLARK. Just to finish, in 1973 we tacked on a retroactive statement to that tax form, in the 1973 form, and for 1972 we said, "If you did not designate \$1 of your taxes on your 1972 return, but now wish to do so, you may."

So that we, in effect, have established the principle of allowing people retroactively to make decisions.

It seems to me that step is a much better method for determination of where the money ought to go, instead of leaving it to people who never contributed anything, deciding how the people's money should be spent.

Mr. GRIFFIN. If I may respond, if what he is suggesting is the best we can get, it certainly would be the least we ought to do, and in my amendment I am seeking to be sure of doing a little more than that. Because I think that it is wise and appropriate when we are making a basic fundamental change in our system of government and political structure, as here, and we have already established a method and means of making a referendum, that we utilize it, as has already been done.

In so doing, we would both be approving the act itself insofar as having public financing for congressional campaigns, and we would be approving the use of the excess which has been accumulated for the presidential funds to be used in senatorial campaigns.

I think it is a wise and appropriate thing to do.

I hope the Senate will support it.

Mr. HATFIELD. Will the Senator yield for a question?

Mr. BAKER. I do not have the floor, but I am glad to yield.

Mr. Kennedy addressed the chair.

The PRESIDING OFFICER (Mr. ZORINSKY). The Senator from Oregon has the floor.

Mr. HATFIELD. Mr. President, I wish only to observe to the Senator from Iowa, making this proposal at this time, it would probably cost us more money to do the audit, to find out which taxpayer, at what time, contributed the money that is in this particular fund today.

We do not know how many dollars from the pool came from what taxpayers and at what time. It was not all that was collected since 1976, as the Senator well knows.

We are talking about \$23.9 million, almost \$24 million. How does the Senator propose to audit those returns to find out which taxpayer is going to be able to

then give us his preference of where he wants the money put?

Mr. CLARK. In exactly the same way we do with every other individual taxpayer, in terms of filing the return. We assume their honesty. Then we say that if there is any reason to audit, we audit those individually.

I think that would be no more true of this provision than any other provision on the tax form.

Mr. HATFIELD. Does the Senator propose we go back and audit all the millions of tax forms?

Mr. CLARK. No.

Mr. HATFIELD. To find out which was a checkoff and then go and ask that person, that is part of the \$23.9 million fund, whether he prefers to change his return?

Mr. CLARK. No.

Mr. HATFIELD. In the Presidential fund or go to a senatorial campaign?

Mr. CLARK. Put it on every tax form, just as we did when we went retroactively in 1973, in the form I have in front of me, and ask, as we see on this form, "If you did not contribute in 1972 and you want to contribute in 1973, we will allow you to do it."

Now, did we go back to check everyone to see if they lied about contributing in 1972? I assume not, but it is available to audit.

But it is not going to be any greater problem on this issue than it would on any other issue that an individual American taxpayer fills out. We take their word for it. If we want to check it, we have the ability.

Mr. HATFIELD addressed the chair.

Mr. STEVENS. Will the Senator yield?

Mr. HATFIELD. Yes.

Mr. STEVENS. The Senator from Iowa, I think, will recall the reason for that was that the first go-round on the checkoff, the statement was improperly placed on the form. It had nothing to do with the issue he is discussing.

Mr. CLARK. It has everything to do with it because the issue is whether or not we can trust the taxpayers, to say whether they contributed the previous year. This form assumes that we are going to leave it to the taxpayers to declare whether they did or did not contribute previously, that we are going to rely on their basic honesty, subject to an audit.

That is exactly the issue before us.

Mr. STEVENS. No. In the revised form, those of us who complained, as the Senator will recall, there was a separate statement put with the tax information and it was not on the form.

Mr. CLARK. Yes.

Mr. STEVENS. So in order to go back and cover that year, that statement was placed on the subsequent year's form.

Mr. CLARK. But I think the Senator will remember some people did, in fact, check 1972 in a separate slip. Not very many, but a few did.

So in 1973, we said—and we had to trust to their statement—"If you did not check in 1972, you can hereby check in 1973 for your 1972 return."

And, of course, we took their word for that, subject to audit.

I think it is the same principle.

Mr. HANSEN. Will the Senator from Oregon yield?

Mr. HATFIELD. I am happy to.

Mr. HANSEN. Mr. President, the Senator from Iowa has used the words "trust" and "basic honesty" as he referred, quite properly and appropriately, to taxpayers of the United States.

It occurs to me that if those taxpaying citizens have time enough between doing their jobs and paying their taxes, which at times gives them reason, indeed, to feel beleaguered, I would suspect, they will find some irony in reading this particular part of the debate. I think it would be most appropriate and clearly indicated that they should turn the issue around and say, "Are Members of the Senate honest, and are we keeping the trust?"

After all, the issue that was posed on that tax form called upon citizens to indicate how they wanted their money used, if they wanted it used for a political purpose.

I ask my good friend from Oregon if it is not true that the only choice given in that 1040 form was, in essence: "Do you want a dollar of your taxes for the current year to be used for political purposes, for precisely the support of a Presidential election, or do you not want it used?"

Mr. HATFIELD. Yes or no.

Mr. HANSEN. Simply yes or no.

I cannot understand how we can therefore conclude it is appropriate to take the \$23.9 million, which was earmarked and authorized to be used for a specific purpose, and to use it for yet another purpose.

I say to my good friend from Iowa that we have just gone through a national beef referendum that in many respects compares quite comparably to the issue here. The issue raised in that referendum was among people who were qualified, according to accounts, as beef producers: "Do you want a certain amount of money of the results from the sale of your livestock used by the Secretary of Agriculture and/or State associations to promote the consumption of beef in the United States?"

The Senator from Iowa was a cosponsor or perhaps the prime sponsor of that referendum. I note that the State of Iowa contained, according to the figures I have, some 20,945 beef producers who qualified and were entitled to vote on that issue.

The good people of Iowa engaged in the production of beef voted, "Yes, we do want a percentage of our money to be used for this purpose." Six thousand, four hundred twenty-seven of them so indicated. Nine thousand, one hundred seventy of them said, "No, we do not want it used for that purposes."

I do not try to read any more into these figures than the figures themselves manifestly demonstrate; but I think it must be recognized that, by a vote of almost 3 to 2, the beef producers in Iowa said, "We don't want our money used for that purpose."

Here, we are taking funds that the taxpayers of this country indicated they would agree to have spent for a specific purpose, Presidential elections, and we are not saying to them, "May we use that money for another purpose?" We

are just saying that we propose to take that nearly \$24 million and use it not for the purpose indicated on their tax forms but to use it for the purpose of financing, in part, congressional elections.

Is that the essence of the issue before us now?

Mr. HATFIELD. I think the Senator from Wyoming has expressed it very eloquently and in very precise terms.

I say to the Senator from Wyoming that I suppose we all have certain natural and native reflections of viewpoint related to our place of origin and our upbringing.

I come from a State that was one of the first States to have initiative and referendum and recall. It was one of the first States to have direct election of U.S. Senators. It was one of the first States to have a progressive income tax. It was one of the first States to have migratory labor legislation and civil rights legislation.

Many of these were initiated by the people in order to circumvent the politicians, because they had the right of initiative.

I have now joined the Senator from South Dakota in a constitutional amendment to provide a national initiative as the right of people to initiate legislation as they may feel they are required at times to do in order to circumvent even the politicians here in Washington.

All I am suggesting is that I come from a background that has the utmost faith in the people. I am not afraid to let the people have a referendum or initiative on an issue. Our State had a Public Financing Act, and it was voted on by the people through referendum; and in a progressive, forward-looking State such as Oregon, we found that the people voted it down. Seventy-two percent voted "no," and 28 percent voted "aye."

My point simply is this: Here we are asked by the Senator from Michigan to let the people make a determination. We hear a great deal about participatory democracy today coming from my wing of the party, coming from my wing of the political spectrum. I find it very curious today that we tend to resist that when there is an opportunity to give people a chance to vote on this or to have a referendum. I would like to see more things go to referendum; this is why I support the amendment of the Senator from Michigan.

UP AMENDMENT NO. 703

Mr. KENNEDY. Mr. President, I send to the desk an amendment on behalf of myself and the Senator from Iowa (Mr. CLARK).

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY), for himself and Mr. CLARK, proposes an unprinted amendment numbered 703:

EFFECTIVE DATE AND NATIONAL REFERENDUM  
SEC. 513. (a) On the form 1040 for the taxable year 1977, there shall be included appropriate provisions for taxpayers to indicate whether \$1 of their taxes for the

taxable years 1975 and 1976 may be used for financing Senate elections.

Mr. KENNEDY. Mr. President, it seems to me that a valid point has been raised by the Senator from Michigan and other Members during the discussion about whether it is appropriate to use in the congressional elections the moneys which have been checked off by taxpayers for Presidential elections.

Some have suggested that there are those in some States who welcomed the opportunity to designate their tax dollars for Presidential elections, but would deplore the use of their dollars for Senate elections. I do not believe that is the situation in my State. It may be so in some States, but I am skeptical. I suspect that, if we asked most taxpayers who have used the Presidential checkoff in the past whether their dollars could also be used for Senate elections, those taxpayers would say, "Amen," because they believe congressional elections need more cleaning up than Presidential elections.

Be that speculation as it may, Mr. President, I think there has been a good deal of overdramatization of this issue and a good deal of overstatement of the problem we are facing. The fact is that, based upon current projections, the estimate is that about \$35 million to \$40 million will be collected in the spring of 1978 on tax returns filed for the 1977 tax year. That should be enough to provide for most, if not all, of the funds needed to cover public financing of Senate and House elections in the fall of 1978. If this legislation passes, the IRS will undoubtedly rephrase the dollar checkoff on 1977 tax forms to cover all Federal elections. So dollars collected in 1978 will not be affected by the problem addressed by the amendment of the Senator from Michigan.

