MARCH 21

9:30 a.m.
Environment and Public Works
Transportation Subcommittee
To resume hearings to receive testimony on issues relating to the Federal highway program, including the level of Federal support, completion of the Interstate system, and the costs of maintenance on the Federal highway system.
4200 Dirksen Building

Veterans' Affairs
To mark up S. 364, to provide for judicial review of administrative decisions promulgated by the VA, and to allow veterans full access to legal counsel in proceedings before the VA, and S. 2384, the Veterans and Survivors Income Security Act.
412 Russell Building

10:00 a.m.
Banking, Housing, and Urban Affairs
International Finance Subcommittee
To continue hearings on proposed fiscal year 1979 authorizations for the Export-Import Bank.
5302 Dirksen Building

MARCH 22

9:00 a.m.
Human Resources
To hold hearings to receive testimony on S. 2084, the Administration's proposed welfare reform legislation.
Until 12:30 p.m. 4232 Dirksen Building

9:30 a.m.
Environment and Public Works
Transportation Subcommittee
To continue hearings to receive testimony on issues relating to the Federal highway program, including the level of Federal support, completion of the Interstate system, and the costs of maintenance on the Federal highway system.
4200 Dirksen Building

MARCH 23

9:00 a.m.
Human Resources
To continue hearings to receive testimony on S. 2084, the Administration's proposed welfare reform legislation.
Until 12:30 p.m. 4232 Dirksen Building

APRIL 3

9:00 a.m.
Veterans' Affairs
To hold hearings to receive legislative recommendations from AM-VETS, Paralyzed Veterans of America, and Veterans of World War I.
Until 1:00 p.m. 6202 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on the condition of the banking system.
5302 Dirksen Building

APRIL 4

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the condition of the banking system.
5302 Dirksen Building

APRIL 6

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume oversight hearings on the National Bureau of Standards.
235 Russell Building

APRIL 10

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings to consider the reestablishment of housing goals and proposed extension of existing housing programs.
5302 Dirksen Building

APRIL 11

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue hearings to consider the reestablishment of housing goals and proposed extension of existing housing programs.
5302 Dirksen Building

APRIL 12

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue hearings to consider the reestablishment of housing goals and proposed extension of existing housing programs.
5302 Dirksen Building

APRIL 24

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on monetary policy.
5302 Dirksen Building

APRIL 25

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on monetary policy.
5302 Dirksen Building

HOUSE OF REPRESENTATIVES—*Thursday, January 26, 1978*

The House met at 11 o'clock a.m.

Rev. Paul J. Sorensen, Canton Christian Tabernacle, Canton, Ohio, offered the following prayer:

God, our almighty, unchanging Father: Thou searcher of men's hearts, help us to draw near Thee in humility and truth. We acknowledge the overflowing measure of Thy divine grace and providence.

Bless with true wisdom the President and all of our national leaders, and especially this the House of Representatives with willing obedience to Thy truth. Endow them with courage to act upon all issues with such noble purpose that scorns injustice and knows no fear when freedoms and rights of we Americans are in jeopardy.

O, God, forgive us for our national and individual sins. Draw us closer to the heart of Him who taught us to love God and our neighbors.

We ask in the name of our Lord and Master. 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.

REV. PAUL J. SORENSEN

(Mr. REGULA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REGULA. Mr. Speaker, the gentleman who just delivered the invocation to this body is a highly respected constituent of mine, the Reverend Paul J. Sorensen of the Christian Tabernacle in Canton, Ohio.

Reverend Sorensen comes before us today with an impressive background. He graduated from the Life Bible College in Los Angeles in 1937 and has served 40 years in pastoral ministry. He founded the Canton Christian Tabernacle almost 34 years ago. He is also the founder of Wings of Faith Broadcast and has been a speaker on this daily program for 30 years.

Reverend Sorensen is one of the founders of United World Mission in 1946 and has been a member of the executive board from its inception. In 1968 he founded the Heritage Christian School and he is a member of the National Religious Broadcasters, who have been in convention here in Washington this past week.

I am proud to introduce my friend to this body for the many accomplishments he has made and for the good that he has done in the field of religion, as well as in the community life of the 16th District of Ohio. Many lives have been enriched by his ministry and his devotion to the people of our community.

I bid you welcome the Reverend Paul Sorensen.

SOLAR ENERGY CUTS MORE THAN SALARY INCREASES AT DOE

(Mr. FREY asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. FREY. Mr. Speaker, who among us can forget the first steps man took on the Moon? Apollo 11 Astronaut Neil Armstrong, upon stepping onto the surface of the Moon declared, "One small step for man, one giant leap for mankind."

Secretary Schlesinger presented the Science and Technology Committee with the Department of Energy budget for fiscal year 1979 yesterday. The budget can be characterized as one giant step backward in energy research and development.

Total funding for our solar energy program has been cut by $17,000,000. The funds are split between 2 of 10 "missions." Energy supply: research and technology development, it is true, has been increased by $6,000,000—but only after the construction budget was slashed by $13,000,000 and an extra $19,000,000 given over to operational expenses. Energy supply: production, demonstration, and distribution was cut by $23,000,000 after a $30,000,000 increase in funding for solarizing Federal buildings and a $2,000,000 increase in the solar commercialization program.

The bottom line is that we have lost $4,000,000 in the solar thermal program, another $1,000,000 in the photovoltaic program, $3,000,000 in the ocean thermal program and, as I mentioned before, $30,000,000 in the heating and cooling demonstration program. Those few areas where funding was increased received the smallest increases in the history of our commitment to solar power.

The fourth largest budget increase—after rationing, weatherization, and atomic energy defense activities—in the DOE budget is in policy and manage-

ment. Dr. Schlesinger has requested $505,000,000 to run his 8,386 person Department—an increase of $117,000,000. A footnote in the DOE fiscal year 1979 congressional budget request explains that approximately $16,000,000 will be needed to implement the October 1977 Federal pay raise at the Department.

In summary, Secretary Schlesinger presented the American people with a budget that calls for cutbacks in our solar energy program, $1 million more than the increase in salary he needs for his Department.

I doubt my colleagues on the Science and Technology Committee will allow this budget to stand. I know I will do everything possible to garner a workable alternate source energy program directed toward our long- and short-term energy needs.

CALL OF THE HOUSE

Mr. BAUMAN. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 14]

Andrews, N.C.	Findley	Pettis
Archer	Frenzel	Railsback
Armstrong	Giaimo	Rodino
Ashbrook	Gradison	Ruppe
Ashley	Guyer	Ryan
Beilenson	Harsha	Santini
Bonker	Hefner	Scheuer
Brooks	Hillis	Seiberling
Brown, Calif.	Holtzman	Shuster
Buchanan	Ireland	Steiger
Butler	Jeffords	Symms
Chappell	Kasten	Teague
Clay	Kastenmeier	Thornton
Collins, Ill.	Kemp	Tucker
Conyers	Lundine	Udall
De la Garza	McDade	Ullman
Dent	McEwen	Walsh
Diggs	McKay	Wampler
Dingell	McKinney	Waxman
Dodd	Moorhead, Pa.	Wiggins
Drinan	Moss	Wilson, Bob
Eckhardt	Nichols	Wilson, C. H.
Ertel	Patten	Wilson, Tex.
Fascell	Pepper	Young, Alaska

The SPEAKER pro tempore (Mr. ASPIN). On this rollcall 360 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PERMISSION FOR SELECT COMMITTEE ON ASSASSINATIONS TO SIT TODAY DURING 5-MINUTE RULE

Mr. STOKES. Mr. Speaker, I ask unanimous consent that the Select Committee on Assassinations may be permitted to sit today during the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS OF 1977

Mr. MURPHY of New York. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 1614) to establish a policy for the management of oil and natural gas in the Outer Continental Shelf; to protect the marine and coastal environment; to amend the Outer Continental Shelf Lands Act; and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. MURPHY).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 1614, with Mr. NATCHER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Wednesday, January 25, 1978, all time for general debate had expired.

Pursuant to the rule, the committee amendment in the nature of a substitute recommended by the Ad Hoc Select Committee on the Outer Continental Shelf now printed in the reported bill will be considered by titles as an original bill for the purpose of amendment, and each title shall be considered as having been read.

The Clerk will designate the title of the bill now pending.

The Clerk read as follows:

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 "Outer Continental Shelf Lands Act Amendments of 1977".

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The CHAIRMAN. Are there any amendments to the title of the bill?

Mr. BREAUX. Mr. Chairman, I have an amendment in the nature of a substitute at the desk.

The CHAIRMAN. The Clerk will report the amendment in the nature of a substitute.

PARLIAMENTARY INQUIRIES

Mr. FISH. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The Chair will entertain the parliamentary inquiry of the gentleman from New York (Mr. FISH).

Mr. FISH. I thank the Chairman very much. I think that the response of the Chairman to my inquiry would be very helpful to all the members of the committee as well as myself.

Mr. Chairman, as the Members know, we have two substitutes to be considered, and the amendment in the nature of a substitute of the gentleman from Louisiana (Mr. BREAUX) is about to be offered.

Now, am I correct in stating that his amendment in the nature of a substitute can be considered in full by this body, at which time I may offer an amendment in the nature of a substitute to the amendment in the nature of a substitute offered by the gentleman from Louisiana (Mr. BREAUX), at which time mine may be considered, and then the two votes will be concurrent?

Tht CHAIRMAN. The gentleman from New York (Mr. FISH) has stated the situation correctly. That would be the

answer to the gentleman's parliamentary inquiry. The gentleman is correct.

Mr. FISH. I thank the Chair.

Mr. KAZEN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman from Texas (Mr. KAZEN) will state his parliamentary inquiry.

Mr. KAZEN. Mr. Chairman, the gentleman from New York (Mr. FISH) has said that the substitutes would be up for vote simultaneously, but am I correct in stating that the vote would come first on the substitute offered by the gentleman from New York (Mr. FISH) before the vote on the substitute offered by the gentleman from Louisiana (Mr. BREAUX)?

The CHAIRMAN. The gentleman from Texas (Mr. KAZEN) is correct.

Mr. KAZEN. I thank the Chair.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BREAUX

Mr. BREAUX. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. BREAUX:

Strike all after the enacting clause and insert the following:

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TITLE I—FINDINGS AND PURPOSES WITH RESPECT TO MANAGING THE RESOURCES OF THE OUTER CONTINENTAL SHELF

FINDINGS

SEC. 101. The Congress finds and declares that—

(1) the demand for energy in the United States is increasing and will continue to increase for the foreseeable future;

(2) domestic production of oil and gas has declined in recent years;

(3) the United States has become increasingly dependent upon imports of oil from foreign nations to meet domestic energy demand;

(4) increasing reliance on imported oil is not inevitable, but is rather subject to significant reduction by increasing the development of domestic sources of energy supply;

(5) consumption of natural gas in the United States has greatly exceeded additions to domestic reserves in recent years;

(6) technology is or can be made available which will allow significantly increased domestic production of oil and gas without undue harm or damage to the environment;

(7) the lands and resources of the Outer Continental Shelf are public property which the Government of the United States holds in trust for the people of the United States;

(8) the Outer Continental Shelf contains signifiificant quantities of oil and natural gas and is a vital national resource reserve which must be carefully managed so as to realize fair value, to preserve and maintain competition, and to reflect the public interest;

(9) there presently exists a variety of technological, economic, environmental, administrative, and legal problems which tend to retard the development of the oil and natural gas reserves of the Outer Continental Shelf;

(10) environmental and safety regulations relating to activities on the Outer Continental Shelf should be reviewed in light of current technology and information;

(11) the development, processing, and distribution of the oil and gas resources of the Outer Continental Shelf, and the siting of related energy facilities, may cause adverse impacts on various States and local governments;

(12) policies, plans, and programs developed by States and local governments in response to activities on the Outer Continental Shelf cannot anticipate and ameliorate such adverse impacts unless such States and local governments are provided with timely access to information regarding activities on the Outer Continental Shelf and an opportunity to review and comment on decisions relating to such activities;

(13) funds must be made available to pay for the prompt removal of any oil spilled or discharged as a result of activities on the Outer Continental Shelf and for any damages to public or private interests caused by such spills or discharges; and

(14) because of the possible conflicts between exploitation of the oil and gas resources in the Outer Continental Shelf and other uses of the marine environment, including fish and shellfish growth and recovery, and recreational activity, the Federal Government must assume responsibility for the minimization or elimination of any conflict associated with such exploitation.