The problem arises only for funds already collected under the checkoff in years where the tax form referred only to Presidential elections. Most of the funds received in the past under the checkoff have already been spent for the 1976 Presidential election. As I understand it, however, there was a surplus in the checkoff account after the 1976 election of some \$23 million. An additional \$35 million or so has been received on 1976 tax returns filed this year. The returns for the 1975 and 1976 tax years referred only to Presidential elections, and those are the returns affected by the problem raised by the Senator from Michigan.

My amendment is intended to solve the problem in an effective way that avoids any disruption of public financing or that avoids any value administrative burden on the Internal Revenue Service.

The amendment simply asks the IRS to include appropriate provisions on the 1977 tax returns to enable taxpayers to retroactively agree that designations they made on their 1975 and 1976 tax forms under the dollar checkoff will also apply to Senate elections. Thus, a taxpayer who authorized \$1 of his taxes on his 1975 or 1976 tax returns to be used for financing Presidential elections will be permitted to indicate on his 1977 re-

turn that those previous dollars may be used for Senate elections as well.

Obviously, it would not enable a taxpayer to checkoff a second dollar for 1975 and 1976. It says only that his dollars already checked off may be used for Senate elections in addition to Presidential elections.

In addition, the amendment would also allow taxpayers who failed to use the checkoff to designate dollars for public financing of Presidential elections on their 1975 and 1976 tax returns to retroactively decide to make designations for those years after all. Such designations of 1975 and 1976 dollars on 1977 returns would, of course, apply to Senate as well as Presidential elections.

Mr. President, I believe the amendment solves the problem raised by the Senator from Michigan with a minimum of inconvenience for all concerned, especially the IRS. In particular, it would not require the IRS to pull all the 1975 and 1976 tax returns of those who use the special designation on 1977 returns, in order to verify that they did in fact make a designation on their previous returns.

If a taxpayer used the checkoff in the prior years, he would merely be saying on his 1977 return that the earlier dollars could be used for Senate elections. If he did not use the checkoff in the prior years, he would be retroactively authorizing \$1 from those years to be used for public financing, including Senate elections. Either way, the IRS would not have to undertake the considerable administrative burden of attempting to compare 1977 returns with 1975 or 1976 returns.

There is a clear precedent for this solution. In the first year of the dollar checkoff in 1972, a separate tax form was provided for the checkoff, but only 3 percent of the taxpayers used it. After the outcry from Congress, the IRS moved the checkoff to a prominent place on page 1 of the 1040 tax form in 1973, where it has been ever since.

To make up for the obfuscation of 1972, the IRS also added a separate checkoff line on the 1973 return, in addition to the checkoff for 1973 taxes, so that taxpayers could retroactively designate \$1 of their 1972 taxes for Presidential elections on their 1973 tax returns.

As I recall, about 13 percent of the taxpayers used the 1973 checkoff on their 1973 returns, and about 7 percent used the retroactive 1972 checkoff on their 1973 returns.

In effect taxpayers were given a second chance to designate a dollar from their 1972 taxes for public financing, and many of them took advantage of the opportunity. Since then, of course, as taxpayers have become more familiar with the checkoff, participation has increased substantially. I understand that the participation is running about 28 percent so far on 1976 returns now being processed.

My amendment tracks what was done on the 1973 form, which included on the 1040 form a provision to permit the designation of dollars for the previous year. We can follow that rather effective precedent now. We can provide an op-

portunity for taxpayers who used the checkoff for Presidential elections on their 1975 and 1976 returns to make clear their dollars can also be used for Senate elections. We can also give taxpayers who did not use the checkoff in 1975 and 1976 another opportunity to do so for those years. The amendment would cure the problem that is of such concern to the Senator from Michigan and the Senator from Oregon, and it might also provide additional funds for the checkoff. It would eliminate any need for review or auditing of tax forms for 1975 and 1976, except for normal IRS compliance procedures—that is the IRS would have to do more than it did in monitoring the 1973 returns with the retroactive provision for 1972.

The amendment offers a simple solution. It is one which would duplicate what was done in the past.

I consider it a legitimate concern—that is, whether people who checked off in previous years want their funds used in non-Presidential elections. The preservation of the voluntary return of the checkoff is a very important goal. It seems to me that this amendment would remedy the problem that exists, without adding any complex auditing procedure for the IRS. It would retain the power for designation in the individual taxpayer.

So I hope that the amendment will be accepted by the Senator from Michigan and the others. If not, I hope we will vote on it.

Mr. GRIFFIN. Mr. President, it is encouraging that the Senator from Massachusetts and the Senator from Iowa have at least recognized there was a problem, because certainly there is.

In reviewing the language submitted by the Senator from Massachusetts, I note it is subject to the same criticism that the Senator from Iowa directed to my amendment in that it apparently would allow all taxpayers, I guess, to vote on whether a dollar of their taxes for the taxable years 1975 and 1976 may be used for financing Senate elections. I would suggest that the language is a little bit awkward and does not very clearly indicate that it is intended.

Insofar as the alternative I have proposed, it seems to me it is more appropriate because in a real sense this law cannot go into effect for the 1978 senatorial campaign elections without approval of the use of the \$23 million.

The estimates for the 1978 Senate and House elections which are set forth in the committee report of the Committee on Rules before the Senate—and I would suggest they are very, very modest indeed—indicate that 1978 Senate and House elections would cost in the neighborhood of \$57 million; and it is estimated that there would be receipts for the tax year 1977 of \$37 million. There is no way that the \$37 million that is anticipated in 1978 for the tax year 1977 could possibly finance the 1978 congressional campaigns if this law went into effect. So it is appropriate to have a referendum on whether this law should go into effect, and that is what my amendment does. In other words, it will not go

into effect unless the majority of those—

Mr. CURTIS. Mr. President, will the distinguished Senator yield?

Mr. GRIFFIN. Yes.

Mr. CURTIS. I hold in my hand what purports to be a copy of the amendment to the Senator's amendment. It says:

On Form 1040 for the taxable year 1977 there shall be included appropriate provisions for the taxpayers to indicate whether \$1 of their taxes for the taxable years 1975 and 1976 may be used for financing State elections.

Mr. GRIFFIN. I am sure the Senator from Massachusetts intended that to mean Senate elections, although I read it the same way.

Mr. CURTIS. It does.

My question is this: How do we know that it will be the same people who vote on this who voted for the checkoff that put the money in?

Mr. GRIFFIN. Well, that was the point I sought to make. It is the same point the Senator from Iowa is making against my amendment, and if the argument is not to be leveled against the amendment of the Senator from Massachusetts then, of course, it seems to me it should not be a valid point against mine.

Mr. CURTIS. Suppose a taxpayer paid a tax for the taxable year 1977 and he voted "yes" on this, and he did not pay any tax in 1975 or 1976. What then?

Mr. GRIFFIN. Well, he would have played a role in making a decision inappropriately. He should not have voted and he did and, of course, if the vote were close it would be unfair and not right.

Mr. CURTIS. To do it honestly and accurately they would have to compare the returns of everyone who voted on this provision—

Mr. GRIFFIN. That is right.

Mr. CURTIS. With all the checkoffs from 1975 and 1976.

Mr. HATFIELD. Mr. President, will the Senator yield at that point? I would disagree with the distinguished Senator from Nebraska. It would seem to me what we are providing for here is for every taxpayer, whether he did or whether he did not make a checkoff. That is not the point in this amendment. It just says, "Do you retroactively wish you had made a checkoff and would you like to have a dollar back now from 1975 or 1976?" So you do not really have to go back and check and see whether it affected only those who had checked off, but, in effect, it opens it up so that you retroactively can now make a checkoff on 1975 and 1976, as I understand the reading of the amendment.

Mr. CURTIS. I agree with the Senator. I intended to preface my question with this condition: If we were going to make it fair and equitable and accurate to conform to the facts, the only people who could modify or retract their checkoff of the previous year are the people who made the checkoff.

Mr. HATFIELD. Exactly.

Mr. CURTIS. Now, after all there is only a dollar involved in each tax return. How many dollars can we spend in administration per tax return to make that dollar transaction worthwhile? I doubt

very much if the Government can withdraw a tax return and look at it for a dollar.

I have been told that one of the major businesses across the country has a practice where if a taxpayer complains about a transaction and there is less than \$5 involved, they, after going through some motions, agree with the customer because it is cheaper to do that than to examine the records.

Not long ago or not many years ago I traded cars about a month before it was time to renew my insurance. I contacted my insurance agent and told him of the transaction. I wanted the insurance on the new car. I never got any bill for it. I asked him, and he said it was cheaper to give me that added protection than to bill me for it. I do not think he was condemning my credit rating. I would have mailed a check right back.

But, after all, how many referendums of voters and examination of returns can the Government afford to have over a dollar transaction? It might be interesting to see whether the people—if only 27 percent of the people availed themselves of the checkoff, and it does not cost them anything, why the whole system must be in pretty bad repute with our people back home.

If they really want to find out from the people who are for this, they might have a provision on the return that you could add a dollar to your total tax bill and send it in.

I never was for the present checkoff. It is delegating to the taxpayer the authority of the Appropriations Committee as to how the money might be spent after it reaches the Treasury.

Mr. GRIFFIN. I might just say that the 27 percent is the highest percentage for any year, 1976. In 1975 only 26 percent checked off a dollar; and for the tax year 1974 only 24 percent so checked off.

Well, I would say that the amendment of the Senator from Massachusetts is a rather inadequate substitute, and I hope it will not be adopted.

I trust the taxpayers of the United States. My amendment seeks to give them a voice, and I think they should have a voice, if we are going to make this fundamental change in our political system.

I hope the substitute will be rejected and my amendment will be adopted.

Mr. KENNEDY. Mr. President, I yield to the Senator, without losing my right to the floor.

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

Mr. ABOUREZK. Mr. President, I ask unanimous consent that Glenn Feldman of my staff be given floor privileges during the voting and consideration of this bill.