PURPOSES

SEC. 102. The purposes of this Act are to—

(1) establish policies and procedures for managing the oil and natural gas resources of the Outer Continental Shelf in order to achieve national economic and energy policy goals, assure national security, reduce dependence on foreign sources, and maintain a favorable balance of payments in world trade;

(2) preserve, protect, and develop oil and natural gas resources in the Outer Continental Shelf in a manner which is consistent with the need (A) to make such resources available to meet the Nation's energy needs as rapidly as possible, (B) to balance orderly energy resource development with protection of the human, marine, and coastal environments, (C) to insure the public a fair and equitable return on the resources of the Outer Continental Shelf, and (D) to preserve and maintain free enterprise competition;

(3) encourage development of new and improved technology for energy resource production which will eliminate or minimize risk of damage to the human, marine, and coastal environment;

(4) provide States, and through States, local governments, which are impacted by Outer Continental Shelf oil and gas exploration, development, and production with comprehensive assistance in order to anticipate and plan for such impact, and thereby to assure adequate protection of the human environment;

(5) assure that States, and through States, local governments, have timely access to information regarding activities on the Outer Continental Shelf, and opportunity to review and comment on decisions relating to such activities, in order to anticipate, ameliorate, and plan for the impacts of such activities;

(6) assure that States, and through States, local governments, which are directly affected by exploration, development, and production of oil and natural gas are provided an opportunity to participate in policy and planning decisions relating to management of the resources of the Outer Continental Shelf;

(7) minimize or eliminate conflicts between the exploration, development, and production of oil and natural gas, and the recovery of other resources such as fish and shellfish;

(8) establish an oilspill liability fund to pay for the prompt removal of any oil spilled or discharged as a result of activities on the Outer Continental Shelf and for any damages to public or private interests caused by such spills or discharges; and

(9) insure that the extent of oil and natural gas resources of the Outer Continental Shelf is assessed at the earliest practicable time.

TITLE II—AMENDMENTS TO THE OUTER CONTINENTAL SHELF LANDS ACT

DEFINITIONS

SEC. 201. (a) Paragraph (c) of section 2 of the Outer Continental Shelf Lands Act

(43 U.S.C. 1331(c)) is amended to read as follows:

"(c) The term 'lease' means any form of authorization which is issued under section 8 or maintained under section 6 of this Act and which authorizes exploration for, and development and production of (1) deposits of oil, natural gas, or other minerals, or (2) geothermal steam;".

(b) Such section is further amended—

(1) in subsection (d), by striking out the period and inserting in lieu thereof a semicolon; and

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

"(e) The term 'coastal zone' means the coastal water (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal States, and includes islands, transition and intertidal areas, salt marshes, wetlands, and beaches, which zone extends seaward to the outer limit of the United States territorial sea and extends inland from the shorelines to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters, and the inward boundaries of which may be identified by the several coastal States, pursuant to the authority of section 305(b)(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1454(b)(1));

"(f) The term 'affected State' means, with respect to any program, plan, lease sale, or other activity proposed, conducted, or approved pursuant to the provisions of this Act, any coastal State—

"(1) the laws of which are declared, pursuant to section 4(a)(2) of this Act, to be the law of the United States for the portion of the outer Continental Shelf on which such activity is, or is proposed to be conducted;

"(2) which is or is proposed to be directly connected by transportation facilities to any artificial island, installation, or other device referred to in section 4(a)(1) of this Act;

"(3) which is receiving, or in accordance with the proposed activity will receive, oil for processing, refining, or transshipment which was extracted from the outer Continental Shelf and transported directly to such State by means of vessels or by a combination of means including vessels;

"(4) which is designated by the Secretary as a State in which there is a substantial probability of significant impact on or damage to the coastal, marine, or human environment, or a State in which there will be significant changes in the social, governmental, or economic infrastructure, resulting from the exploration, development, and production of oil and gas anywhere on the outer Continental Shelf; or

"(5) in which the Secretary finds that because of such activity there is, or will be, a significant risk of serious damage, due to factors such as prevailing winds and currents, to the marine or coastal environment in the event of any oilspill, blowout, or release of oil or gas from vessels, pipelines, or other transshipment facilities;

"(g) The term 'marine environment' means the physical, atmospheric, and biological components, conditions, and factors which interactivity determine the productivity, state, conditions, and quality of the marine ecosystem, including the waters of the high seas, the contiguous zone, transitional and intertidal areas, salt marshes, and wetlands within the coastal zone and on the outer Continental Shelf;

"(h) The term 'coastal environment' means the physical, atmospheric, and biological components, conditions, and factors which interactively determine the productivity, state, condition, and quality of the terrestrial ecosystem from the shoreline inward to the boundaries of the coastal zone;

"(i) The term 'human environment' means the physical, esthetic, social, and economic components, conditions, and factors which interactively determine the state, condition, and quality of living conditions, recreation, air and water, employment, and health of those affected, directly or indirectly, by activities occurring on the outer Continental Shelf;

"(j) The term 'Governor' means the Governor of a State, or the person or entity designated by, or pursuant to, State law to exercise the powers granted to such Governor pursuant to this Act;

"(k) The term 'exploration' means the process of searching for oil, natural gas, or other minerals, or geothermal steam, including (1) geophysical surveys where magnetic, gravity, seismic, or other systems are used to detect or imply the presence of such resources, and (2) any drilling, whether on or off known geological structures, including the drilling of a well in which a discovery of oil or natural gas in paying quantities is made, the drilling of any additional delineation well after such discovery which is needed to delineate any reservoir and to enable the lessee to determine whether to proceed with development and production;

"(l) The term 'development' means those activities which take place following discovery of oil, natural gas, or other minerals, or geothermal steam, in paying quantities, including geophysical activity, drilling, platform construction, pipeline routing, and operation of all on-shore support facilities, and which are for the purpose of ultimately producing the resources discovered;

"(m) The term 'production' means those activities which take place after the successful completion of any means for the removal of resources, including such removal, field operations, transfer of oil, natural gas, or other minerals, or geothermal steam, to shore, operation monitoring, maintenance, and workover drilling;

"(n) The term 'antitrust law' means—

"(1) the Sherman Act (15 U.S.C. 1 et seq.);

"(2) the Clayton Act (15 U.S.C. 1 et seq.);

"(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.);

"(4) the Wilson Tariff Act (15 U.S.C. 8 et seq.); or

"(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a);

"(o) The term 'fair market value' means the value of any oil, gas, or other mineral, or geothermal steam (1) computed at a unit price equivalent to the average unit price at which such mineral or geothermal steam was sold pursuant to a lease during the period for which any royalty or net profit share is accrued or reserved to the United States pursuant to such lease, or (2) if there were no such sales, or if the Secretary finds that there were an insufficient number of such sales to equitably determine such value, computed at the average unit price at which such mineral or geothermal steam was sold pursuant to other leases in the same region of the outer Continental Shelf during such period, or (3) if there were no sales of such region during such period, or if the Secretary finds that there are an insufficient number of such sales to equitably determine such value, at an appropriate price determined by the Secretary;

"(p) The term 'major Federal action' means any action or proposal by the Secretary which is subject to the provisions of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C); and

"(q) The term 'frontier area' means any area where there has been no development of oil and gas prior to October 1, 1975, and includes the outer Continental Shelf off Southern California, including the Santa Barbara Channel.".

NATIONAL POLICY FOR THE OUTER CONTINENTAL SHELF

SEC. 202. Section 3 of the Outer Continental Shelf Lands Act (43 U.S.C. 1332) is amended to read as follows:

"SEC. 3. NATIONAL POLICY FOR THE OUTER CONTINENTAL SHELF.—It is hereby declared to be the policy of the United States that—

"(1) the subsoil and seabed of the outer Continental Shelf appertain to the United States and are subject to its jurisdiction, control, and power of disposition as provided in this Act;

"(2) this Act shall be construed in such a manner that the character of the waters above the outer Continental Shelf as high seas and the right to navigation and fishing therein shall not be affected;

"(3) the outer Continental Shelf is a vital national resource reserve held by the Federal Government for the public, which should be made available for orderly development, subject to environmental safeguards, in a manner which is consistent with the maintenance of competition and other national needs;

"(4) since exploration, development, and production of the mineral resources and geothermal steam of the outer Continental Shelf will have significant impacts on coastal and noncoastal areas of the coastal States, and on other affected States, and, in recognition of the national interest in the effective management of the marine, coastal, and human environments—

"(A) such States and their affected local governments may require assistance in protecting their coastal zones and other affected areas from any temporary or permanent adverse effects of such impacts; and

"(B) such States, and through such States, affected local governments, are entitled to an opportunity to participate, to the extent consistent with the national interest, in the policy and planning decisions made by the Federal Government relating to exploration for, and development and production of, mineral resources and geothermal steam of the outer Continental Shelf.

"(5) the rights and responsibilities of all States and, where appropriate, local governments to preserve and protect their marine, human, and coastal environments through such means as regulation of land, air, and water uses, of safety, and of related development and activity should be considered and recognized; and

"(6) operations on the outer Continental Shelf should be conducted in a safe manner by well-trained personnel using technology, precautions, and techniques sufficient to prevent or minimize the likelihood of blowouts, loss of well control, fires, spillages, physical obstruction to other users of the waters or subsoil and seabed, or other currencies which may cause damage to the environment or to property, or endanger life or health.".

LAWS APPLICABLE TO THE OUTER CONTINENTAL SHELF

SEC. 203. (a) Section 4(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1333(a)) is amended—

(1) in paragraph (1), by striking out "and fixed structures" and inserting in lieu thereof ", and all installations and other devices permanently or temporarily attached to the seabed,";

(2) in paragraph (1), by striking out "removing, and transporting resources therefrom" and inserting in lieu thereof "or producing resources therefrom, or any such installation or other device (other than a ship or vessel) for the purpose of transporting such resources"; and

(3) in paragraph (2), by striking out "artificial islands and fixed structures erected thereon" and inserting in lieu thereof "those artificial islands, installations, and other de-

vices referred to in paragraph (1) of this subsection".

(b) Section 4(d) of such Act is amended to read as follows:

"(d) For the purposes of the Natural Labor Relations Act, as amended, any unfair labor practice, as defined in such Act, occurring upon any artificial island, installation, or other device referred to in subsection (a) of this section shall be deemed to have occurred within the judicial district of the State, the laws of which apply to such artificial island, installation, or other device pursuant to such subsection, except that until the President determines the areas within which such State laws are applicable, the judicial district shall be that of the State nearest the place of location of such artificial island, installation, or other device.".

(c) Section 4 of such Act is amended—

(1) in paragraph (1) of subsection (e), by striking out "the islands and structures referred to in subsection (a)", and inserting in lieu thereof "the artificial islands, installations, and other devices referred to in subsection (a)";

(2) In subsection (f), by striking out "artificial islands and fixed structures located on the outer Continental Shelf," and inserting in lieu thereof "the artificial islands, installations, and other devices referred to in subsection (a)"; and

(3) in subsection (g), by striking out "the artificial islands and fixed structures referred to in subsection (a)" and inserting in lieu thereof "the artificial islands, installations, and other devices referred to in subsection (a)".

(d) Subsection 4(e)(1) of such Act is amended by striking out "head" and inserting in lieu thereof "Secretary".

(e) Section 4(e)(2) of such Act is amended to read as follows:

"(2) The Secretary of the Department in which the Coast Guard is operating may mark for the protection of navigation any artificial island, installation, or other device referred to in subsection (a) whenever the owner has failed suitably to mark such island, installation, or other device in accordance with regulations issued under this Act, and the owner shall pay the cost of such marking.".

(f) Section 4(e) of such Act is amended by adding at the end thereof the following new paragraph:

"(3)(A) Any owner or operator of a vessel which is not a vessel of the United States shall, prior to conducting any activity pursuant to this Act or in support of any activity pursuant to this Act within the fishery conservation zone or within fifty miles of any artificial island, installation, or other device referred to in subsection (a) of this section, enter into an agreement pursuant to this paragraph with the Secretary of the Department in which the Coast Guard is operating. Subject to the provisions of subparagraph (B) of this paragraph, such agreement shall provide that such vessel, while engaged in the conduct or support of such activities, shall be subject, in the same manner and to the same extent as a vessel of the United States, to the jurisdiction of such Secretary with respect to the laws of the United States relating to the operation, design, construction, and equipment of vessels, the training of the crews of vessels, and the control of discharges from vessels.

"(B) An agreement entered into between the owner or operator of a vessel and the Secretary of the Department in which the Coast Guard is operating pursuant to subparagraph (A) of this paragraphs shall provide that such vessel shall not be subject to the jurisdiction of such Secretary with respect to laws relating to vessel design, construction, equipment, and similar matters—

"(i) if such vessel is engaged in making an emergency call (as defined by such Secretary) at any artificial island, installation, or other device referred to in subsection (a) of this section; or

"(ii) if such vessel is in compliance with standards relating to vessel design, construction, equipment, and similar matters imposed by the country in which such vessel is registered, and such standards are substantially comparable to the standards imposed by such Secretary.

"(C) As used in this paragraph—

"(i) the term 'vessel of the United States' means any vessel, whether or not self-propelled, which is documented under the laws of the United States or registered under the laws of any State;

"(ii) the term 'support of any activity' includes the transportation of resources from any artificial island, installation, or other device referred to in subsection (a) of this section; and

"(iii) the term 'fishery conservation zone' means the zone described in section 101 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1811).".

(g) Section 4 of such Act is further amended by striking out subsection (b) and relettering subsections (c), (d), (e), (f), and (g) as subsections (b), (c), (d), (e), and (f) respectively.

OUTER CONTINENTAL SHELF EXPLORATION AND DEVELOPMENT ADMINISTRATION

SEC. 204. Section 5 of the Outer Continental Shelf Lands Act (43 U.S.C. 1334) is amended to read as follows:

"SEC. 5. ADMINISTRATION OF LEASING OF THE OUTER CONTINENTAL SHELF.—(a) The Secretary shall administer the provisions of this Act relating to the leasing in the outer Continental Shelf and shall prescribe or retain such regulations as necessary to carry out such provisions. The Secretary may at any time prescribe and amend such rules and regulations as he determines to be necessary and proper in order to provide for the prevention of waste and conservation of the natural resources of the outer Continental Shelf, and the protection of correlative rights therein. Except as provided in this subsection, such regulations shall, as of the date of their promulgation, apply to all operations conducted under any lease issued or maintained under the provisions of this Act and shall be in furtherance of the policies of this Act. No regulation promulgated under this Act affecting operations commenced on an existing lease before the effective date of such regulation shall impose any additional requirements which would result in delays in the exploration, development, or production of resources unless the Secretary publishes a finding that such regulation is necessary to prevent serious or irreparable harm or damage to health, life, property, any mineral deposits or geothermal steam resources, or to the marine, coastal, or human environment.

In the enforcement of safety, environmental, and conservation laws and regulations, the Secretary shall cooperate with the relevant departments and agencies of the Federal Government and of the affected States. In the formulation and promulgation of regulations, the Secretary shall request and give due consideration to the views of the Attorney General and the Federal Trade Commission with respect to matters which may affect competition. The regulations prescribed by the Secretary under this subsection shall include, but not be limited to, provisions—

"(1) for the suspension or temporary prohibition of any operation or activity, including production, pursuant to any lease or permit (A) at the request of a lessee to facilitate proper development of a lease in the national interest, or to allow for the unavailability of transportation facilities, or (B) if there is a threat of serious, irreparable, or immediate harm or damage to life (including fish and other aquatic life), to property, to any mineral deposits or geothermal steam resources (in areas leased or not leased), or to the marine, coastal, or human environment, and for the extension of any permit or lease affected by such suspension or prohibition by a period equivalent to the period of such suspension or prohibition, except that no permit or lease shall be so extended when such suspension or prohibition is the result of gross negligence or willful violation of such lease or permit, or of regulations issued concerning such lease or permit;

"(2) with respect to cancellation of any lease or permit—

"(A) that such cancellation may occur at any time, if the Secretary determines, after a hearing, that—

"(i) continued activity pursuant to such lease or permit would probably cause serious harm or damage to life (including fish and other aquatic life), to property, to any mineral deposits or geothermal steam resources (in areas leased or not leased), to the national security or defense, or to the marine, coastal, or human environments;

"(ii) the threat of harm or damage will not disappear or decrease to an acceptable extent within a reasonable period of time; and

"(iii) the advantages of cancellation outweigh the advantages of continuing such lease or permit in force;

"(B) that such cancellation shall—

"(i) not occur unless and until operations under such lease or permit have been under suspension or temporary prohibition by the Secretary (with due extension of any lease or permit term) for a total period of five years or for a lesser period, in the Secretary's discretion, upon request of the lessee or permittee;

"(ii) in the case of a lease issued after the date of the enactment of this paragraph (other than a lease canceled for reasons of national security or defense at the request of the Secretary of Defense), entitle the lessee to receive such compensation as he shows to the Secretary as being equal to the lesser of (I) the fair value of the canceled rights as of the date of cancellation, taking account of both anticipated revenues from the lease and anticipated costs, including costs of compliance with all applicable regulations and operating orders, liability for cleanup costs or damages, or both, in the case of an oil spill, and all other costs reasonably anticipated on such lease, or (II) the excess, if any, over the lessee's revenues from the lease (plus interest thereon from the date of receipt to the date of reimbursement) of all consideration paid for the lease and all direct expenditures made by the lessee after the date of issuance of such lease and in connection with exploration or development, or both, pursuant to the lease (plus interest on such consideration and such expenditures from the date of payment to the date of reimbursement); and

"(iii) in the case of a lease issued before the date of the enactment of this paragraph, or a lease canceled for reasons of national security or defense (whenever issued), entitle the lessee to receive fair value in accordance with subclause (I) of clause (ii) of this subparagraph;

"(3) for the assignment or relinquishment of a lease;

"(4) for unitizing, pooling, and drilling agreements;

"(5) for the subsurface storage of oil and gas other than by the Federal Government;

"(6) for drilling or easements necessary for exploration, development, and production;

"(7) for the prompt and efficient exploration and development of a lease area;

"(8) for compliance with any standards established by a State pursuant to the Clean Air Act to the extent that activities authorized under this Act affect the air quality of such State.

"(b) The issuance and continuance in effect of any lease, or of any extension, re-

newal, or replacement of any lease, under the provisions of this Act shall be conditioned upon compliance with the regulations issued under this Act if the lease is issued under the provisions of section 8 hereof, or with the regulations issued under the provisions of section 6(b), clause (2), hereof, if the lease is maintained under the provisions of section 6 hereof.

"(c) Whenever the owner of a nonproducing lease fails to comply with any of the provisions of this Act, or of the lease, or of the regulations issued under this Act if the lease is issued under the provisions of section 8 hereof, or of the regulations issued under the provisions of section 6(b), clause (2), hereof, if the lease is maintained under the provisions of section 6 hereof, such lease may be canceled by the Secretary, subject to the right of judicial review as provided in this Act, if such default continues for the period of thirty days after mailing of notice by registered letter to the lease owner at his record post office address.

"(d) Whenever the owner of any producing lease fails to comply with any of the provisions of this Act, or of the lease, or of the regulations issued under this Act if the lease is issued under the provisions of section 8 hereof, or of the regulations issued under the provisions of section 6(b), clause (2), hereof, if the lease is maintained under the provisions of section 6 hereof, such lease may be forfeited and canceled by an appropriate proceeding in any United States district court having jurisdiction under the provisions of this Act.

"(e) Rights-of-way through the submerged lands of the Outer Continental Shelf, whether or not such lands are included in a lease maintained or issued pursuant to this Act, may be granted by the Secretary for pipeline purposes for the transportation of oil, natural gas, sulfur, or other mineral, or geothermal steam, under such regulations and upon such conditions as may be prescribed by the Secretary, or where appropriate the Secretary of Transportation, including (as provided in section 21(b) of this Act) utilization of the best available and safest technology for pipeline burial and other procedures, and upon the express condition that such oil or gas pipelines shall transport or purchase without discrimination, oil or natural gas produced from such lands in the vicinity of the pipeline in such proportionate amounts as the Federal Power Commission, in the case of gas, and the Interstate Commerce Commission, in consultation with the Administrator of the Federal Energy Administration, in the case of oil, may, after a full hearing with due notice thereof to the interested parties, determine to be reasonable, taking into account, among other things, conservation and the prevention of waste. Failure to comply with the provisions of this section or the regulations and conditions prescribed under this section shall be ground for forfeiture of the grant in an appropriate judicial proceeding instituted by the United States in any district court of the United States having jurisdiction under the provisions of this Act.

"(f)(1) The lessee shall produce any oil or gas, or both, obtained pursuant to an approved development and production plan, at rates consistent with any rule or order issued by the President in accordance with any provision of law.

"(2) If no rule or order referred to in paragraph (1) has been issued, the lessee shall produce such oil or gas, or both, at rates consistent with any regulation promulgated by the Secretary which is to assure the maximum rate of production which may be sustained without loss of ultimate recovery of oil or gas, or both, under sound engineering and economic principles, and which is safe for the duration of the activity covered by the approved plan. The Secretary may permit the lessee to vary such rates if he finds that such variance is necessary.

(g)(1) In administering the provisions of this Act, the Secretary shall coordinate the activities of any Federal department or agency having authority to issue any license, lease, or permit to engage in any activity related to the exploration, development, or production of oil or gas from the outer Continental Shelf for purposes of assuring that, to the maximum extent practicable, inconsistent or duplicative requirements are not imposed upon any applicant for, or holder of, any such license, lease, or permit.

"(2) The head of any Federal department or agency who takes any action which has a direct and significant effect on the outer Continental Shelf or its development shall promptly notify the Secretary of such action and the Secretary shall thereafter notify and consult with the Governor of any affected State and the Secretary may thereafter recommend such change or changes in such action as are considered appropriate.

"(h) After the date of enactment of this section, no holder of any oil and gas lease issued or maintained pursuant to this Act shall be permitted to flare natural gas from any well unless the Secretary finds that there is no practicable way to complete production of such gas, or that such flaring is necessary to alleviate a temporary emergency situation or to conduct testing or work-over operations.".

REVISION OF BIDDING AND LEASE ADMINISTRATION

SEC. 205. (a) Subsections (a) and (b) of section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337 (a) and (b)) are amended to read as follows:

"(a)(1) The Secretary is authorized to grant to the highest responsible qualified bidder or bidders by competitive bidding, under regulations promulgated in advance, an oil and gas lease on submerged lands of the outer Continental Shelf which are not covered by leases meeting the requirements of subsection (a) of section 6 of this Act. The bidding shall be by sealed bid and, at the discretion of the Secretary, on the basis of—

"(A) cash bonus bid with a royalty at not less than 12½ per centum fixed by the Secretary in amount or value of the production saved, removed, or sold;

"(B) variable royalty bid based on a per centum of the production saved, removed, or sold, with a cash bonus as determined by the Secretary;

"(C) cash bonus bid with diminishing or sliding royalty based on such formulae as the Secretary shall determine as equitable to encourage continued production from the lease area as resources diminish, but not less than the value of the production saved, removed, or sold;

"(D) cash bonus bid with a fixed share of the net profits of not less than 30 per centum to be derived from the production of oil and gas from the lease area;

"(E) fixed cash bonus with the net profit share reserved as the bid variable;

"(F) cash bonus bid with a royalty at not less than 12½ per centum fixed by the Secretary in amount or value of the production saved, removed, or sold and a per centum share of net profits of not less than 30 per centum to be derived from the production of oil and gas from the lease area;

"(G) fixed cash bonus of not less than sixty-two dollars per hectare with a work commitment stated in a dollar amount as the bid variable;

"(H) a fixed royalty at not less than 12½ per centum in amount or value of the production saved, removed, or sold, or a fixed per centum share of net profits of not less than 30 per centum to be derived from the production of oil and gas from the lease area, with a work commitment stated in a dollar amount as the bid variable;

"(I) a fixed cash bonus of not less than sixty-two dollars per hectare, with a fixed royalty of not less than 12½ per centum in amount or value of the production saved, removed or sold, or a fixed per centum share of net profits of not less than 30 per centum to be derived from the production of oil and gas from the lease area with a work commitment stated in dollar amounts as the bid variable; or

"(J) any modification of bidding systems authorized in subparagraphs (A) through (I) of this paragraph.

"(2) The Secretary may, in his discretion, defer any part of the payment of the cash bonus, as authorized in paragraph (1) of this subsection, according to a schedule announced at the time of the announcement of the lease sale, but such payment shall be made in total no later than five years from the date of the lease sale.

"(3) The Secretary may, in order to promote increased production on the lease area, through direct, secondary, or tertiary recovery means, reduce or eliminate any royalty or net profit share set forth in the lease for such area.

"(4)(A) Before utilizing any bidding system authorized in subparagraphs (C) through (J) of paragraph (1), the Secretary shall establish such system in accordance with this paragraph.

"(B) The establishment by the Secretary of any bidding system pursuant to subparagraph (A) of this paragraph shall be by rule on the record after an opportunity for an agency hearing. Any modification by the Secretary of any such bidding system shall be by rule.

"(C) Not later than thirty days before the effective date of any rule prescribed under subparagraph (B) of this paragraph, the Secretary shall transmit such rule to Congress.

"(5)(A) The Secretary shall utilize the bidding alternatives from among those authorized by this subsection, in accordance with subparagraphs (B) and (C) of this paragraph, so as to accomplish the purposes and policies of this Act, including (i) providing a fair and timely return to the Federal Government, (ii) increasing competition, (iii) assuring competent and safe operations, (iv) avoiding undue speculation, (v) avoiding unnecessary delays in exploration, development, and production, (vi) discovering and recovering oil and gas, (vii) developing new oil and gas resources in an efficient and timely manner, and (viii) limiting administrative burdens on government and industry. In order to select a bid to accomplish these purposes and policies, the Secretary may, in his discretion, require each bidder to submit bids for any area of the outer Continental Shelf in accordance with more than one of the bidding alternatives set forth in paragraph (1) of this subsection.

"(B) During the five-year period commencing on the date of enactment of this subsection, the Secretary may, in order to obtain statistical information to determine which bidding alternatives will best accomplish the purposes and policies of this Act, require each bidder to submit bids for any area of the outer Continental Shelf in accordance with more than one of the bidding systems set forth in paragraph (1) of this subsection. For such statistical purposes, leases may be awarded using a bidding alternative selected at random or determined by the Secretary to be desirable for the acquisition of valid statistical data and otherwise consistent with the provisions of this Act.

"(C)(1) The bidding systems authorized by subparagraphs (B) through (J) of paragraph (1) of this subsection shall not be applied to more than 50 per centum of the total area offered for lease each year, during the five-year period beginning on the date of

enactment of this subsection, in each region in a frontier area.