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

Mr. KENNEDY. Mr. President, I will just make a brief comment and then I would like to ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. KENNEDY. Mr. President, just a brief comment. What we are proposing

under the amendment that I have offered is effectively tracking what the Internal Revenue Service did in 1973. It is as simple as that.

The arguments that are raised at this time are similar to the arguments that were raised at that time, but the fact of the matter is it worked effectively, and it gave the American taxpayers an opportunity to make checkoff designations on their 1040 forms retroactively.

Mr. CLARK. Mr. President, will the Senator yield for the yeas and nays?

Mr. KENNEDY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

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

Mr. KENNEDY and Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. There is a sufficient second.

The yeas and nays were ordered.

Mr. HATFIELD. If the Senator will yield for a moment, I say to the Senator that I think this is an improvement. We are willing on our side to accept it.

Mr. KENNEDY. Fine.

Mr. President, I ask unanimous consent to withdraw the yeas and nays.

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

Mr. KENNEDY. I thank the Senator from Oregon. We are prepared to vote.

Mr. HATFIELD. I thank the Senator from Massachusetts for recognizing this particular problem that we have, I feel, very legitimately raised. As I say, I do not feel it goes as far as I would like to have it go but I recognize the vote situation here and we would rather take a half loaf than no loaf, to coin a phrase.

Mr. KENNEDY. I am delighted, too. We are certainly most willing to work with the minority on other amendments as well, so that we can move this bill to early passage.

I thank the Senator from Oregon for his support of the amendment.

Mr. GRIFFIN. Mr. President, the amendment which I offer did have two features to it. One had to do with the approval of the use of excess funds remaining, some \$23 million, to be used for senatorial funds after they had been designated for Presidential campaign funds. The substitute of the Senator from Massachusetts does address that particular concern, although not in the same words that I used. The other feature of my amendment which troubles the Senator from Iowa so much is that it would also have a referendum on whether the bill would ever become effective.

I will say to the Senator from Iowa that while we will go along with this step that the Senator from Massachusetts is now proposing, of course, it does not preclude me from offering another amendment at a later point in the debate to have a referendum on whether or not the act itself should become effective. And I reserve that right.

Mr. KENNEDY. Mr. President, let us vote on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CLARK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the Griffin amendment, as amended. The yeas and nays have been ordered.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the yeas and nays may be withdrawn.

The PRESIDING OFFICER. Without objection, the order for the yeas and nays is vitiated.

The question is on the amendment, as amended.

The amendment, as amended, was agreed to.

Mr. CLARK. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DANFORTH. Mr. President, I would like to take this opportunity to explain in some detail my position with respect to the bill that is before us. During my campaign for the Senate in 1976 I was asked on numerous occasions to state my position with respect to the public financing of political campaigns. I have been asked that question a number of times since the election, and—during the last few weeks—various people in the State of Missouri, including newspapers, have reminded me of my answer to that question; that is, that I have consistently supported the concept of public financing of campaigns for both, the Senate as well as the House of Representatives.

As a matter of fact, at times taking a position in favor of the concept of public financing has been a little bit difficult to explain in some circles. For a long time it has been thought that most members of my party, most Republicans, were opposed to everything that had anything to do with public financing of election campaigns—at any level at all.

So I have had some explaining to do—and I have done it. First of all, between 1968 and 1976 I ran for public office in the State of Missouri four different times—statewide.

Our State happens to be a very big State. Measuring on a diagonal the distance from one corner of the State to the other is about 560 miles. Under the best of circumstances it is difficult to campaign statewide—particularly when you are a member of a minority party, as I am. I am, as many of you know, the first Republican elected to the Senate from Missouri since 1946. In such circumstances, it is difficult enough just to conduct the campaign. But when you have to go out and raise money for a political campaign, that is just another very onerous, heavy, difficult burden to bear.

So from a personal standpoint, any method which would be easier to conduct a campaign has been to my advantage. For that reason, perhaps selfishly,

the concept of public financing is immensely appealing to me.

Second, from a more philosophical standpoint, public financing has made a great deal of sense. I have always viewed it as a cost of good Government. I think that the people of our country deserve to see the candidates. I think they deserve to have the candidates present their message on the electronic media and through the printed media. And let us face it: All these things cost a great deal of money.

This past year I traveled 45,000 miles through our State in a van. Traveling around, even on the road, costs a great deal of money. With gasoline prices continuing to increase, it is not going to get any cheaper in the years ahead. Obviously, chartering an airplane is expensive. But particularly expensive is the cost of radio and television advertising, both the production of radio and television advertising and buying the time to present your message to the people. The people deserve to have the message presented. They want to see the candidate. They want to hear what the candidate has to say.

In this day and age you cannot really discharge your obligation to giving your message to the people if you try to conduct a front-porch campaign. That does not do it. You have to get out with the public, and you have to meet them in every way that the media, the electronic media, allows you to get the job done.

This is a cost of Government. The people deserve to be informed about the people who are candidates for office and the people who will represent them in Government.

So I am greatly interested in the idea of not leaving campaign financing to the candidate himself—particularly those candidates who can afford to finance their own campaigns out of their own pockets. And I am interested in the idea of not leaving campaign financing to the special interests. I am interested in trying to find out some other means—so that the candidate is not beholden to his own family; so that the candidate is not beholden to any special interest group; so that the public itself views the campaign as a part of the whole political process; so that the public itself assumes the burden of financing campaigns as a part of the cost of Government.

To me, on a philosophical basis, this is a sensible approach. For that reason I have long supported the concept, the idea, of public financing for political campaigns.

I arrived at the Senate about 6½ months ago with this idea pretty firmly in mind, but without having gone through the exercise of examining any particular bill or any particular approach to public financing—simply as a person who had a basic philosophical view, and a personal view in his own mind, that public financing of political campaigns is a good thing.

I can remember very early after I arrived in the Senate engaging in a conversation with the Senator from Oregon (Mr. PACKWOOD) about the question of public financing. He was so persuasive, so vehement in his arguments against

public financing, as he understood public financing, that I must say he somewhat shook my confidence in the theory. I have great respect for Senator PACKWOOD. I consider him to be one of the brightest Members of the Senate and one of the most highly principled people whom I have ever known, and I have known him for about 6 or 7 years, long before I came here. In fact, he has campaigned for me in previous election campaigns in the State of Missouri. So when he speaks, I listen. And when he takes a view which is diametrically opposed to what I have believed, it certainly causes me to reexamine my belief.

But still the idea of public financing, and the idea of supporting this particular bill, was something that I had in my mind until about a week ago, when I attended a meeting of Senators. The Senator from Alaska (Mr. STEVENS) was present, and he told me something that caught my attention.

He said that the last time this bill came up, I do not know whether it was a year ago or 2 years ago—whenever it was—the last time that the idea of public financing came up in the Senate, he said that he was a cosponsor of the bill, that he was out front on the idea of public financing. But he said that he had reviewed this particular bill, S. 926, and had concluded that it was an absolute disaster, that it was a travesty, and that it was the last thing in the world that he wanted to support. And I have since heard him, in another forum, saying that the more he learns about the bill the less he likes it; the more he gets into the details of this particular bill the more outraged he becomes at what is in it.

So when forward-looking, progressive, public spirited, bright Members of the Senate such as BOB PACKWOOD and TED STEVENS state that this bill is a bad bill, it certainly causes me to take a second look at my predispositions—my earlier opinions—and to analyze this whole approach from scratch; to try to decide where I will stand when I am actually called upon to vote.

I think, on looking at it, that the problems are serious. They are serious in their specifics, and they are serious because this is a major piece of legislation that we have before us.

I remember the debate a couple of days ago when this was first brought up, and the expressions of opinion on the part of Senators who were advocating the passage of this bill. They said that if this is a major piece of legislation, that it is a major departure from past practice—that we stand at a crossroads in our country. So the seriousness alone of what we are doing, and the departure we are making, makes it important for us to take a good, hard look, to debate the bill thoroughly—not to waste a lot of time, but to go into it at great length—and to find out exactly what is in it and whether it is a good idea or a bad idea.

So for that reason I intend to vote against cloture. I intend to vote against cloture both Friday and next week. I intend to listen to the debate on the amendments that are offered on the bill very carefully. We are working in my office now on several amendments which we

are considering offering, amendments which I think would make the bill somewhat better.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator yield to me for a question?

Mr. DANFORTH. I yield.

Mr. ROBERT C. BYRD. Mr. President, I have consulted with the distinguished Senator from Missouri, who now holds the floor, and he has agreed to yield for the purpose of having a conference report called up. I ask unanimous consent that that not take the Senator from the floor, that he be recognized after action on the conference report, and furthermore, that the RECORD not show an interruption in his statement.

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

Mr. HARRY F. BYRD, JR. Mr. President, reserving the right to object—

#### CLOTURE MOTION

Mr. ROBERT C. BYRD. Mr. President, before the Senator does that I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion, having been presented under rule XXII, the Chair, without objection, directs the clerk to read the motion.

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 close debate upon S. 926, a bill to provide for the public financing of primary and general elections for the United States Senate.

Robert C. Byrd, Dick Clark, Alan Cranston, Edward M. Kennedy, John Glenn, Wendell Anderson, Patrick J. Leahy, John Culver, Gary W. Hart, Spark M. Matsunaga, Joseph R. Biden, Jr., John Melcher, Howard M. Metzenbaum, George McGovern, Daniel K. Inouye, Walter D. Huddleston, Paul S. Sarbanes, John A. Durkin, Birch Bayh, Adlai E. Stevenson.

#### PUBLIC FINANCING OF SENATE ELECTIONS

The Senate continued with the consideration of S. 926.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

Mr. HARRY F. BYRD, JR. Reserving the right to object, Mr. President, as I understand it there is no time consideration involved in the Senator's request.

Mr. ROBERT C. BYRD. That is correct. I asked the distinguished Senator from Missouri to yield feeling we would not impinge upon his time at length, but this does not mean that the Senator from Virginia may not speak at whatever length he wishes on the conference report. If there is going to be very much time taken on that, I think we owe it to the Senator from Missouri to let him know so he can finish his speech before we begin the conference report.