"(D) Within six months after the end of each fiscal year, the Secretary shall report to the Congress, as provided in section 15 of this Act, with respect to the use of the various bidding options provided for in this subsection. Such report shall include—

"(i) the schedule of all lease sales held during such year and the bidding system or systems utilized;

"(ii) the schedule of all lease sales to be held the following year and the bidding system or systems to be utilized;

"(iii) the benefits and costs associated with conducting lease sales using the various bidding systems;

"(iv) if applicable, the reasons why a particular bidding system has not been or will not be utilized;

"(v) if applicable, the reasons why more than 50 per centum of the area leased in the past year, or to be offered for lease in the upcoming year, was or is to be leased under the bidding system authorized by subparagraph (A) of paragraph (1) of this subsection; and

"(vi) an analysis of the capability of each bidding system to accomplish the purposes and policies stated in subparagraph (A) of this paragraph.

"(vii) any recommendations, accompanied by detailed justifications, for additional legislation which would further revise the bidding systems used in this Act.

"(6)(A) In any lease sale where the bidding system authorized by subparagraph (A) of paragraph (1) of this subsection and any one or more of the bidding systems authorized by subparagraphs (B) through (J) of paragraph (1) of this subsection are to be used, the Secretary shall publicly choose, by a random selection method, those tracts which are to be offered under the bidding system authorized by such subparagraph (A) and those which are to be offered under one or more of the bidding systems authorized by such subparagraphs (B) through (J).

"(B) The selection of tracts under this paragraph shall occur after the Secretary has determined the tracts to be included in such proposed lease sale.

"(C) Before selection of tracts for inclusion in the proposed lease sale, the Secretary shall publish a notice in the Federal Register describing the random selection method to be used and shall, immediately after such selection, publish a notice in the Federal Register designating the lease tracts selected which are to be offered under the bidding system authorized by subparagraph (A) of paragraph (1) and the lease tracts selected which are to be offered under any one or more of the bidding systems authorized by subparagraphs (B) through (J) of paragraph (1).

"(b) Subsection (c) of section 105 of the Energy Policy and Conservation Act of 1975 (42 U.S.C. 6213) is amended to read as follows:

"(c) If the Secretary determines that exploration and development will occur only if the exemption is granted, he may exempt bidding for leases for lands located in frontier or other areas determined by the Secretary to be extremely high risk lands or to present unusually high cost exploration, or development problems."

"(c) An oil and gas lease issued pursuant to this section shall—

"(1) be for a tract consisting of a compact area not exceeding five thousand seven hundred and sixty acres, as the Secretary may determine, unless the Secretary finds that a larger area is necessary to comprise a reasonable economic production unit;

"(2) be for an initial period of—

"(A) five years; or

"(B) not to exceed ten years where the Secretary finds that such longer period is necessary to encourage exploration and development in areas of unusually deep water or unusually adverse whether conditions.

and as long after such initial period as oil or gas may be produced from the area paying quantities, or drilling or well reworking operations as approved by the Secretary are conducted thereon;

"(3) require the payment of amount or value as determined by one of the bidding systems set forth in subsection (a) of this section;

"(4) entitle the lessee to explore, develop, and produce oil and gas resources contained within the lease area, conditioned upon due diligent requirements and the approval of the development and production plan required by this Act;

"(5) provide for suspension or cancellation of the lease during the initial lease term or thereafter pursuant to section 5 of this Act;

"(6) contain such rental and other provisions as the Secretary may prescribe at the time of offering the areas for lease; and

"(7) provide a requirement that the lessee offer 20 per centum of its interest in the crude oil, condensate, and natural gas liquids produced from such lease, at the market value and point of delivery applicable to Federal royalty oil, to small or independent refiners as defined in the Emergency Petroleum Allocation Act of 1973.".

(b) Section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) is further amended by striking out subsection (j), by relettering subsections (c) through (i), and all references thereto, as subsections (h) through (n), respectively, and by inserting immediately after subsection (b) the following new subsections:

"(c) No lease may be issued if the Secretary finds after notice and hearing that an applicant for a lease, or a lessee, is not meeting due diligence requirements on other leases. In his notice of each lease sale the Secretary shall identify each lessee who has been notified by the Secretary that he, at the time of such notice, is not meeting due diligence requirements on one or more of his oil and gas leases. All other lessees not identified in such notice shall be conclusively presumed to be meeting due diligence requirement for the purposes of this subsection.

"(d) No lease issued under this Act may be sold, exchanged, assigned, or otherwise transferred except with the approval of the Secretary. Prior to any such approval, the Secretary shall consult with and give due consideration to the views of the Attorney General and the Federal Trade Commission.

"(e) Nothing in this Act shall be deemed to convey to any person, association, corporation, or other business organization immunity from civil or criminal liability, or to create defenses to actions, under any antitrust law.

"(f) (1) At the time of soliciting nominations for the leasing of lands within three miles of the seaward boundary of any coastal State, the Secretary shall provide the Governor of any such State—

"(A) an identification and schedule of the areas and regions offered for leasing;

"(B) all information concerning the geographical, geological, and ecological characteristics of such regions;

"(C) an estimate of the oil and gas reserves in the areas proposed for leasing; and

"(D) an identification of any field geological structure, or trap located within three miles of the seaward boundary of a coastal State.

"(2) After receipt of nominations for any area of the outer Continental Shelf within three miles of the seaward boundary of any coastal State, the Secretary shall inform the Governor of such coastal State of any such area which the Secretary believes should be given further consideration for leasing and which he concludes, in consultation with the Governor of such coastal State, may contain one or more oil or gas pools or fields underlying both the outer Continental Shelf and lands subject to the jurisdiction of such State. If, with respect to such area, the Secretary selects a tract or tracts which may contain one or more oil or gas pools or fields underlying both the outer Continental Shelf and submerged lands subject to the jurisdiction of such State, the Secretary shall offer the Governor of such coastal State the opportunity to enter into an agreement concerning the disposition of revenues which may be generated by a Federal lease within such area in order to permit their fair and equitable division between the State and Federal Government.

"(3) Within ninety days after the offer by the Secretary pursuant to paragraph (2) of this subsection, the Governor shall elect whether to enter into such agreement and shall notify the Secretary of his decision. If the Governor accepts the offer, the terms of any lease issued shall be consistent with the provisions of this Act, with applicable regulations, and, to the maximum extent practicable, with the applicable laws of the coastal State. If the Governor declines the offer, or if the parties cannot agree to terms concerning the disposition of revenues from such lease (by the time the Secretary determines to offer the area for lease), the Secretary may nevertheless proceed with the leasing of the area.

"(4) Notwithstanding any other provision of this Act, the Secretary shall deposit in a separate account in the Treasury of the United States all bonuses, royalties, and other revenues attributable to oil and gas pools underlying both the outer Continental Shelf and submerged lands subject to the jurisdiction of any coastal State until such time as the Secretary and the Governor of such coastal State agree on, or if the Secretary and the Governor of such coastal State cannot agree, as a district court of the United States determines, the fair and equitable disposition of such revenues and any interest which has accrued and the proper rate of payments to be deposited in the treasuries of the Federal Government and such coastal State.

"(g) Nothing contained in this section shall be construed to alter, limit, or modify any claim of any State to any jurisdiction over, or any right, title, or interest in any submerged lands.".

(c) Section 8(j) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(j)), as relettered by subsection (b) of this section, is amended—

(1) by inserting "and leases of geothermal steam" immediately after "sulphur"; and

(2) by inserting "or geothermal steam" immediately after "such mineral".

OUTER CONTINENTAL SHELF OIL AND GAS EXPLORATION

SEC. 206. Section 11 of the Outer Continental Shelf Lands Act (43 U.S.C. 1340) is amended to read as follows:

"SEC. 11. OTHER CONTINENTAL SHELF OIL AND GAS EXPLORATION.—(a)(1) The Secretary or any other agency of the United States and any person whom the Secretary by permit or regulation may authorize, may conduct geological and geophysical explorations in the Outer Continental Shelf which do not interfere with or endanger actual operations pursuant to any lease issued or maintained pursuant to this Act, and which are not unduly harmful to the marine environment.

(2) In order to obtain more accurate and adequate information regarding the oil and gas resources of the Outer Continental Shelf, prior to the first lease sale in each frontier area the Secretary shall publish in the Federal Register a request that potential permittees apply for a permit to participate in a continental offshore stratigraphic test or other such economically feasible off-structure test drilling operations as are authorized by regulation. Should no potential per-

mittee apply for such a permit within sixty days of the publication in the Federal Register of the Secretary's invitation to participate, the Secretary may contract for such off-structure drilling: *Provided*, That no funds shall be appropriated for such drilling prior to the fiscal year beginning October 1, 1978: *Provided further*, That budget requests for the funds necessary to implement this subsection shall be displayed as a separate line item and appropriately justified, as part of the department's annual budget request.

"(3) The provisions of paragraph (1) of this subsection shall not apply to any person conducting explorations pursuant to an approved exploration plan on any area under lease to such person pursuant to the provisions of this Act.

"(b) Except as provided in subsection (f) of this section, beginning ninety days after the date of enactment of this subsection, no exploration pursuant to any oil and gas lease issued or maintained under this Act may be undertaken by the holder of such lease, except in accordance with the provisions of this section.

"(c)(1) Except as otherwise provided in this Act, prior to commencing exploration pursuant to any oil and gas lease issued or maintained under this Act, the holder thereof shall submit an exploration plan to the Secretary for approval. Such plan may apply to more than one lease held by a lessee in any one region of the Outer Continental Shelf, or by a group of lessees acting under a unitization, pooling, or drilling agreement, and shall be approved by the Secretary if he finds that such plan is consistent with the provisions of this Act, regulations prescribed under this Act, and the provisions of such lease or leases. The Secretary shall require such modifications or remodifications of such plan as are necessary to achieve such consistency. The Secretary shall approve such plan, as submitted or modified, within thirty days of its submission or resubmission, except that if the Secretary determines that (A) any proposed activity under such plan would result in any condition which would permit him to suspend such activity pursuant to regulations prescribed under section 5(a)(1) of this Act, and (B) such proposed activity cannot be modified to avoid such condition, he may delay the approval of such plan.

"(2) An exploration plan submitted under this subsection shall include, in the degree of detail which the Secretary may by regulation require—

"(A) a schedule of anticipated exploration activities to be undertaken;

"(B) a description of equipment to be used for such activities;

"(C) the general location of each well to be drilled; and

"(D) such other information deemed pertinent by the Secretary.

"(3) The Secretary may, by regulation, require that such plan be accompanied by a general statement of anticipated onshore activity resulting from such exploration, the effects and impacts of such activity, and the development and production intentions, which shall be for planning purposes only and which shall not be binding on any party.

"(d) The Secretary may, by regulation, require any lessee operating under an approved exploration plan to obtain a permit prior to drilling any well in accordance with such plan.

"(e)(1) If a revision of an exploration plan approved under this subsection is submitted to the Secretary, the process to be used for the approval of such revision shall be the same as set forth in subsection (c) of this section.

"(2) Except as otherwise provided in this Act, all exploration activities pursuant to any lease shall be conducted in accordance with an approved exploration plan or an approved revision of such plan.

"(f)(1) Exploration activities pursuant to any lease on which a drilling permit had been issued prior to the date of enactment of this subsection shall be considered in compliance with this section, but the Secretary may require such activities to be described in an exploration plan, or require a revised exploration plan, and require any such plan to be accompanied by a general statement in accordance with subsection (c)(3) of this section.

"(2) In accordance with section 5(a) of this Act, the Secretary may require the submission of additional information or establish additional requirements on lessees conducting exploration activities pursuant to any lease issued prior to the date of enactment of this subsection.

ANNUAL REPORT

SEC. 207. (a) Section 15 of the Outer Continental Shelf Lands Act (43 U.S.C. 1944) is amended to read as follows:

"SEC. 15. ANNUAL REPORT BY SECRETARY TO CONGRESS.—Within six months after the end of each fiscal year, the Secretary shall submit to the President of the Senate and the Speaker of the House of Representatives the following reports:

"(1) A report on the leasing and production program in the outer Continental Shelf during such fiscal year, which shall include—

"(A) a detailed accounting of all moneys received and expended;

"(B) a detailed accounting of all exploration, exploratory drilling, leasing, development, and production activities;

"(C) a summary of management, supervision, and enforcement activities;

"(D) a list of all shut-in and flaring wells; and

"(E) recommendations to the Congress (i) for improvements in management, safety, and amount of production from leasing and operations in the outer Continental Shelf, and (ii) for resolution of jurisdictional conflicts or ambiguities.

"(2) A report, prepared after consultation with the Attorney General, with recommendations for promoting competition in the leasing of outer Continental Shelf lands, which shall include any recommendations or findings by the Attorney General, any plans for implementing recommended administrative changes, and drafts of any proposed legislation, and which shall contain—

"(A) an evaluation of the competitive bidding systems permitted under the provisions of section B of this Act and, if applicable, the reasons why a particular bidding system has not been utilized.

"(B) an evaluation of alternative bidding systems not permitted under section 8 of this Act, and why such system or systems should or should not be utilized;

"(C) an evaluation of the effectiveness of restrictions on joint bidding in promoting competition and, if applicable, any suggested administrative or legislative action on joint bidding;

"(D) an evaluation of present measures and a description of any additional measures to encourage entry of new competitors; and

"(E) an evaluation of present measures and a description of additional measures to insure an adequate supply of oil and gas to independent refiners and distributors.".

NEW SECTIONS OF THE OUTER CONTINENTAL SHELF LANDS ACT

SEC. 208. The Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) is amended by adding at the end thereof the following new sections:

"SEC. 18. OUTER CONTINENTAL SHELF LEASING PROGRAM.—(a) The Secretary, pursuant to procedures set forth in subsections (c) and (d), shall prepare, periodically revise, and maintain an oil and gas leasing program to implement the policies of this Act. The leasing program shall indicate as precisely as possible the size, timing, and location of leasing activity which he determines will best meet national energy needs for the five-year period following its approval or reapproval. Such leasing program shall be prepared and maintained in a manner consistent with the following principles:

"(1) Management of the outer Continental Shelf shall be conducted in a manner which considers economic, social, and environmental values of the renewable and nonrenewable resources contained in the outer Continental Shelf, and the potential impact of oil and gas exploration on other resource values of the outer Continental Shelf and the marine, coastal, and human environments.

"(2) Timing and location of exploration, development, and production of oil and gas among the oil- and gas-bearing physiographic regions of the outer Continental Shelf shall be based on a consideration of—

"(A) existing information concerning the geographical, geological, and ecological characteristics of such regions;

"(B) an equitable sharing of developmental benefits and environmental risks among the various regions;

"(C) the location of such regions with respect to, and the relative needs of, regional and national energy markets;

"(D) the location of such regions with respect to other uses of the sea and seabed, including fisheries, navigation, existing or proposed sealanes, potential sites of deepwater ports, and other anticipated uses of the resources and space of the outer Continental Shelf;

"(E) the interest of potential oil and gas producers in the development of oil and gas resources as indicated by exploration or nomination;

"(F) laws, goals, and policies of affected States which have been specifically identified by the Governors of such States as relavant matters for the Secretary's consideration;

"(G) programs promulgated by coastal States and approved pursuant to the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.);

"(H) whether the oil and gas producing industry will have sufficient resources, including equipment and capital, to bring about the exploration, development, and production of oil and gas in such regions in an expeditious manner;

"(I) the relative environmental sensitivity and marine productivity of different areas of the outer Continental Shelf; and

"(J) relevant baseline and predictive information for different areas of the outer Continental Shelf.

"(3) The Secretary shall select the timing and location of leasing, to the maximum extent practicable, so as to obtain a proper balance between the potential for environmental damage, the potential for the discovery of oil and gas, and the potential for adverse impact on the coastal zone.

"(4) Leasing activities shall be conducted to assure receipt of fair value for the lands leased and the rights conveyed by the Federal Government.

"(b) The leasing program shall include estimates of the appropriations and staff required to—

"(1) obtain resource information and any other information needed to prepare the leasing program required by this section;

"(2) analyze and interpret the exploratory data and any other information which may be compiled under the authority of this Act;

"(3) conduct environmental baseline studies and prepare any environmental im-

pact statement required in accordance with this Act and with section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)); and

"(4) supervise operations conducted pursuant to each lease in the manner necessary to assure due diligence in the exploration and development of the lease area and compliance with the requirements of applicable law and regulations, and with the terms of the lease.

"(c)(1) During the preparation of any proposed leasing program under this section, the Attorney General and the Federal Trade Commission shall report to the Secretary with respect to the effect on competition of outer Continental Shelf exploration, development, and production. Such reports shall analyze competition and individual market shares within regional markets.

"(2) During the preparation of any proposed leasing program under this section, the Secretary shall invite and consider suggestions for such program from any interested Federal agency and from the Governor of any State which may become an affected State under such proposed program. The Secretary may also invite or consider suggestions from any other person.

"(3) After such preparation and at least sixty days prior to publication of a proposed leasing program in the Federal Register pursuant to paragraph (4) of this subsection, the Secretary shall transmit a copy of such proposed program to the Governor of each affected State for review and comment. The Governor shall solicit comments from the executives of local governments in his State affected by the proposed program. If any comment is received by the Secretary at least fifteen days prior to submission to the Congress pursuant to such paragraph (4) and includes a request for any modification of such proposed program, the Secretary shall reply in writing, granting or denying such request in whole or in part, or granting such request in such modified form as the Secretary considers appropriate, and stating his reasons therefor. All such correspondence between the Secretary and the Governor of any affected State, together with any additional information and data relating thereto, shall accompany such proposed program when it is submitted to the Congress.

"(4) Within nine months after the date of enactment of this section, the Secretary shall submit a proposed leasing program to the Congress, the Attorney General, the Federal Trade Commission, the Governors of affected States, and through the Governors, the executives of affected local governments, and shall publish such proposed program in the Federal Register.

"(d)(1) Within ninety days after the date of publication of a proposed leasing program, the Attorney General shall submit comments on the anticipated effects of such proposed program upon competition, and any State, local government, or other person may submit comments and recommendations as to any aspect of such proposed program.

"(2) At least sixty days prior to approving a proposed leasing program, the Secretary shall submit it to the President and the Congress, together with any comments received. Such submission shall indicate why any specific recommendation of the Attorney General or a State or a local government was not accepted.

"(3) After the leasing program has been approved by the Secretary, or after eighteen months following the date of enactment of this section, whichever first occurs, no lease shall be issued unless it is for an area included in the approved leasing program and unless it contains provisions consistent with the approved leasing program, except that leasing shall be permitted to continue until such program is approved and for so long thereafter as such program is under judicial or administrative review pursuant to the provisions of this Act.

"(e) The Secretary shall review the leasing program approved under this section at least once each year, and he may revise and approve such program, at any time, in the same manner as originally developed.

"(f) The Secretary shall, by regulation, establish procedures for—

"(1) receipt and consideration of nominations for any area to be offered for lease or to be excluded from leasing.

"(2 public notice of and participation in development of the leasing program;

"(3) review by State and local governments which may be impacted by the proposed leasing;

"(4) periodic consultation with State and local governments, oil and gas lessees and permittees, and representatives of other individuals or organizations engaged in activity in or on the outer Continental Shelf, including those involved in fish and shellfish recovery, and recreational activities; and

"(5)(A) coordination of the program with the management program being developed by any State pursuant to section 305 of the Coastal Zone Management Act of 1972, and (B) assuring consistency, as provided by the Coastal Zone Management Act, with the program of any State which has been approved pursuant to section 306 of such Act, to the maximum extent practicable.

Such procedures shall be applicable to any revision or reapproval of the leasing program.

"(g) The Secretary may obtain from public sources, or purchase from private sources, any survey, data, report, or other information (including interpretations of such data, survey, report, or other information) which may be necessary to assist him in preparing any environmental impact statement and in making other evaluations required by this Act. Data of a classified nature provided to the Secretary under the provisions of this subsection shall remain confidential for such period of time as agreed to by the head of the department or agency from whom the information is requested. The Secretary shall maintain the confidentiality of all privileged data or information for such period of time as is provided for in this Act, established by regulation, or agreed to by the parties.

"(h) The heads of all Federal departments and agencies shall provide the Secretary with any nonprivileged information and may provide the Secretary with any privileged information he requests to assist him in preparing the leasing program. Privileged information provided to the Secretary under the provisions of this subsection shall remain confidential for such period of time as agreed to by the head of the department or agency from whom the information is requested. In addition, the Secretary shall utilize the existing capabilities and resources of such Federal departments and agencies by appropriate agreement.

"SEC. 19. COORDINATION AND CONSULTATION WITH AFFECTED STATES AND LOCAL GOVERNMENTS.—(a) Any Governor of any affected State or the executive of any affected local government in such State may submit recommendations to the Secretary regarding the size, timing, or location of a proposed lease sale or with respect to a proposed development and production plan.

"(b) Such recommendations shall be submitted within sixty days after notice of such proposed lease sale or sixty days after receipt of such development and production plan.

"(c) The Secretary shall accept recommendations of the Governor and may accept recommendations of the executive of any affected local government if he determines, after having provided the opportunity for full consultation, that they provide for a reasonable balance between the national interest and the well-being of the citizens of the affected State. For the purposes of this subsection a determination of the national interest shall be based on the desirability of obtaining oil and gas supplies in a balanced manner and on the findings, purposes, and policies of this Act. The Secretary shall communicate to the Governor, in writing, the reasons for his determination to accept or reject such Governor's recommendations, or to implement any alternative means identified in consultation with the Governor to provide for a reasonable balance between the national interest and the well-being of the citizens of the affected State.

"(d) The Secretary's determination that recommendations provide, or do not provide, for a reasonable balance between the national interest and the well-being of the citizens of the affected State shall be final and shall not, alone, be a basis for invalidation of a proposed lease sale or a proposed development and production plan in any suit or judicial review pursuant to section 23 of this Act, unless found to be arbitrary or capricious.

"(e) The Secretary is authorized to enter into cooperative agreements with affected States for purposes which are consistent with this Act and other applicable Federal law. Such agreements may include, but not be limited to, the sharing of information (in accordance with the provisions of section 26 of this Act), the joint utilization of available expertise, the facilitating of permitting procedures, joint planning and review, and the formation of joint surveillance and monitoring arrangements to carry out applicable Federal and State laws, regulations, and stipulations relevant to outer Continental Shelf operations both onshore and offshore.

"SEC. 20. BASELINE AND MONITORING STUDIES.—(a)(1) The Secretary shall conduct a study of any area or region included in any lease sale in order to establish baseline information concerning the status of the human, marine, and coastal environments of the outer Continental Shelf and the coastal areas which may be affected by oil and gas development in such area or region.

"(2) Each study required by paragraph (1) shall be commenced not later than six months after the date of enactment of this section with respect to any area or region where a lease sale has been held or scheduled before such date or enactment, and not later than six months prior to the holding of a lease sale with respect to any area or region where no lease sale has been held or scheduled before such date of enactment. The Secretary may utilize information collected in any study prior to such date of enactment in conducting any such study.

"(3) In addition to developing baseline information, any study of an area or region, to the extent practicable, shall be designed to predict impacts on the marine biota which may result from chronic low level pollution or large spills associated with outer Continental Shelf production, from the introduction of drill cuttings and drilling muds in the area, and from the laying of pipe to serve the offshore production area, and the impacts or development offshore on the affected and coastal areas.

"(b) Subsequent to the leasing and developing of any area or region, the Secretary shall conduct such additional studies to establish baseline information as he deems necessary and shall monitor the human, marine, and coastal environments of such area or region in a manner designed to provide time-series and data trend information which can be used for comparison with any previously collected data for the purpose of identifying any significant changes in the quality and productivity of such environments, for establishing trends in the areas studies and monitored, and for designing experiments to identify the causes of such changes.

"(c) The Secretary shall, by regulation, establish procedures for carrying out his duties under this section, and shall plan and carry out such duties in full cooperation with affected States. To the extent that other Federal agencies have prepared environmental impact statements, are conducting studies, or are monitoring the affected human, marine, or coastal environment, the Secretary may utilize the information derived therefrom in lieu of directly conducting such activities. The Secretary may also utilize information obtained from any State or local government entity, or from any person, for the purposes of this section. For the purpose of carrying out his responsibilities under this section, the Secretary may by agreement utilize, with or without reimbursement, the services, personnel, or facilities of any Federal, State, or local goverment agency.

"(d) The Secretary shall consider available relevant baseline information in making decisions (including those relating to exploration plans, drilling permits, and development and production plans), in developing appropriate regulations and lease conditions, and in issuing operating orders.

"(e) As soon as practicable after the end of each fiscal year, the Secretary shall submit to the Congress and make available to the general public an assessment of the cumulative effect of activities conducted under this Act on the human, marine, and coastal environments.

"(f) In executing his responsibilities under this section, the Secretary shall, to the maximum extent practicable, enter into appropriate arangements to utilize on a reimbursable basis the capabilities of the Department of Commerce. In carrying out such arrangements, the Secretary of Commerce is authorized to enter into contracts or grants with any person, organization, or entity with funds appropriated to the Secretary of the Interior pursuant to this Act.

"SEC. 21. SAFETY REGULATIONS.—(a) Upon the date of enactment of this section, the Secretary, the Secretary of Labor, and the Secretary of the Department in which the Coast Guard is operating shall, in consultation with each other and, as appropriate, with the heads of other Federal departments and agencies, promptly commence a joint study of the adequacy of existing safety regulations, and of the technology, equipment, and techniques available for the exploration, development, and production of the natural resources of the outer Continental Shelf. The results of this study shall be submitted to the President who shall submit a plan to Congress of his proposals to promote safety and health in the exploration, development, and production of the natural resources of the outer Continental Shelf.

"(b) In exercising their respective responsibilities for the artificial islands, installations, and other devices referred to in section 4(a)(1) of this Act, the Secretary, and the Secretary of the Department in which the Coast Guard is operating, shall require on all new drilling and production operations and, wherever practicable, on existing operations, the use of the best available and safest technology which the Secretary determines to be economically achievable, wherever failure of equipment would have a significant effect on safety, health, or the environment, except where the Secretary determines that the incremental benefits are clearly insufficient to justify the incremental costs of utilizing such technology.

"(c) Nothing in this section or in section 22 of this Act shall affect the authority provided by law to the Secretary of Labor for the protection or occupational safety and health, the authority provided by law to the Administrator of the Environmental Protection Agency for the protection of the environment, or the authority provided by law to the Secretary of Transportation with respect to pipeline safety standards and regulations.