Mr. HARRY F. BYRD, JR. Mr. President, I cannot completely tell whether there will or will not be a great deal of time involved, depending upon how my

colloquy goes with the Senator from Minnesota.

Mr. DANFORTH. Mr. President, I am prepared to wait until the Senator has finished with the conference report. There are several Senators who are present for that reason alone. I doubt, for example, that Senator HUMPHREY is waiting with bated breath to hear me go on at some length about my position on public financing. I would rather listen to him on the conference report than have him listen to me.

The PRESIDING OFFICER. Is there objection?

Mr. DANFORTH. Mr. President, I do want to reiterate the understanding, that I have not yielded the floor.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

(The proceedings on the conference report which was considered at this point are printed later in today's RECORD.)

Mr. DANFORTH. Mr. President, my position is that I will vote against cloture as a matter of certainty on Friday, and certainly through the first part of the next week, and that I reserve judgment on what I will do on cloture votes thereafter.

I will support amendments which will improve and reform the defects which new appear in this bill, and I will support the substitute which will be offered by Senator PACKWOOD to provide tax credits for private contributions to congressional campaigns; and with respect to final passage of this bill I will reserve judgment until I find out what happens with the various amendments which will be proposed—to see whether we can clean up some of the problems.

My reason for voting against cloture is not to be an obstructionist, but because I think this is such an important bill, such an important departure from our way of financing elections to the U.S. Senate, that we should satisfy ourselves, through the process of debate, that all of the questions that now exist have been resolved in a satisfactory manner. The alternative is to enact a law which purports to reform the process of electing people to the U.S. Senate, and which operates to do the very opposite.

Now, I have two major problems with the bill at this point, and I would like to discuss those problems in some detail. I am concerned, first, that the bill as it is presently written may enhance the role that special interests play in financing senatorial campaigns.

My second concern is that the bill as it is now written may increase the propensity for the Federal Government and the Federal bureaucracy to manipulate what happens out in the world and, in this case, to manipulate the conduct of election campaigns in a way which would not be healthy for the body politic.

First, with respect to the role of special interests and the effect this bill may or may not have on the participation of special interest groups in financing senatorial elections.

This matter was raised expressly by the distinguished majority leader, Senator ROBERT C. BYRD, 2 days ago when

he made a statement on the floor of the Senate in support of the public financing bill and said:

I believe it is the best way to achieve three important objectives.

Then he stated as the first objective—

Honest, open elections free of domination or even the hint of domination by special interests.

Therefore, it is the position of the majority leader and the position of many people who advocate the enactment of this piece of legislation that it is going to have the effect of creating honest and open elections, and that it will diminish or even end the effect of special interest groups and the role of special interests in the financing of Senate campaigns.

This position has been taken not only by Members of the Senate who support the bill, but also by editorial writers who support the bill, writers who have described this piece of legislation as one that will reduce the role of special interests.

However, there is another opinion, and the other opinion was expressed in the minority views accompanying the committee report on this bill. The minority states as follows, under the heading "A Strengthening of Special Interests":

It has been argued that passage of public financing legislation will eliminate the influence of special interest money on federal elections. That contention is false. The Supreme Court has ruled that limitations on the amount of money a person or organization can give directly to a campaign are constitutionally proper. It has held, however, that limits on truly independent expenditures respecting candidates or issues are unconstitutional. Thus, a particular special interest must observe a ceiling on how much it can give to a candidate, but no limit applies as to how much it can spend independent of that candidate to urge his election or his defeat. Thus, an organization might spend large sums of money to oppose a particular candidate whose ability to reply is constrained by the expenditure ceiling he must observe as a condition of accepting public funds. In such a situation, the special interests have not been eliminated; indeed, they have been strengthened.

So, Mr. President, we have two directly contradictory views on the effect of this bill with respect to the role that special interests will play in financing senatorial elections. One view, advanced by the advocates of the bill, is that it would reduce the role of special interests. The other position, advanced by those who oppose the bill, is that it would strengthen the role of special interests. This, Mr. President, is the nub of the issue before us.

Mr. President, the basic question which has been raised by both proponents and opponents of this bill is whether the bill would reduce the role of special interest groups in financing senatorial elections or, in the alternative, whether it would increase the role of special interest groups in financing senatorial elections.

I suggest that this is the issue on which the Senate should focus our attention, and hope that the debate on this question of special interest groups and their role will be an issue which will be debated not only within the Senate of the United States but also in the editorial

pages of this country—by the columnists, by the commentators on radio and television and, indeed, by the American people. Who is correct? Would the bill reduce the role of special interests or would the bill increase the roll of special interests?

This is the question that deserves debate.

I was encouraged yesterday when I was on a radio call-in program with a radio station in St. Louis to have two people who called in ask me about public financing of senatorial elections. So I believe that public concern and public attention to the matter that is before the Senate is beginning to take place. But I think that the debate has to go on for at least several more days so that we can direct adequate attention to the matter before us and, in particular, to the issue of whether the role of special interest groups will be limited or increased by this bill.

Mr. BAKER. Mr. President, will the distinguished Senator yield to me briefly?

Mr. DANFORTH. I yield.

Mr. BAKER. Mr. President, if I may do so, I ask the majority leader what he sees in prospect for the remainder of the day. I gather that the distinguished Senator from Missouri has further remarks on this subject. I wonder if it is possible that we could find a time to recess or adjourn this afternoon at a reasonably early hour and if it would be possible for the Senator from Missouri to consider continuing with his presentation possibly in the morning. Mr. President, will the majority leader share with us his views on the schedule for the remainder of the day?

Mr. ROBERT C. BYRD. Yes.

Mr. President, in response to the query from the distinguished minority leader, I know of no further business to be transacted by the Senate today. When Senators have completed their statements in connection with the pending matter, the Senate will recess until tomorrow, Thursday.

I have not asked the manager of the bill what time he would like to start tomorrow but I shall make that contact. I imagine we would come in about 11 o'clock or somewhere between 11 and 12. But whenever the Senator from Missouri finishes speaking if no other Senator wishes to speak today we will go out.

Mr. BAKER. I thank the majority leader and thank the Senator from Missouri for yielding so I could make that inquiry.

If it suits the distinguished manager of the bill on this side, the Senator from Oregon, I hope that we could finish in the next 10 or 15 minutes.

Mr. HATFIELD. If the Senator will yield, this schedule as outlined by the majority leader and minority leader is quite satisfactory with my position. I would like to either ask unanimous consent or have our session continue for a few moments longer. Senator GRIFFIN is on his way to the floor to introduce some amendments that he would like to have introduced tonight for printing. Outside of that I think we are ready to join with the leadership in recessing until tomorrow.

Mr. ROBERT C. BYRD. Very well.

Mr. BAKER. If the Senator will yield further to me then, if I might do so I would ask the Senator from Missouri if it would be possible to agree informally that he could continue with his presentation in the morning and in the next 10 minutes or so we might find it possible then to recess. That will give the majority leader time to establish a convening hour for us in the morning, to inquire of the floor staff if there are any requests for special orders and take care of the details.

Mr. ROBERT C. BYRD. That would be perfectly satisfactory.

ADDITIONAL STATEMENT SUBMITTED

Mr. STENNIS. Mr. President, I wish to register my strong opposition to S. 926, and particularly to that provision thereof which provides for the public financing of senatorial general elections.

Part I of S. 926 would provide public financing for candidates to the U.S. Senate in general elections beginning in 1978. In order to be eligible for public funds a candidate must be the nominee of a major political party or must have received contributions in amounts of \$100 or less which aggregate 10 percent of the applicable State expenditure limit, or \$100,000, whichever is the smaller.

Mr. President, I believe that public financing of Senate elections is basically unsound and indefensible. The majority of the committee believes that this action is the best method available to terminate political candidates dependence upon special interest money, and on large contributions but I simply do not believe that this bill can or will accomplish this purpose. As a matter of fact, Mr. President, I find nothing in S. 926 which will curb the influence of special interest money in political campaigns.

We have a very peculiar situation here. This bill would ask the taxpayers to finance the political campaigns of senatorial candidates. It would place an added financial strain on the Federal Treasury for the benefit of the two major political parties. I cannot support this position, and I urge that the Senate join in rejecting this measure.

There are a number of reasons, Mr. President, why S. 926 should be defeated. In the first place it is my judgment that it will disrupt and distort the integrity of senatorial elections. It will also set up expenditure ceilings that are unrelated to political reality and thereby result in strengthening certain special interest groups. It does not truly meet the public's desire to remove special interest from political campaigns, and will also end bureaucratic redtape and complicate compliance procedures with the law.

It is my conviction that this bill, if passed, will have an adverse and unfair impact on third party and independent candidates and place them at an extreme disadvantage. I believe that there is a better alternative than this bill to the public financing of senatorial campaign even if we should concede that public financing of such campaigns is desirable or necessary.

I am not unmindful, Mr. President, of the political abuses that have shaken public confidence in elections in recent

years. I believe that these abuses are among the matters which have stimulated the mistaken support for public financing of senatorial elections. However, I think we should all remember that the abuses in political activities which occurred were already illegal at the time they were committed, and they were successfully prosecuted under laws which were already on the statute books. Also, Mr. President, we should remember that former Senator Sam Ervin, who chaired the Watergate committee, and all but two members of this committee, specifically recommended against enacting public financing as a method of preventing such excesses as Watergate and related abuses.

Senator Ervin stated that one of the most compelling arguments against taxpayer financing of congressional campaigns is that, according to the Internal Revenue Service, only about 25 percent of the American taxpayers have gone along with the dollar checkoff on their income returns for Presidential elections. Thus, if the process is expanded to include congressional campaigns without a parallel expansion of public interest and participation, the U.S. Treasury might be forced to underwrite political campaigns out of tax money pledged for other more worthwhile projects.