"(d)(1) In administering the provisions of this section, the Secretary shall consult and coordinate with the heads of other appropriate Federal departments and agencies for purposes of assuring that, to the maximum extent practicable, inconsistent or duplicative requirements are not imposed.

"(2) The Secretary shall make available to any interested person a compilation of all safety and other regulations which are prepared and promulgated by any Federal department or agency and applicable to activities on the Outer Continental Shelf. Such compilation shall be revised and updated annually.

"SEC. 22. ENFORCEMENT OF ENVIRONMENTAL AND SAFETY REGULATIONS—(a) The Secretary and the Secretary of the Department in which the Coast Guard is operating shall consult with each other regarding the enforcement of environmental and safety regulations promulgating pursuant to this Act, and each may by agreement, utilize, with or without reimbursement, the services, personnel, or facilities of any Federal agency, for the enforcement of their respective regulations.

"(b) The Secretary and the Secretary of the Department in which the Coast Guard is operating shall individually, or jointly if they so agree, promulgate regulations to provide for—

"(1) scheduled onsite inspection at least once a year of each facility on the Outer Continental Shelf which is subject to any environmental or safety regulation promulgated pursuant to this Act, which inspection shall include all safety equipment designed to prevent or ameliorate blowouts, fires, spillages, or other major accidents; and

"(2) periodic onsite inspection without advance notice to the operator of such facility to assure compliance with such environmental or safety regulations.

"(c) The Secretary, the Secretary of the Department in which the Coast Guard is operating or their authorized representatives, upon presenting appropriate credentials to the owner or operator of a facility subject to regulations issued pursuant to subsection (b), shall be authorized—

"(1) to enter without delay any part of the facility to conduct an onsite inspection; and

"(2) to examine such documents and records as are pertinent to such an inspection.

"(d)(1) The Secretary or the Secretary of the Department in which the Coast Guard is operating, as applicable, shall make an investigation and public report on each major fire and major oil spillage occurring as a result of operations conducted pursuant to this Act. For the purpose of this subsection, the term 'major oil spillage' means any discharge from a single source of more than two hundred barrels of oil over a period of thirty days or of more than fifty barrels over a single twenty-four hour period. In addition, such Secretary may make an investigation and report of any lesser oil spillage.

"(2) In any investigation conducted pursuant to this subsection, the Secretary of the Department in which the Coast Guard is operating shall have the power to subpoena witnesses and to require the production of books, papers, documents, and any other evidence relating to such investigation.

"SEC. 23. CITIZENS SUITS, COURT JURISDICTION, AND JUDICIAL REVIEW.—(a)(1) Except as provided in this section, any person having a valid legal interest which is adversely affected may commence a civil action on his own behalf to compel compliance with this Act against any person, including the United States, and any other government instrumentality or agency (to the extent permitted by the eleventh amendment to the Constitution) for any alleged violation of any provision of this Act or any regulation promulgated under this Act, or of the terms of any permit or lease issued by the Secretary under this Act.

"(2) Except as provided in paragraph (3) of this subsection, no action may be commenced under subsection (a)(1) of this section—

"(A) prior to sixty days after the plaintiff has given notice of the alleged violation, in writing under oath, to the Secretary and any other appropriate Federal official, to the State in which the violation allegedly occurred or is occurring, and to any alleged violator; and

"(B) if the Secretary or his authorized representative, any other appropriate Federal official, or the Attorney General has commenced and is diligently prosecuting a civil action in a court of the United States or a State with respect to such matter, but in any such action any person having a legal interest which is or may be adversely affected or aggrieved may intervene as a matter or right.

"(3) An action may be brought under this subsection immediately after notification of the alleged violation in any case in which the alleged violation constitutes an imminent threat to the public health or safety or would immediately and irreparably affect a legal interest of the plaintiff.

"(4) In any action commenced pursuant to this section, the Secretary, the Attorney General, or any other appropriate Federal official, if not a party, may intervene as a matter of right.

"(5) A court, in issuing any final order in any action brought pursuant to subsection (a)(1) or subsection (c) of this section, may award costs of litigation, including reasonable attorneys' and expert witness fees, to any party, whenever such court determines such award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in a sufficient amount to compensate for any loss or damage suffered, in accordance with the Federal Rules of Civil Procedure.

"(6) Except as provided in subsection (c) of this section, all suits challenging actions or decisions allegedly in violation of, or seeking enforcement of, the provisions of this Act, or any regulation promulgated under this Act, or the terms of any permit or lease issued by the Secretary under this Act, shall be undertaken in accordance with the procedures described in this subsection. Nothing in this section shall restrict any right which any person or class of persons may have under any other Act or common law to seek appropriate relief.

"(b) Except as provided in subsection (c) of this section, the district courts of the United States shall have jurisdiction of cases and controversies arising out of, or in connection with (1) any operation conducted on the outer Continental Shelf which involves exploration, development, or production of the natural resources of the subsoil and seabed of the outer Continental Shelf, or which involves rights to such natural resources, or (2) the cancellation, suspension, or termination of a lease or permit under this Act. Proceedings with respect to any such case or controversy may be instituted in the judicial district in which any defendant resides or may be found, or in the judicial district of the State nearest the place the cause of action arose.

"(c)(1) Any action of the Secretary to approve a leasing program pursuant to section 18 of this Act shall be subject to judicial review only in the United States Court of Appeals for the District of Columbia.

"(2) Any action of the Secretary to approve, require modification of, or disapprove any exploration plan or any development and production plan under this Act shall be subject to judicial review only in a United

States court of appeals for a circuit in which an affected State is located.

"(3) The judicial review specified in paragraphs (1) and (2) of this subsection shall be available only to a person who (A) participated in the administrative proceedings related to the actions specified in such paragraphs, (B) is adversely affected or aggrieved by such action, (C) files a petition for review of the Secretary's action within sixty days after the date of such action, and (D) promptly transmits copies of the petition to the Secretary and to the Attorney General.

"(4) Any action of the Secretary specified in paragraph (1) or (2) shall only be subject to review pursuant to the provisions of this subsection, and shall be specifically excluded from citizen suits which are permitted pursuant to subsection (a).

"(5) The Secretary shall file in the appropriate court the record of any public hearings required by this Act and any additional information upon which the Secretary based his decision, as required by section 2112 of title 28, United States Code. Specific objections to the action of the Secretary shall be considered by the court only if the issues upon which such objections are based have been submitted to the Secretary during the administrative proceedings related to the actions involved.

"(6) The court of appeals conducting a proceeding pursuant to this subsection shall consider the matter under review solely on the record made before the Secretary. The findings of the Secretary, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may affirm, vacate, or modify any order or decision or may remand the proceedings to the Secretary for such further action as it may direct.

"(7) Upon the filing of the record with the court pursuant to paragraph (5), the jurisdiction of the court shall be exclusive and its judgment shall be final, except that such judgment shall be subject to review by the Supreme Court of the United States upon writ of certiorari.

"SEC. 24. REMEDIES AND PENALTIES.—(a) At the request of the Secretary, the Attorney General or a United States attorney shall institute a civil action in the district court of the United States for the district in which the affected operation is located for a temporary restraining order, injunction, or other appropriate remedy to enforce any provision of this Act, any regulation or order issued under this Act, or any term of a lease license, or permit issued pursuant to this Act.

"(b) If any person fails to comply with any provisions of this Act, or any term of a lease, license, or permit issued pursuant to this Act, or any regulation or order issued under this Act, after notice of such failure and expiration of any reasonable period allowed for corrective action, such person shall be liable for a civil penalty of not more than $10,000 for each day of the continuance of such failure. The Secretary may assess, collect, and compromise any such penalty. No penalty shall be assessed until the person charged with a violation has been given an opportunity for a hearing.

"(c) Any person who knowingly and willfully (1) violates any provision of this Act, any term of a lease, license, or permit issued pursuant to this Act, or any regulation or order issued under the authority of this Act designed to protect health, safety, or the environment or conserve natural resources, (2) makes any false statement, representation, or certification in any application, record, report, or other document filed or required to be maintained under this Act, (3) falsifies, tampers with, or renders inaccurate any monitoring device or method of record required to be maintained under this Act, or (4) reveals any data or information required to be kept confidential by this Act shall upon conviction, be punished by a fine of not more than $100,000, or by imprisonment for not more than ten years, or both. Each day that a violation under clause (1) of this subsection continues, or each day that any monitoring device or data recorder remains inoperative or inaccurate because of any activity described in clause (3) of this subsection, shall constitute a separate violation.

"(d) Whenever a corporation or other entity is subject to prosecution under subsection (c) of this section, any officer or agent of such corporation or entity who knowingly and willfully authorized, ordered, or carried out the proscribed activity shall be subject to the same fines or imprisonment, or both, as provided for under subsection (c) of this section.

"(e) The remedies and penalties prescribed in this section shall be concurrent and cumulative and the exercise of one shall not preclude the exercise of the others. Further, the remedies and penalties prescribed in this section shall be in addition to any other remedies and penalties afforded by any other law or regulation.

"SEC. 25. OIL AND GAS DEVELOPMENT AND PRODUCTION.—(a)(1) Prior to development and production pursuant to an oil and gas lease issued after the date of enactment of this section in a frontier area, or issued or maintained prior to such date of enactment with respect to which no oil or gas has been discovered in commercial quantities prior to such date of enactment, the lessee shall submit a development and production plan (hereinafter in this section referred to as a 'plan') to the Secretary, for approval pursuant to this section.

"(2) A plan shall be accompanied by a statement describing all facilities and operations, other than those on the outer Continental Shelf, proposed by the lessee and known by him (whether or not owned or operated by such lessee) which will be constructed or utilized in the development, production, transportation, processing, or refining or oil or gas from the lease area, including the location and site of such facilities and operations, the land, labor, material, and energy requirements associated with such facilities and operations, and all environmental and safety safeguards to be implemented.

"(3) Except for any privileged information (as such term is defined in regulations issued by the Secretary), the Secretary, within ten days after receipt of a plan and statement, shall (A) submit such plan and statement to the Governor of any affected State, and upon request, to the executive of any affected local government, and (B) make such plan and statement available to any other appropriate interstate regional entity and the public.

"(b) After the date of enactment of this section, no oil and gas lease may be issued pursuant to this Act in any frontier area, unless such lease requires that development and production of reserves be carried out in accordance with a plan which complies with the requirements of this section.

"(c) A plan may apply to more than one oil and gas lease, and shall set forth, in the degree of detail established by regulations issued by the Secretary—

"(1) the specific work to be performed;

"(2) a description of all facilities and operations located on the outer Continental Shelf which are proposed by the lessee or known by him (whether or not owned or operated by such lessee) to be directly related to the proposed development, including the location and size of such facilities and operations, and the land, labor, material, and energy requirements associated with such facilities and operations;

"(3) the environmental safeguards to be implemented on the outer Continental Shelf and how such safeguards are to be implemented;

"(4) all safety standards to be met and how such standards are to be met;

"(5) an expected rate of development and production and a time schedule for performance; and

"(6) such other relevant information as the Secretary may by regulation require.

"(d)(1) The Secretary shall at least once in each frontier area declare the approval of a development and production plan or plans to be a major Federal action. In preparing an environmental impact statement on such action the Secretary shall evaluate the cummulative effect on such area and the affected states as a result of actions proposed in the plan or plans submitted for approval, plans previously approved and available preliminary plans for production in the area.

"(2) The Secretary may require lessees of tracts for which development and production plans have not been approved to submit preliminary or final plans for their leases, prior to or immediately after a determination by the Secretary that the procedures under the National Environmental Policy Act of 1969 shall commence.

"(e) If approval of a development and production plan is found to be a major Federal action, the Secretary shall transmit the draft environmental impact statement to the Governor of any affected State, any appropriate interstate regional entity, and the executive of any affected local government area, for review and comment, and shall make such draft available to the general public.

"(f) If approval of a development and production plan is not found to be a major Federal action, the Governor of any affected State, and the executive of any affected local government area shall have sixty days from receipt of the plan from the Secretary to submit comments and recommendations. Such comments and recommendations shall be made available to the public upon request. In addition, any interested person may submit comments and recommendations.

"(g)(1) After reviewing the record of any public hearing held with respect to the approval of a plan pursuant to the National Environmental Policy Act of 1969 or the comments and recommendations submitted under subsection (f) of this section, the Secretary shall, within sixty days after the release of the final environmental impact statement prepared pursuant to the National Environmental Policy Act of 1969 in accordance with subsection (d) of this section, or sixty days after the period provided for comment under subsection (f) of this section, approve, disapprove, or require modifications of the plan. The Secretary shall require modification of a plan if he determines that the lessee has failed to make adequate provision in such plan for safe operations on the lease area or for protection of the human, marine, or coastal environment, including compliance with the regulations prescribed by the Secretary pursuant to paragraph (8) of section 5 (a) of this Act. Any modification required by the Secretary which affects land use and water use of the coastal zone of a State with a coastal zone management program approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455) shall be consistent with such program unless the Secretary of Commerce makes the finding authorized by section 307(c)(3)(B)(iii) of such Act. The Secretary shall disapprove a plan—

"(A) if the lessee fails to demonstrate that he can comply with the requirements of this Act or other applicable Federal law, including the regulations prescribed by the Secretary pursuant to paragraph (8) of section 5(a) of this Act;

"(B) if those activities described in the plan which affect land use and water use of the coastal zone of a State with a coastal zone management program approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455) are not concurred with by such State pursuant to section 307(c) of such Act, and the Secre-

tary of Commerce does not make the finding authorized by section 307(c)(3)(B)(iii) of such Act;

"(C) if operations threaten national security or national defense; or

"(D) if the Secretary determines, because of exceptional geological conditions in the lease area, exceptional resource values in the marine or coastal environment, or other exceptional circumstances, that (i) implementation of the plan would probably cause serious harm or damage to life (including fish and other aquatic life), to property, to any mineral deposits (in areas leased or not leased), to the national security or defense, or to the marine, coastal or human environments, (ii) the threat of harm or damage will not disappear or decrease to an acceptable extent within a reasonable period of time, and (iii) the advantages of disapproving the plan outweigh the advantages of development and production.