He also said that, administratively, the proposals would cause outrageous havoc. It has been estimated that the auditing of 15 Presidential candidates consumed 35 person-years of labor by the Federal Election Commission in 1976. You can imagine what the result would be if there was an expansion from those 15 Presidential candidates to possibly hundreds of senatorial candidates.

No one, Mr. President, is more strongly in favor of honest and incorrupt elections than I am. I believe that we should take every action possible to stamp out and eradicate corrupt elections. If we do not do so, then we do a tremendous disservice to the vast majority of the Senators and candidates whose integrity is beyond question.

My opposition to the pending bill is based upon the very firm conviction that it does not and will not accomplish its avowed purposes and that it will not serve to open up the political system to new candidates.

Mr. President, let me add a personal note. When I ran for reelection to the Senate last year, I determined that I would conduct a "people's" campaign. Therefore, in my announcement and mailings I asked that my friends limit their contributions to \$50. Most of them complied with my request, although a few were overly generous. In any event, my campaign funds were ample without adding to the financial burden on the taxpayer.

Finally, I would like to say that, in my judgment, despite the unquestioned good intention of S. 926, all public officials are not beholden to special interest groups. Contribution ceilings and full disclosure of contributions such as we now have adequately protect the political system from being financially corrupt. Public financing, in addition to becoming a burden to the taxpayers, does not in my

judgment accomplish anything that cannot be accomplished by a combination of contribution ceilings and full disclosure requirements.

I cannot support S. 926 in the present form because I have a fundamental policy and ethical disagreement with it. It is not a "reform" which I think will contribute to the public welfare. I therefore hope it will be defeated by the Senate.

(The following proceedings occurred during the presentation of Mr. DANFORTH's remarks and are printed at this point in the RECORD by unanimous consent.)

#### INTERNATIONAL FINANCIAL INSTITUTIONS—CONFERENCE REPORT

Mr. HUMPHREY. Mr. President, I submit a report of the committee of conference on H.R. 5262 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5262) to provide for increased participation by the United States in the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Asian Development Bank, and the Asian Development Fund, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

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

(The conference report is printed in the House proceedings of the RECORD of July 28, 1977.)

Mr. HUMPHREY. Mr. President, today I am presenting for final consideration by this body a most important piece of foreign assistance legislation—the conference report on H.R. 5262, the Omnibus Multilateral Development Institutions Act of 1977. Upon final passage it would authorize \$5.2 billion for six international financial institutions over a 3- or 4-year period. Participation in these institutions is an important part of American foreign policy, as they are a primary mechanism to promote the development of the numerous poorer nations of the world. This process not only creates good will for the United States and helps us to assist those less fortunate than ourselves, but it contributes to the worldwide economic stability so necessary to insure our own.

The conferees from the House and Senate have met through several long and weighty sessions on this bill to resolve some very real differences between the two versions. The Senate conferees are pleased with the outcome because the conference bill retains most of the provisions and the spirit which first the committee, and then the Senate itself, endorsed during previous consideration and debate. The differences centered largely upon issues other than overall authorization levels. With one exception, both sides approved the internationally ne-

gotiated share for U.S. participation in these institutions. The impact of U.S. contributions is magnified many times by the contributions from other donor countries.

U.S. contributions contained in this bill include: \$1.5 billion for the World Bank out of an all-donor investment of \$8.4 billion; \$112 million for the International Finance Corporation out of an all-donor contribution of \$540 million; \$2.4 billion for the International Development Association out of an all-donor contribution of \$7.6 billion; \$814 million for the Asian Development Bank out of an all-donor investment of \$5 billion; and \$180 million for the Asian Development Fund out of an all-donor contribution of \$809 million.

Further the House agreed to the Senate's proposed authorization of \$50 million for the current replenishment of the African Development Bank. The conference report states the expectation of the conferees that U.S. contributions over the next 3 years to this new, but increasingly important African institution, would be in the area of \$150 million; the additional \$100 million being contingent upon international negotiations and further congressional action.

The major areas of difference concerned human rights, and restrictions on lending to various countries or for the production of certain commodities. In all cases a mandated or required no-vote was called for by one side or the other. After lengthy discussion the conferees concluded that the pursuit of U.S. policy objectives within these institutions would be better served through broad instructions which require action in all aspects of the work of U.S. representatives, and not just a negative vote in the end; especially since the United States does not have veto power in any of these institutions.

The conference bill contains a new provision on human rights. The Senate bill took a positive approach to this issue by calling for the use of both voice and vote to channel assistance to countries not guilty of human rights violations. Senate conferees were anxious to retain this positive approach but the House conferees felt strongly that opposition to human rights violators must also be included: the new provision requires that where other means have proven ineffective, assistance to human rights violators must be opposed unless it directly serves basic human needs or the President determines that international human rights would be served better by other actions. Mr. President, this addition is designed to address the concerns of our colleagues in the House but it allows the administration room to determine in individual cases whether voting no, abstaining or simply declaring presence is a more effective means to deal with human rights violators. It was a long debate, but we believe we have found a good, solid compromise; I hope my colleagues in this body will wholeheartedly endorse it.

A similar approach was used to resolve the differences between the House and Senate restrictions on assistance for the production of palm oil, sugar, and citrus. Both sides were concerned that U.S. as-

sistance through the Banks should not be used for production which would compete with our own. The Senate asked that this issue be taken into consideration by the Executive Directors in carrying out their duties; the House required a no vote.

The compromise calls for opposition to assistance for expanding production for export of these products if it would cause injury to U.S. producers. This compromise strikes at the heart of the sponsors' concern—competition with U.S. production—while still retaining the flexibility to abstain or be present as well as vote no.

The Senate bill contained restrictions on assistance to Vietnam, Laos, and Cambodia, including a requirement that U.S. contributions to the international financial institutions be reduced by an amount equal to any assistance given to these countries. The House adamantly opposed this requirement because the institutions cannot legally accept conditioned funds; its effect, therefore, would be to take the United States out of the banks and potentially to destroy the institutions. The Senate insisted that something must be retained in the bill which would indicate its concern about lending to these countries, especially when all American MIA's have not yet been accounted for. Consequently the House agreed to language which would require U.S. representatives to consider in carrying out their duties the responsiveness of these governments in providing a more substantial accounting of American MIA's.

Mr. President, I believe this compromise, while acceptable to the House, nevertheless expresses the concerns of my colleagues who proposed the original amendment and I urge their support for it.

Finally, the Senate language specifying that U.S. contributions to these institutions in future replenishments should not exceed 25 percent, was modified to read "the United States should work toward aggregate contributions to future replenishments not to exceed 25 percent." The House conferees, while agreeing that U.S. participation at a 25-percent level was a worthy goal, were most reluctant to specify a time limit since the world's economy is so unpredictable. The Senate insisted, however, that the compromise language retain a strong expression of intent that U.S. contributions should not be more than 25 percent.

Mr. President, this short summary indicates the successful outcome of the conference and the conference report merits the support of the Senate. I strongly urge its speedy adoption.

Mr. President, it is my understanding that this conference report has been cleared on the minority side. It was a unanimous report from the conference committee of the two Houses.

Mr. President, as I have said, the differences between the House and the Senate on this bill were not particularly in the numbers, that is, the dollar amounts. There were some but they were compromised. Primarily, the differences were in some of the restrictions and restraints

which were placed in the House bill as relates, for example, to the automatic use of the veto or "No" vote on any loans where a country was held in violation of human rights. The language which was worked out was mutually acceptable and is acceptable, as I was informed today, to the administration. They would have preferred much more flexibility, but the conferees felt that was not possible in light of the differences which existed between the two Houses. The report of the conference committee outlines very distinctly the compromises and the adjustments which were made in certain fields, such as in the field of human rights, and also in the language which relates to nuclear devices. The Senate amendment contained a provision which repealed section 15 of the International Development Association Act, which required the U.S. representative to vote against any loan to any country which develops a nuclear explosive device unless that country becomes a party to the non-proliferation treaty. The House receded to the Senate. In other words, we carried our point of view.

Likewise, on matters of salaries for international financial institutions, the Senate expressed grave concern as to the amount of the salaries of officers of these international banks. The House had no comparable provision, and the Senate provision was sustained.

There were certain other factors. One of the points I know my friend from Virginia is concerned about is the matter of reports.

Might I say to the Senator from Virginia, we have been trying in many of these bills to reduce the number of reports which come to our committee simply because we do not have any time to review the reports. It is an unnecessary expenditure, a waste of funds, particularly when any of these reports are duplications.

These Senate amendments, as the bill was passed by the Senate, directed the President to report annually to the Congress on total U.S. loans and grants including assistance from international financial institutions to all countries from July 1, 1945, to the present, including an estimate for the fiscal year in which the report was made.

The House had no comparable language at all. The House was very adamant in their position. They felt that that report was primarily a matter of history, going back to 1945; that it was unnecessary. They put up quite a fuss about it. We finally receded on the grounds that this information is currently available annually in the reports submitted to the Congress.

I want to say to the Senator from Virginia that I expressed at that time that the Senate Foreign Relations Committee in this coming year would provide an aggregate report to the Congress. We have the material; we have the information. There is no need for the executive branch to go back over the whole thing. It is all there. We will be able to break it down further to include not only aggregate figures for 1945 to the present, but more recent breakdowns. I believe that is what certain Members of Con-

gress are concerned about. I will yield to my friend from Virginia.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. HARRY F. BYRD, JR. First, Mr. President, let me say I have before me an article entitled "Foreign Aid, Evading the Control of Congress," as it appeared in the International Policy Report, volume 3, No. 1, published by the Center for International Policy in Washington, D.C.

Mr. President, before reading a statement from that article I might indicate the caliber of individuals who are involved with the Center for International Policy in Washington, D.C. Among the members of the board of advisers are Arthur J. Goldberg, former U.S. Supreme Court Justice and Ambassador to the United Nations; Philip C. Jessup, former member of the U.S. Court of Justice and former Ambassador; Charles W. Yost, senior fellow at Brookings Institution and former deputy representative to the United Nations, and many other prominent individuals.