"(2)(A) If a plan is disapproved—

"(i) under subparagraph (A) of paragraph (1); or

"(ii) under subparagraph (B) of paragraph (1) with respect to a lease issued after approval of a coastal zone management program pursuant to the Coastal Zone Management Act of 1972 (16 U.S.C. 1455),

the lessee shall not be entitled to compensation because of such disapproval.

"(B) If a plan is disapproved—

"(i) under subparagraph (C) or (D) of paragraph (1); or

"(ii) under subparagraph (B) of paragraph (1) with respect to a lease issued before approval of a coastal zone management program pursuant to the Coastal Zone Management Act of 1972, and such approval occurs after the lessee has submitted a plan to the Secretary.

the term of the lease shall be duly extended, and at any time within five years after such disapproval, the lessee may reapply for approval of the same or a modified plan, or require modifications of a plan in accordance with this subsection.

"(C) Upon the expiration of the five-year period described in subparagraph (B) of this paragraph, or, in the Secretary's discretion, at an earlier time upon request of a lessee, if the Secretary has not approved a plan, the Secretary shall cancel the lease. In the case of any lease cancelled after disapproval of a plan under such subparagraph (B) which was issued after the date of enactment of this section, the lessee shall be entitled to receive such compensation as he shows to the Secretary is equal to the lesser of—

"(i) the fair value of the cancelled rights as of the date of cancellation taking account of both anticipated revenues from the lease and anticipated costs, including cost of compliance with all applicable regulations and operating orders, liability for cleanup costs or damages, or both, in the case of an oil spill, and all other costs reasonably anticipated with respect to the lease; or

"(ii) the excess, if any, over the lessee's revenues from the lease (plus interest thereon from date of receipt to date of reimbursement) of all consideration paid for the lease and all direct expenditures made by the lessee after the date of issuance of such lease, and in connection with exploration or development, or both, pursuant to the lease (plus interest on such consideration and such expenditures from the date of payment to the date of reimbursement).

In the case of any lease canceled after disapproval of a plan under subparagraph (B) of this paragraph which was issued before the date of enactment of this section, the lessee shall be entitled to receive fair value in accordance with clause (i) of this subparagraph. The Secretary may, at any time within the five-year period described in such subparagraph (B), require the lessee to submit a plan of development and production for approval, disapproval, or modification. If the lessee fails to submit a required plan expeditiously and in good faith, the Secretary shall find that the lessee has not been duly diligent in pursuing his obligations under the lease, and shall immediately cancel such lease, without compensation, under the provisions of section 5(c) of this Act.

"(3) The Secretary shall, from time to time, review each plan approved under this section. Such review shall be based upon changes in available information and other onshore or offshore conditions affecting or impacted by development and production pursuant to such plan. If the review indicates that the plan should be revised to meet the requirements of this subsection, the Secretary shall require such revision.

"(h) The Secretary may approve any revision of an approved plan proposed by the lessee if he determines that such revision will lead to greater recovery of oil and natural gas, improve the efficiency, safety, and environmental protection of the recovery operation, is the only means available to avoid substantial economic hardship to the lessee, or is otherwise not inconsistent with the provisions of this Act, to the extent such revision is consistent with protection of the marine and coastal environments. Any revision of an approved plan which the Secretary determines is significant shall be reviewed in accordance with subsections (d) through (g) of this section.

"(i) Whenever the owner of any lease fails to submit a plan in accordance with regulations issued under this section, or fails to comply with an approved plan, the lease may, after notice to such owner of such failure and expiration of any reasonable period allowed for corrective action, and after an opportunity for a hearing, be forfeited, canceled, or terminated, subject to the right of judicial review, in accordance with the provisons of section 23(b) of this Act. Termination of a lease because of failure to comply with an approved plan, including required modifications or revisions, shall not entitle a lessee to any compensation.

"(j) If any development and production plan submitted to the Secretary pursuant to this section provides for the production and transportation of natural gas, the lessee shall contemporaneously submit to the Federal Power Commission that portion of such plan which relates to production of natural gas and the facilities for transportation of natural gas. The Secretary and the Federal Power Commission shall agree as to which of them shall prepare any environmental impact statement which may be required pursuant to the National Environmental Policy Act of 1969 applicable to such portion of such plan, or conduct studies as to the effect on the environment of implementing it. Thereafter, the findings and recommendations by the agency preparing such environmental impact statement or conducting any studies which they may deem desirable pursuant to that agreement shall be adopted by the other agency, and such other agency shall not independently prepare another environmental impact statement or duplicate such studies with respect to such portion of such plan, but the Federal Power Commission, in connection with its review of an application for a certificate of public convenience and necessity applicable to such transportation facilities pursuant to section 7 of the Natural Gas Act (15 U.S.C. 71), may prepare such environmental studies or statement relevant to certification of such transportation facilities as have not been covered by an environmental impact statement or studies prepared by the Secretary. The Secretary, in consultation with the Federal Power Commission, shall promulgate rules to implement this subsection, but the Federal Power Commission shall retain sole authority with respect to rules and procedure applicable to the filing of any application with the Commission and to all aspects of the Commission's review of, and action on, any such application.

"SEC. 26. OUTER CONTINENTAL SHELF OIL AND GAS INFORMATION PROGRAM.—(a)(1)(A). Any lessee or permittee conducting any exploration for, or development or production of, oil or gas pursuant to this Act shall provide the Secretary access to all data obtained from such activity and shall provide copies of such specific data, and a representative interpretation of any such data, which the Secretary may request. Such data and interpretation shall be provided in accordance with regulations which the Secretary shall prescribe.

"(B) If an interpretation provided pursuant to subparagraph (A) of this paragraph is made in good faith by the lessee or permittee, such lessee or permittee shall not be held responsible for any consequence of the use of or reliance upon such interpretation.

"(C) Whenever any data is provided to the Secretary pursuant to subparagraph (aA) of this paragraph—

"(1) by a lessee, in the form and manner of processing which is utilized by such lessee in the normal conduct of his business, the Secretary shall pay the reasonable cost of reproducing such data; and

"(ii) by a lessee, in such other form and manner of processing as the Secretary may request, or by a permittee, the Secretary shall pay the reasonable cost of processing and reproducing such data,

pursuant to such regulations as he may prescribe.

"(2) Each Federal department and agency shall provide the Secretary with any data obtained by such Federal department or agency conducting exploration pursuant to section 11 of this Act, and any other information which may be necessary or useful to assist him in carrying out the provisions of this Act.

"(b)(1) Information provided to the Secretary pursuant to subsection (a) of this section shall be processed, analyzed, and interpreted by the Secretary for purposes of carrying out his duties under this Act.

"(2) As soon as practicable after information provided to the Secretary pursuant to subsection (a) of this section is processed, analyzed, and interpreted, the Secretary shall make available to the affected States and to any requesting affected local government, a summary of data designed to assist them in planning for the onshore impacts of possible oil and gas development and production. Such summary shall include estimates of (A) the oil and gas reserves in areas leased or to be leased, (B) the size and timing of development if and when oil and gas, or both, is found, (C) the location of pipelines, and (D) the general location and nature of onshore facilities.

"(c) The Secretary shall prescribe regulations to (1) assure that the confidentiality of privileged information received by the Secretary under this section will be maintained, and (2) set forth the time periods and conditions which shall be applicable to the release of such information. Such regulations shall include a provision that no such information will be transmitted to any affected State unless the lessee, or the permittee and all persons to whom such permittee has sold such information under promise of confidentiality, agree to work transmittal.

"(d)(1) The Secretary shall transmit to any affected State—

"(A) a copy of all relevant actual or proposed programs, plans, reports, environmental impact statements, tract nominations (including negative nominations) and other lease sale information, any similar type of relevant information, and all modifications

and revisions thereof and comments thereon, prepared or obtained by the Secretary pursuant to this Act.

"(B) (i) the summary of data prepared by the Secretary pursuant to subsection (b) (2) of this section, and (ii) any other processed, analyzed, or interpreted data prepared by the Secretary pursuant to subsection (b) (1) of this subsection, unless the Secretary determines that transmittal of such data prepared pursuant to subsection (b) (1) would unduly damage the competitive position of the lessee or permittee who provided the Secretary with the information which the Secretary had processed, analyzed, or interpreted; and

"(C) any relevant information received by the Secretary pursuant to subsection (a) of this section, subject to any applicable requirements as to confidentiality which are set forth in regulations prescribed under subsection (c) of this section.

"(2) Notwithstanding the provisions of any regulation required pursuant to the second sentence of subsection (c) of this section, the Governor of any affected State may designate an appropriate State official to inspect, at a regional location which the Secretary shall designate, any privileged information received by the Secretary regarding any activity adjacent to such State, except that no such inspection shall take place prior to the sale of a lease covering the area in which such activity was conducted, nor at any such inspection shall the appropriate state official be permitted to copy or abstract from, or in any way make written notes concerning, the privileged information inspected. Knowledge obtained by such State during such inspection shall be subject to applicable requirements as to confidentiality which are set forth in regulations prescribed under subsection (c) of this section.

"(e) Prior to transmitting any privileged information to any State, or granting such State access to such information, the Secretary shall enter into a written agreement with the Governor of such State in which such State agrees, as a condition precedent to receiving or being granted access to such information, to waive the defenses set forth in subsection (f) (2) of this section.

"(f) (1) Whenever any employee of the Federal Government or of any State reveals information in violation of the regulations prescribed pursuant to subsection (c) of this section, the lessee or permittee who supplied such information to the Secretary or to any other Federal official, and any person to whom such lessee or permittee has sold such information under promise of confidentiality, may commence a civil action for damages in the appropriate district court of the United States against the Federal Government or such State, as the case may be.

"(2) In any action commenced against the Federal Government or a State pursuant to paragraph (1) of this subsection, the Federal Government or such State, as the case may be, may not raise as a defense (A) any claim of sovereign immunity, or (B) any claim that the employee who revealed the privileged information which is the basis of such suit was acting outside the scope of his employment in revealing such information.

"(g) Any provisions of State or local law which provides for public access to any privileged information received or obtained by any person pursuant to this Act is expressly preempted by the provisions of this section, to the extent that it applies to such information.

"(h) If the Secretary finds that any State cannot or does not comply with the regulations issued under subsection (c) of this section, he shall thereafter withhold transmittal and deny inspection of privileged information to such State until he finds that such State can and will comply with such regulations.

"(i) The regulations prescribed pursuant to subsection (c) of this section, and the provisions of subsection 552(b) (9) of title 5, United States Code, shall not apply to any information obtained in the conduct of geological or geophysical explorations by any Federal agency (or any person acting under a service contract with such agency) pursuant to section 11 of this Act.

"SEC. 27. FEDERAL PURCHASE AND DISPOSITION OF OIL AND GAS.—(a) (1) Except as may be necessary to comply with the provisions of sections 6 and 7 of this Act, all royalties or net profit shares, of both, accruing to the United States under any oil and gas lease or permit issued or maintained under this Act, shall, on demand of the Secretary, be paid in oil or gas.

"(2) Except as otherwise provided in section 12(b) of this Act, the United States shall have the right to purchase not to exceed 16⅔ per centum by volume of the oil and gas produced pursuant to a lease or permit issued under this Act, at the regulated price, or, if no regulated price applies, at the fair market value at the wellhead of the oil and gas saved, removed, or sold, except that any oil or gas obtained by the United States as royalty or net profit share shall be credited against the amount that may be purchased under this subsection.

"(3) Title to any royalty, net profit share, or purchased oil or gas may be transferred, upon request, by the Secretary to the Secretary of Defense, to the Administrator of the General Services Administration, or to the Administrator of the Federal Energy Administration, for disposal within the Federal Government.

"(b) (1) The Secretary, pursuant to such terms as he determines and in the absence of any provision of law which provides for the mandatory allocation of such oil in amounts and at prices determined by such provision, or regulations issued in accordance with such provision, may offer to the public and sell by competitive bidding for not more than its regulated price, or, if no regulated price applies, not less than its fair market value any part of the oil (A) obtained by the United States pursuant to any lease as royalty or net profit share, or (B) purchased by the United States pursuant to subsection (a) (2) of this section.