This is what that report said:

Some 69 percent of United States and multilateral foreign aid now reaching the Third World does so without benefit of any prior Congressional review of planned country-by-country allocations. In fiscal year 1976 the Third World got \$24.9 billion in direct credits, government-guaranteed loans, government-insured investments, and official debt deferments from 15 U.S.-bilateral programs and U.S. supported multilateral agencies, of which Congress debated, authorized, and appropriated country allocations for \$7.7 billion, only 31 percent of the total.

If the Senator from Minnesota has that information, which the Senator from Virginia could study to verify its accuracy—and I assume this report is accurate—if he could get a breakdown of that \$24.9 billion for 1976, the Senator from Virginia would like very much to have that.

It is difficult to obtain a comprehensive view of our foreign aid program and the total amount of resources that go into aiding other nations in any one year.

Mr. HUMPHREY. I know the Senator will give me the benefit of the doubt when it comes to trust. I assure the Senator that, at his request, I shall request this information from the President and the Secretary of State. I think it is appropriate that we have it, and I shall ask for capacity as chairman of the subcommittee. I shall insist that this information be given to us. I shall allude to the article which was quoted and ask for verification or whatever comment they wish to make on it. I think this is important.

I want to bring this to the Senator's attention and place it in the RECORD as official business of the Senate.

Mr. HARRY F. BYRD, JR. I assume that that request which the Senator from Minnesota plans to make would include a breakdown of the \$24.9 billion in direct credits, Government-guaranteed loans, and so forth.

Mr. HUMPHREY. Absolutely. I shall ask for a detailed breakdown so that we know the exact facts about what is alleged to have been the total amount of outlay of our credits and assistance.

Mr. HARRY F. BYRD, JR. That is for fiscal year 1976.

Mr. HUMPHREY. Whatever year the Senator wishes.

Mr. HARRY F. BYRD, JR. When this reporting amendment was being debated in the Senate, the Senator from Minnesota made this statement:

I have spoken to the Senator from Virginia about the amendment. It is a very good amendment.

Mr. HUMPHREY. I agree.

Mr. HARRY F. BYRD, JR.—

It only indicates the Senator's deep concern over the utilization and use of these funds. I compliment him on it. I think it ought to be a part of the bill.

Mr. HUMPHREY. That is exactly the way I felt, and I said that to the House conferees. It was considered by them a matter which they did not feel was of significance. They took a very firm position. I told them that we would get the information ourselves, then, as long as they would not put it in the bill; I would either have the committee do it or I would get it from the administration.

I shall do just that for the Senator—not only for him but for the Senate.

Mr. HARRY F. BYRD, JR. I want to continue to quote what the Senator from Minnesota said in the Senate when this amendment was being debated:

I think it ought to be a part of the bill. I am only sorry I did not think of it myself. I join him in support of the amendment, and, in behalf of the committee, I accept the amendment and will fight to keep it in conference.

Mr. HUMPHREY. The Senator is correct, and I kept my word.

Mr. HARRY F. BYRD, JR. So it is an amendment that, in the opinion of the Senator from Minnesota, at least, according to his statements to the Senate, should have been enacted by the Senate. It is an amendment which, as he described it, is necessary and desirable, or words to that effect.

Mr. HUMPHREY. I do believe it is. We have been engaged for some 30 years in some form of foreign assistance. I think it is time for an accounting, I say to the Senator. This is especially true in light of the statement that some \$24 billion in credits, loans, and guarantees have been made in fiscal year 1976. We ought to have the details both about amounts and terms. I shall look this record over very carefully. I assure the Senator that a proper communication will be made to the appropriate agencies or offices of Government and I shall insist upon their response.

If that does not happen, I shall back the Senator again on another amendment on another bill that may come up here until we get this information.

Mr. JAVITS. Will the Senator yield at that point?

Mr. HARRY F. BYRD, JR. If I may just say this before yielding, the committee report says that the information is currently available. Could I ask the Senator what he feels the time element might be in obtaining that information for the Senator from Virginia?

Mr. HUMPHREY. I think we ought to do it within the next 30 to 60 days—not

over 60 days. It ought not to take any longer than that. I shall do my level best to accomplish that goal.

Mr. HARRY F. BYRD, JR. That is very fine. I shall make no further issue of that proposal.

Mr. HUMPHREY. I thank the Senator. Mr. JAVITS. If the Senator will yield to me, I should like to say that I agree that the amendment of the Senator from Virginia is eminently sound. Though I favor foreign aid programs and have for 30 years, I thoroughly agree that we should be hard-headed about what they cost and how we pay the bill. That is all the Senator asks and I shall fully cooperate. I believe that Senator CASE would feel exactly as I do together with Senator HUMPHREY. Notwithstanding the fact that we had to yield, Senator HUMPHREY really tried hard and used the name of the Senator from Virginia in that connection. Notwithstanding that we had to yield, the substantive information will be promptly forwarded.

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

Mr. HUMPHREY. I thank the distinguished Senator from New York.

Mr. HARRY F. BYRD, JR. As to another section of the report, in regard to human rights, the Senator from Minnesota, in describing the conference report, said that the U.S. representatives in international organizations would have more flexibility than perhaps the administration would like for that representative to have. What does he mean by that?

Mr. HUMPHREY. The administration wanted total flexibility. They did not want any restraint at all. But we did put restraints in.

Mr. HARRY F. BYRD, JR. Let us get to where the restraints are.

Mr. HUMPHREY. All right. The report itself says:

The Senate receded, with an amendment, to the House provision which requires the United States representatives to the international financial institutions, where other means have proven ineffective in advancing the cause of human rights, to oppose all assistance to countries which engage in consistent patterns of gross violations of internationally recognized human rights or which provide refuge to airline hijackers unless the assistance is directed specifically to programs which serve the basic human needs of the citizens of the country or unless the President certifies that the cause of international human rights would be more effectively served by actions other than voting against such assistance.

We call upon the President to make a certification. The qualifications here are that our representative is directed to oppose any of these loans unless: No. 1, it is really a matter of humanitarian assistance—people who are starving, victims of flood or natural disasters; and No. 2, the President himself certifies—not determines, but certifies to Congress—and explains why he believes that he can make more progress in advancing human rights without the automatic opposition.

Mr. HARRY F. BYRD, JR. I think that is fine so far as it goes. But the last sentence of that same paragraph says this:

The conferees stated their view that the term "oppose" can mean voting "no,"—

Mr. HUMPHREY. Or abstention.

Mr. HARRY F. BYRD, JR. Or voting "present," which means there is no opposition vote.

Mr. HUMPHREY. Right.

Mr. HARRY F. BYRD, JR. It can mean "abstention," which again has no effect on withholding funds.

Mr. HUMPHREY. Right.

Mr. HARRY F. BYRD, JR. Or any action other than voting "yes."

So it appears to me it is very meaningless, really.

Mr. HUMPHREY. Oh, no, I say to the Senator, because it permits our representative, first of all, to start out with the position of opposition.

Mr. HARRY F. BYRD, JR. He can do that now without anything else.

Mr. HUMPHREY. This directs that he shall.

Mr. HARRY F. BYRD, JR. No, it does not.

Mr. HUMPHREY. Yes, it does.

Mr. HARRY F. BYRD, JR. It directs him to oppose.

Mr. HUMPHREY. That is right.

Mr. HARRY F. BYRD, JR. Then we define what "oppose" means.

Mr. HUMPHREY. "Oppose" means no, or abstain.

The reason that we do it that way is because our "no" vote could not stop the loan anyway—all it does is register that he says "No"—the abstention can have the same effect. It does not stop the loan. But there may be some vital national reason that, in one instance or another, we may want to abstain, rather than putting ourselves on the line with a "No."

But may I say to the Senator, the representative of the American Government on these banks is directed to oppose these loans.

Mr. HARRY F. BYRD, JR. But only oppose them in the context of the definition which the conferees make.

Mr. HUMPHREY. That is correct.

Mr. HARRY F. BYRD, JR. The definition the conferees make gives the director plenty of leeway not to oppose the loans on the grounds that the Congress feels it should be opposed on.

Mr. HUMPHREY. He has to oppose, but he must not cast his vote as "No." One may abstain, but still oppose. That has been used in many international fora.

There may be times, and I think the Senator may be the first to know, because of his deep patriotism and love of his country, that there may be times when it would be exceedingly difficult for us to vote, "No," even though we have opposed the assistance in argument, even though we have registered our opposition to it. On the official record, we may want to abstain.

By the way, if our voting "No" meant that the loan could be killed off, that would be one thing. But it does not. In only one of these international institutions does our "No" vote do anything but register our opposition. That is all it does. We do not have a controlling interest in any of the banks.

Mr. HARRY F. BYRD, JR. I guess there is one way that it could be done.

If Congress specifies that no funds shall go to the international banking institution unless a "No" vote is cast, that could be done, could it not?

Mr. HUMPHREY. Yes, but that does not leave room for any sensible reason, or persuasion, or negotiation.

We really want to advance the cause of human rights. Sometimes it is done much better through diplomacy, or through use of some argument or rationality, or some reasonable persuasive position, rather than just a "no" vote.

As we work here in the Senate, sometimes we have difficulties and differences of view, but by debate and discussion and going into the cloakroom and talking things out, we come to some understanding and make progress. That is what this provision does.

Frankly, the position taken here, which met, by the way, with the approval of the House Members who had a very firm attitude on this, is I think a reasonable position and will be effective.

Mr. HARRY F. BYRD, JR. I think I must differ with the Senator. I do not think it will be effective. I think it is a weakening of our Nation's human rights stand. I think the House position was certainly a much stronger one.

Mr. HUMPHREY. The Senator is correct. Stronger in the sense it just said "No," but not stronger in the sense of commonsense.

Mr. HARRY F. BYRD, JR. The United States is now heavily involved in trying to see that human rights are respected all over the world—and I am in favor of this.

Consequently, I do not see why American tax funds should be used to finance governments which treat their citizens in an inhumane way.

If they do not get United States funds from the taxpayers of our country, they have a right to do what they want to do. We cannot tell every country all over the world how to operate their own affairs.

Mr. HUMPHREY. I agree.

Mr. HARRY F. BYRD, JR. However, we can put strings on funds that we take out of the pockets of the working people of this country and give foreign governments.

Mr. HUMPHREY. The only way we could meet that argument—and it has a great deal of legitimacy—is not to even participate. Because the truth is that by the structure of the bank charter and by our investment in stock in the bank and our contributions to the bank, we do not have that much control.

I mean, I put money in a bank uptown here and they loan it to people, I do not know who they loan it to.

Mr. HARRY F. BYRD, JR. That is totally different. It has nothing in the world to do with what we are speaking of.

Mr. HUMPHREY. But sometimes we do not have controlling interests. If we had controlling interests—

Mr. HARRY F. BYRD, JR. We have the controlling interest of the taxpayer to consider. We take tax money out of

the pockets of the American people and we have a responsibility to them.

Mr. HUMPHREY. Yes.

Mr. HARRY F. BYRD, JR. We have control of that.

What we are doing is turning that money over to international financial institutions which, as I say, we cannot control.

That is one reason I am opposed to taking money out of the pockets of the American working people and turning it over to these international banks, who turn it over to other nations, not the poor people. They do not go out with programs for the poor. They turn it over to a government.

I think the Senator will agree that the countries to which this money goes are not all without corruption.

Mr. HUMPHREY. I understand the Senator's position very well. It is a very honorable position. There are just some of us who feel that the needs of world peace and world development are met reasonably well by some of these international financial institutions.

We recognize that we do not live in a perfect world. We recognize we do not have control in this imperfect world. But we feel what we are doing, at least until now, is the right way to proceed.

In fact, I recall that only a few years ago the Senate went on record saying all of our foreign aid should go into international financial institutions and none of it into bilateral aid.

When we come to the bilateral, we do control the money and do not provide money to nations that have violated human rights, as we define them. No loan. None. Absolutely out.

We did the best we thought we could in the international institutions, directing our one representative on those boards to use our voting stock to oppose any loan to any country that violates human rights, and that is "No" or abstaining.

The reason for the abstention is very simple, there may be a time we find it inconvenient and embarrassing and contrary to our national interest to cast an open "No" vote if we have used all the powers of persuasion we have. That it would be more sensible to use the abstention vote, because the "No" vote would not stop the loan any more than the abstention would stop it.

It is an accommodation to the realities of the world in which we live.

I do not wish to argue with the Senator long on this. I know his view. I respect his view. I do not think even the best debate I could put up would change it one little bit.

Mr. HARRY F. BYRD, JR. Let us change the subject for a moment—

Mr. HUMPHREY. Good.

Mr. HARRY F. BYRD, JR. And get to the dollars involved.

Mr. HUMPHREY. Yes.

Mr. HARRY F. BYRD, JR. How many dollars are involved in the bill?

Mr. HUMPHREY. The total amount of the funds involved in the bill—\$5,125,000,000.

Mr. HARRY F. BYRD, JR. And what was the amount the Senate approved?

Mr. HUMPHREY. The same.

Mr. HARRY F. BYRD, JR. And just one other figure, if I might, what was the amount that was authorized for fiscal 1977? These figures—

Mr. HUMPHREY. This is for the 3 or 4 years, the total program, some authorizations cover 3 years and some more.

The only bank that runs 4 years, as I recall, is the Asian Development Bank. The rest of the items are 3 years. The amount for fiscal 1978 would be \$1.6 billion.

Mr. HARRY F. BYRD, JR. But this bill we are speaking of now is a \$5.1 billion authorization.

Mr. HUMPHREY. Because it authorizes for 3 years.

Mr. HARRY F. BYRD, JR. Right.

Mr. HUMPHREY. For most of the institutions. All but one; namely, the Asian Development Bank.

Mr. HARRY F. BYRD, JR. How does that figure compare with the previous authorization for the same period?

Mr. HUMPHREY. There is a difference because we have a pickup on what we call IDA because of the shortfall and in the appropriations for IDA before. Also, this time—

Mr. HARRY F. BYRD, JR. What does the Senator mean, a shortfall?

Mr. HUMPHREY. We did not appropriate enough.

Mr. HARRY F. BYRD, JR. That is because the Congress—

Mr. HUMPHREY. Neither authorized nor appropriated enough to take care of our negotiated commitment under IDA III. Then we had to pick up IDA IV. Plus the fact we did not have authorizations for some of these institutions last year because there was no new negotiated agreement. Last year was entirely different.

Mr. HARRY F. BYRD, JR. What does the Senator mean, we did not have enough on the commitment? Who made the commitment?

(Mr. CULVER assumed the Chair.)

Mr. HUMPHREY. That was made by the executive branch of the Government.

Mr. HARRY F. BYRD, JR. Not by the Congress?

Mr. HUMPHREY. That is correct, and we made it clear in this bill that while these are authorizations, they are all subject to annual appropriations under the Budget and Impoundment Act.

So that while the authorizations are there, the appropriation process is jealously guarded.

Mr. HARRY F. BYRD, JR. Is this the fourth or fifth replenishment?

Mr. HUMPHREY. For IDA, it is the fifth.

Mr. HARRY F. BYRD, JR. This is the fifth replenishment?

Mr. HUMPHREY. For IDA, yes.

Mr. HARRY F. BYRD, JR. And the total for IDA on the fifth replenishment is how much?

Mr. HUMPHREY. For the 3 years, the fifth replenishment would be \$2.4 billion.

Mr. HARRY F. BYRD, JR. What was it for the fourth replenishment?

Mr. HUMPHREY. \$1.5 billion.

Mr. HARRY F. BYRD, JR. So what this proposal does, then, is to almost double—

Mr. HUMPHREY. Not quite.

Mr. HARRY F. BYRD, JR. Not quite, but almost double the amount of funds which will be taken from the taxpayers of this country and given to IDA in the fifth replenishment as compared with the fourth replenishment.

Mr. HUMPHREY. It adds some \$800 million; that is correct.

We have to keep in mind that since the fourth replenishment, there has been a bit of inflation. There also are needs that have to be met.

Mr. HARRY F. BYRD, JR. I suggest that we keep in mind, too, that it is because of appropriations such as this and the accumulated total of these and other huge appropriations that we have greater deficits and thus inflation. Then we have to come back and say that we have to replenish these funds because of the inflation which has been created by them in the first place.

Mr. HUMPHREY. I say most respectfully to my beloved friend from Virginia that the Senate voted overwhelmingly to support the Senate bill, which included this amount of money; and in conference we did not change the amount of money.

Mr. HARRY F. BYRD, JR. I understand that. Whether it was done overwhelmingly or by a narrow majority, the fact is that the money comes out of the pockets of the working people.

Mr. HUMPHREY. The money comes out of the pockets of the people working and not working; it comes out of the rich and the poor, the Republicans, the Democrats, and the independents. It just comes out of their pockets; there is no doubt about that.

Mr. HARRY F. BYRD, JR. The Senator has stated it ably. That is exactly right. Because it does come out of the pockets of the poor and the rich and the Republicans and the independents and the Democrats—

Mr. HUMPHREY. Not necessarily in that sequence.

[Laughter.]

Mr. HARRY F. BYRD, JR. Not necessarily in that sequence, but in total it comes from those sources and other sources. That is why the Senator from Virginia is concerned that there be such a tremendous increase in this amount, in this one bill.

We turn these vast sums over to the World Bank, and the World Bank, in turn, turns them over to various governments throughout the world—not to the people, but to a multitude of governments; and those governments then can spend the money any way they see fit, with no control whatsoever by the U.S. Congress.

Mr. HUMPHREY. I say to the Senator that we entered into a treaty on these matters. The treaty is the supreme law of the land. The Congress of the United States has ways and means of abrogating treaties, if it wishes.

Mr. HARRY F. BYRD, JR. The Senator from Minnesota does not say, does he, that we entered into a treaty that the Congress of the United States must appropriate \$2.4 billion?

Mr. HUMPHREY. We entered into a treaty that establishes the structure of

the bank and how the loans will be made. The amount of money is still before the Congress of the United States, in its appropriation process.

Mr. HARRY F. BYRD, JR. Congress has the authority, if it wishes, to exercise it.

Mr. HUMPHREY. That is correct.

Mr. HARRY F. BYRD, JR. Congress has the authority to reduce these vast sums that have been going to these international banking institutions?

Mr. HUMPHREY. Yes.

Mr. HARRY F. BYRD, JR. But the trouble is that Congress does not want to do it.

Mr. HUMPHREY. I say to the Senator that we listened to testimony. I would like to feel that if we listen to full testimony and have reason to believe it is in our national interest, we should at least express ourselves in support of these institutions. If we do not agree, then, we should do as the Senator from Virginia does, who states his case so well, and we should disagree and then add up the votes here. I have been on the losing side so many times that I can tell the Senator I know just how it feels.

Mr. HARRY F. BYRD, JR. The Senator from Minnesota has not been on the losing side in foreign aid. The Senator from Virginia has.

Mr. HUMPHREY. But the Senator from Virginia keeps amending these bills and doing such a good job, he forces us to think through these measures as never before. [Laughter.]

I mean that sincerely, not in jest.

Mr. HARRY F. BYRD, JR. I appreciate that very much.

When the Senator from Minnesota talks about being on the losing side, the Senator from Minnesota has been on the winning side of every foreign aid fight and every foreign aid bill that has come before the Senate since 1948.

Mr. HUMPHREY. The Senator is right; that is one of the things I am proud of. I have not always been on the winning side, as the Senator knows. Thank God for little victories.

Mr. HARRY F. BYRD, JR. As the Senator so beautifully points out, the Senator from Virginia does not have the votes. There is no way that this bill can be defeated.

The Senator from Minnesota is sitting with four aces in his hand, and it is very hard to beat four aces.

I realize that I cannot defeat the proposal, although I am strongly opposed to it. I think it is wrong to take money out of the pockets of the working people and turn it over to these financial institutions to do as they wish with it.

Be that as it may, the majority of my colleagues disagree with me.

I should like the RECORD to show that I shall vote in opposition.

Mr. HUMPHREY. I thank the Senator.

Mr. CASE. Mr. President, as in many other matters, this represents a monument to the achievement of the Senator from Minnesota. In guiding the bill through the committee, through the Senate, and then through the confer-

ence, he has been his usual combination of enormous adroitness, honesty, compassion, and great ability. We have brought back a product which is by no means satisfactory to us in every respect, but I am sure it contains the absolute maximum that could be obtained from Congress in this session. I commend him for his job.

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

Mr. CASE. I yield.

Mr. SPARKMAN. Mr. President, I certainly agree with the Senator from New Jersey.

As we all know, it was not an easy job. We worked through several sessions in conference with the House. It took a great deal of deliberation, discussion, and consideration in order to get this matter worked out. I think we worked out a very good program, and I commend the Senator from Minnesota.

Mr. JAVITS. Mr. President, I, too, attest to the skill and genius of HUBERT HUMPHREY in guiding these things through, especially his wonderful human qualities which carried it very often.

I underline what Senator CASE has said. Never, so far as I could detect, was there fudging, not only on the proof, but also on the facts, either in letter or in spirit, and that is the biggest achievement of all. I am delighted with my colleague's talent and his ability to accomplish great things and leave everybody with a very good taste in their mouths when it is all over.

Mr. HUMPHREY. Mr. President, my colleagues flatter me, honor me. I must admit that I am pleased. But, truly, it is more than the truth in this case. I thank them very much.

I say this to the Senator from Virginia: He is a good opponent in these matters. He states his case, and we have a good go-around here. Honestly, it is a delight to work with the Senator from Virginia. Do not get up and say, "You win all the time," because the Senator from Virginia has taken me to the cleaners many times.

I thank the Senator from New Jersey for his generous remarks, and I thank the chairman of our committee, Senator SPARKMAN, the chairman of our conference. He is entitled to a debt of gratitude. As he pointed out, we spent hours and hours on this, beyond 6 o'clock. We had a hassle with this bill.

I thank all Senators very much. It has been a joy to work with them.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. CASE. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

(This concludes proceedings which occurred earlier in the day.)

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator from Missouri yield?

Mr. DANFORTH. I yield.

ORDER THAT COMMITTEES MAY HAVE UNTIL 7 P.M. TODAY TO FILE REPORTS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that committees may be authorized to have until 7 p.m. today to file reports.

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

ORDER THAT RECORD REMAIN OPEN UNTIL 7 P.M. TODAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the CONGRESSIONAL RECORD be kept open until 7 p.m. today to accommodate Senators in submitting statements, petitions, and memorials, bills and joint resolutions.

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

NOMINATION OF IRENE TINKER TO BE AN ASSISTANT DIRECTOR OF ACTION

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Williams I ask unanimous consent that the nomination of Irene Tinker to be an Assistant Director of the ACTION Agency be jointly referred to the Committees on Human Resources and Foreign Relations.

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

Mr. WILLIAMS. Mr. President, the Committee on Human Resources has received the nominations of John Robert Lewis to be an Associate Director of ACTION; Mary Frances Cahill Leyland to be an Assistant Director of ACTION; and Irene Tinker to be an Assistant Director of ACTION. In addition, Ms. Leyland's nomination has been jointly referred to the Committee on Foreign Relations. Ms. Tinker's nomination should also have been jointly referred to the Committee on Foreign Relations.

Mr. President, I have consulted with the chairman of the Subcommittee on Child and Human Development (Mr. CRANSTON) which has jurisdiction over the domestic volunteer programs of the ACTION Agency regarding the consideration of these nominations. So that nominations in the future may be appropriately referred, I further state the understanding which was discussed in 1973 with the Foreign Relations Committee following enactment of Public Law 93-113, the Domestic Volunteer Service Act of 1973, and which has been agreed to by the distinguished chairman of that committee (Mr. SPARKMAN). The understanding is as follows: That nominations for the statutory positions of Director and Deputy Director of the ACTION Agency will be considered by both committees; that the nominations for the statutory position of Associate Director for Domestic and Antipoverty Operations will be considered only by the Committee on Human Resources; nominations for the statutory position of Associate Director for International Operations—Director of the Peace Corps—will be considered only by the Committee on Foreign Relations; and

that nominations for two Assistant Director positions will be considered by both committees unless the Agency should assign to one or both of these positions responsibilities solely affecting either the domestic or international programs, in which case the understanding respecting the nominations for Associate Directors will apply.

#### ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I have no further requests at the moment so I thank the distinguished Senator from Missouri for yielding.

Mr. President, has the distinguished Senator completed his statement as far as today is concerned?

Mr. DANFORTH. Yes, Mr. President. I have more remarks that I would like to make on this bill but in view of the colloquy that took place between the majority and minority leaders I would be happy to stop at this place. But I would like the opportunity to proceed with the balance of my comments tomorrow when the Senate reconvenes.

Mr. ROBERT C. BYRD. Very well. Now the Senator understands there is absolutely no pressure for him to not complete his statement today if he wishes?

Mr. DANFORTH. I understand.

Mr. ROBERT C. BYRD. Whatever the Senator's wishes are.

Mr. DANFORTH. Yes, I understand and I appreciate that. It would be fine for me to stop at this point and then pick up tomorrow. I am at kind of a break point in my remarks.

Mr. ROBERT C. BYRD. Very well.

#### ORDER FOR RECESS UNTIL 12:30 P.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 12:30 p.m. tomorrow.

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

#### ORDER FOR RESUMPTION OF CONSIDERATION OF S. 926 AT 1 P.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at 1 p.m. tomorrow the Senate resume the consideration of the public financing bill.

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

#### ORDER FOR RECOGNITION OF SENATOR HARRY F. BYRD, JR. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow after the two leaders have been recognized under the standing order, the Senator from Virginia (Mr. HARRY F. BYRD, Jr.) be recognized for not to exceed 15 minutes.

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

Mr. ROBERT C. BYRD. Mr. President, if Mr. HARRY F. BYRD, Jr.'s 15-minute order should carry beyond the hour of 1 o'clock p.m. tomorrow, which I do not think is likely to happen, I ask unanimous consent that in that event the Senate resume the consideration of the public finance measure upon the completion of Mr. Byrd's order.

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

#### ORDER FOR RECESS FROM CLOSE OF BUSINESS TOMORROW UNTIL 10:30 A.M. ON FRIDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, so that Senators will be alerted to the time for the vote on cloture on Friday, that when the Senate completes its business tomorrow, it stand in recess until the hour of 10:30 a.m. on Friday.

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

Mr. ROBERT C. BYRD. Mr. President, that would mean that, in accordance with the rule, the vote would occur on the motion to invoke cloture on Friday at about 11:45 a.m., give or take a little. I imagine it would be somewhere between 11:45 and 12 noon.

Mr. BAKER. Mr. President, will the Senator yield to me on that point?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. I thank the majority leader for giving us this information and sequence of times, so that Senators may know the time for the vote on Friday, and I have no objection to that request.

I wonder, however, if it develops that there are certain minor adjustments that might appear necessary tomorrow, we might consider modifying that agreement. For instance, I know of one Member on our side who gets back to town after a necessary absence at about 11 o'clock. As I recall, there is another who has to leave on necessary business at about 11:30; but I am not sure of that. I wonder if the majority leader would accommodate me by agreeing that we might consider modifying that order if circumstances indicate the necessity.

Mr. ROBERT C. BYRD. We will certainly consider that, yes, indeed.

Mr. BAKER. I thank the Senator.

Mr. President, I ask the majority leader if he will yield for one more request?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. In view of the accommodation given us by the distinguished Senator from Missouri (Mr. DANFORTH), I wonder if the majority leader would ask unanimous consent that he be first to be recognized after the Senate resumes the consideration of this measure tomorrow?

Mr. ROBERT C. BYRD. Yes, indeed. The distinguished Senator from Missouri has been very patient in yielding for interruptions today, and has been most cooperative, and I am delighted to make that request.

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

#### RECESS UNTIL 12:30 P.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move in accordance with the previous order, that the Senate stand in recess until 12:30 p.m. tomorrow.

The motion was agreed to; and at 4:44 p.m. the Senate recessed until tomorrow, Thursday, July 28, 1977, at 12:30 p.m.

## HOUSE OF REPRESENTATIVES—Wednesday, July 27, 1977

The House met 10 o'clock a.m.  
The Chaplain, Rev. Edward G. Latch, D.D. offered the following prayer:

*If we live in the spirit, let us also walk in the spirit.*—Galatians 5: 25.

Holy Spirit, truth divine,  
Dawn upon this soul of mine;  
Word of God, and inward light,  
Wake my spirit, clear my sight.

Holy Spirit, love divine,  
Glow within this heart of mine;  
Kindle every high desire;  
Perish self in Thy pure fire.

Holy Spirit, power divine,  
Fill and nerve this will of mine;  
By Thee may I strongly live,  
Bravely bear and nobly strive.

Holy Spirit, right divine,  
King within my conscience reign;  
Be my Lord nad I shall be,  
Firmly bound, forever free.

May this song sing its way into our hearts making us clear in conscience, firm in faith, and strong in spirit as we face duties of this demanding day. Amen.

#### THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

#### MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of the clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7932) entitled "An act making appropriations for the legislative branch for the fiscal year ending September 30, 1978, and for other purposes," and that the Senate agreed to the amendments of the House to the amendments of the Senate numbered 79, 87, 92, and 96 and receded from its amendment numbered 61, to the foregoing bill.

The message also announced that the Senate had passed a bill of the following