"(2) Whenever, after consultation with the Administrator of the Federal Energy Administration, the Secretary determines that small refiners do not have access to adequate supplies of oil at equitable prices, the Secretary may dispose of any oil which is taken as a royalty or net profit share accruing or reserved to the United States pursuant to any lease issued or maintained under this Act, or purchased by the United States pursuant to subsection (a) (2) of this section, by conducting a lottery for the sale of such oil, or may equitably allocate such oil among the competitors for the purchase of such oil, at the regulated price, or if no regulated price applies, at its fair market value. The Secretary shall limit participation in any lottery or allocated sale to assure such access and shall publish notice of such sale, and the terms thereof, at least thirty days in advance of such sale. Such notice shall include qualifications for participation, the amount of oil to be sold, and any limitation in the amount of oil which any participant may be entitled to purchase.

"(3) Whenever a provision of law is in effect which provides for the mandatory allocation of such oil in amounts or at prices determined by such provision, or regulations issued in accordance with such provision, the Secretary may only sell such oil in accordance with such provision of law or regulations.

"(c) (1) Except as provided in paragraph (2) of this subsection, the Secretary, pursuant to such terms as he determines, may offer to the public and sell by competitive bidding for not more than its regulated price, or, if no regulated price applies, not less than its fair market value any part of the gas (A) obtained by the United States pursuant to a lease as royalty or net profit share, or (B) purchased by the United States pursuant to subsection (a) (2) of this section.

"(2) Whenever, after consultation with and advice from the Administrator of the Federal Energy Administration and the Chairman of the Federal Power Commission, the Secretary determines that an emergency shortage of natural gas is threatening to cause severe economic or social dislocation in any region of the United States and that such region can be serviced in a practical, feasible, and efficient manner by royalty, net profit share, or purchased gas obtained pursuant to the provisions of this subsection, the Secretary may allocate or conduct a lottery for the sale of such gas, and shall limit participation in any allocated or lottery sale of such gas to any person servicing such region, but he shall not sell any such gas for more than its regulated price, or, if no regulated price applies, less than its fair market value. Prior to allocating any gas pursuant to this paragraph, the Secretary shall consult with the Federal Power Commission.

"(d) The lessee shall take any Federal oil or gas for which no acceptable bids are received, as determined by the Secretary, and which is not transferred pursuant to subsection (a) (3) of this section, and shall pay to the United States a cash amount equal to the regulated price, or, if no regulated price applies, the fair market value of the oil or gas so obtained.

"(e) As used in this section—

"(1) the term 'regulated price' means the highest price—

"(A) at which Federal oil may be sold pursuant to the Emergency Petroleum Allocation Act of 1973 and any rule or order issued under such Act;

"(B) at which natural gas may be sold to natural-gas companies pursuant to the Natural Gas Act and any rule or order issued under such Act; or

"(C) at which either Federal oil or gas may be sold under any other provision of law or rule or order thereunder which sets a price (or manner for determining a price) for oil or gas produced pursuant to a lease or permit issued in accordance with this Act; and

"(2) the term 'small refiner' means an owner of an existing refinery or refineries, including refineries not in operation, who qualifies as a small business concern under the rules of the Small Business Administration and who is unable to purchase in the open market an adequate supply of crude oil to meet the needs of his existing refinery capacities.

"(f) Nothing in this section shall prohibit the right of the United States to purchase any oil or gas produced on the outer Continental Shelf, as provided in section 12(b) of this Act.

"SEC. 28. LIMITATIONS ON EXPORT.—(a) Except as provided in subsection (d), any oil or gas produced from the outer Continental Shelf shall be subject to the requirements and provisions of the Export Administration Act of 1969 (50 App. U.S.C. 2401 et seq.).

"(b) Before any oil or gas subject to this section may be exported under the requirements and provisions of the Export Administration Act of 1969, the President shall make and publish an express finding that such exports will not increase reliance on imported oil or gas, are in the national interest, and are in accordance with the provisions of the Export Administration Act of 1969.

"(c) The President shall submit reports to the Congress containing findings made under this section, and after the date of receipt of such report Congress shall have a period of sixty calendar days, thirty days of

which Congress must have been in session, to consider whether exports under the terms of this section are in the national interest. If the Congress within such time period passes a concurrent resolution of disapproval stating disagreement with the President's finding concerning the national interest, further exports made pursuant to such Presidential findings shall cease.

"(d) The provisions of this section shall not apply to any oil or gas which is either exchanged in similar quantity for convenience or increased efficiency of transportation with persons or the government of a foreign state, or which is temporarily exported for convenience or increased efficiency of transportation across part of an adjacent foreign state and reenters the United tSates.

"SEC. 29. RESTRICTIONS OF EMPLOYMENT.—No full-time officer or employee of the Department of Interior who directly or indirectly discharged duties or responsibilities under this Act, and who was at any time during the twelve months preceding the termination of his employment with the Department compensated under the Executive Schedule or compensated at or above the annual rate of basic pay for grade GS–16 of the General Schedule, shall accept, for a period of two years after the date of termination of employment with the Department, employment or compensation, directly or indirectly, from any person, persons, association, corporation or other entity subject to regulation under this Act.

"SEC. 30. FISHERMEN'S GEAR COMPENSATION FUNDS.—(a) As used in this section, the term—

"(1) 'commercial fisherman' means any citizen of the United States whose primary source of income is derived from the harvesting of living marine resources for commercial purposes; and

"(2) 'fishing gear' means (A) any vessel, and (B) any equipment, whether or not attached to a vessel, which is used in the commercial handling or harvesting of living marine resources.

"(b)(1) The Secretary is authorized to establish and maintain a fishermen's gear compensation fund for any area of the outer Continental Shelf for the purpose of providing reasonable compensation or damages to fishing gear and any resulting economic loss to commercial fishermen due to activities related to oil and gas exploration, development, and production in such area. Such fund may sue or be sued in its own name.

"(2) After the date of enactment of this section, any lease issued by the Secretary to a lessee for a tract in an area of the outer Continental Shelf shall contain a condition that such lessee, upon request by the Secretary, shall pay the amount specified by the Secretary for the purpose of the establishment and maintenance of a fishermen's gear compensation fund for such area. No lessee shall be required by the Secretary to pay in any calendar year an amount in excess of $5,000 per lease.

"(3) For each fishermen's gear compensation fund established under paragraph (1) of this subsection there shall be established within the Treasury of the United States a revolving account, without fiscal year limitation, which shall be available to such fund to make payments pursuant to this section. Amounts collected by the Secretary under paragraph (2) of this subsection for use by such fund shall be deposited in such revolving account. Amounts in such revolving account shall be available for disbursement and shall be disbursed for only the following purposes:

"(A) Administrative and personnel expenses of such fund.

"(B) The payment of any claim in accordance with procedures established under this section for damages suffered in the area for which such fund was established.

"(4) Each fund established for an area of the outer Continental Shelf pursuant to this section shall be maintained at a level not to exceed $100,000 and, if depleted, shall be replenished by equal assessments by the Secretary of each lease holder in such area whose lease was issued after the date of enactment of this section.

"(5) Whenever the amount in a revolving account for a fund is not sufficient to pay obligations for which fund is liable pursuant to this section, such fund may issue, in an amount not to exceed $1,000,000, notes or other obligations to the Secretary of the Treasury, in such forms and denominations, bearing such maturities, and subject to such terms and conditions as the Secretary of the Treasury may prescribe. Such notes or other obligations shall bear interest at a rate to be determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of such notes or other obligations. Moneys obtained by such fund under this paragraph shall be deposited in the revolving account, and redemptions of any such notes or other obligations shall be made by such fund from the revolving account. The Secretary of the Treasury shall purchase any such notes or other obligations, and for such purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act. The purposes for which securities may be issued under such Act are extended to include any purchase of notes or other obligations issued under this subsection. The Secretary of the Treasury may sell any such notes or other obligations at such times and prices and upon such terms and conditions as he shall determine in his discretion. All purchases, redemptions, and sales of such notes or other obligations by such Secretary of the Treasury shall be treated as public debt transactions of the United States.

"(c)(1) In carrying out this section, the Secretary may—

"(A) prescribe, and from time to time amend, regulations for the filing, processing, and the fair and expeditious settlement of claims pursuant to this section, including a time limitation on the filing of such claims;

"(B) establish and classify all potential hazards to commercial fishing caused by outer Continental Shelf oil and gas exploration, development, and production activities, including all obstructions on the bottom, throughout the water column, and on the surface; and

"(C) establish regulations for all materials, equipment, tools, containers, and all other items used on the outer Continental Shelf to be properly stamped or labeled, wherever practicable, with the owner's identification prior to actual use.

"(2)(A) Payments may be disbursed by the Secretary from the revolving account established for a fishermen's gear compensation fund for any area of the outer Continental Shelf to compensate commercial fishermen for actual and consequential damages, including loss of profits, due to the damage of fishing gear by materials, equipment, tools, containers, or other items associated with oil and gas exploration, development, or production activities in such area.

"(B) Notwithstanding the provisions of subparagraph (A) of this paragraph, no payment may be made by the Secretary from any revolving account established under this section—

"(i) when the damage set forth in a claim was caused by materials, equipment, tools, containers, or other items the ownership and responsibility for which is known;

"(ii) in an amount in excess of $10,000 per claimant for any incident; and

"(iii) to the extent that damages were caused by the negligence or fault of the commercial fisherman making the claim.

"(d)(1) Upon receipt of any notification of a claim under this section, the Secretary shall refer such matter to a hearing examiner appointed under section 3105 of title 5, United States Code. Upon receipt of any notification of a claim under this section, the Secretary shall notify all lessees in the area, and any such lessee may submit evidence at any hearing conducted with respect to such claim. Such hearing examiner shall promptly adjudicate the case and render a decision in accordance with section 554 of title 5, United States Code.

"(2) For the purposes of any hearing conducted pursuant to this section, the hearing examiner shall have the power to administer oaths and subpena the attendance and testimony of witnesses and the production of books, records, and other evidence relative or pertinent to the issues being presented for determination.

"(3) A hearing conducted under this section shall be conducted within the United States judical district within which the matter giving rise to the claim occurred, or, if such matter occurred within two or more districts, in any of the affected districts, or, if such matter occurred outside of any district in the nearest district.

"(4) Upon a decision by the hearing examiner and in the absence of a request for judicial review, any amount to be paid, subject to the limitations of this section, shall be certified to the Secretary, who shall promptly disburse the award. Such decision shall not be reviewable by the Secretary.

"(e) Any person who suffers legal wrong or who is adversely affected or aggrieved by the decision of a hearing examiner under this section may, no later than sixty days after such decision is made, seek judicial review of such decision in the United States court of appeals for the circuit in which the damage occurred, or, if such damage occurred outside of any circuit, in the United States court of appeals for the nearest circuit, or in the United States Court of Appeals for the District of Columbia.

"(f) Not withstanding any other provision of this title, no authority to enter into contracts, to incur obligations, or to make payments under this title shall be effective except to the extent or in such amounts as are provided in advance in appropriation acts.

TITLE III—OFFSHORE OIL SPILL POLLUTION FUND

DEFINITIONS

"SEC. 301. For the purposes of this title, the term—

"(a) 'Secretary' means the Secretary of Transportation;

"(b) 'fund' means the fund established by section 302;

"(c) 'person' means an individual, firm, corporation, association, partnership, consortium, joint venture, or governmental entity;

"(d) 'incident' means any occurrence or series of related occurrences, involving one or more offshore facilities or vessels, or any combination thereof, which causes, or poses an imminent threat of oil pollution;

"(e) 'vessel' means every description of watercraft or other contrivance, whether or not self-propelled, which is operating in the waters above the Outer Continental Shelf (as the term 'Outer Continental Shelf' is defined in section 2(a) of the Outer Continental Shelf Lands Act (42 U.S.C. 1331(a)), and which is transporting oil directly from an off-shore facility, and such term specifically excludes any watercraft or other contrivance which is operating in the navigable waters of the United States (as the term 'navigable waters' is defined in section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362));

"(f) 'public vessel' means a vessel which—

"(1) is owned or chartered by demise, and operated by (A) the United States, (B) a

State or political subdivision thereof, or (C) a foreign government, and

"(2) is not engaged in commercial service;

"(g) 'ship' means either of the following types of vessels carrying oil in bulk as cargo;

"(1) a self-propelled vessel, or

"(2) a non-self-propelled vessel which is certificated to operate outside the internal waters of the United States;

"(h) 'facility' means a structure, or group of structures (other than a vessel or vessels), used for the purpose of transporting, drilling for, producing, processing, storing, transferring, or otherwise handling oil;

"(i) 'offshore facility' includes any oil refinery, drilling structure, oil storage or transfer terminal, or pipeline, or any appurtenance related to any of the foregoing, which is used to drill for, produce, store, handle, transfer, process, or transport oil produced from the Outer Continental Shelf (as the term Outer Continental Shelf is defined in section 2(a) of the Outer Continental Shelf Lands Act (42 U.S.C. 1331(a)), and is located on the Outer Continental Shelf, except that such term does not include (A) a vessel, or (B) a deepwater port (as the term deepwater port is defined in section 3(10) of the Deepwater Port Act of 1974 (33 U.S.C. 1502));

"(j) 'oil pollution' means—

"(1) the presence of oil, either in an unlawful quantity or which has been discharged at an unlawful rate in or on the waters of the contiguous zone established by the United States under Article 24 of the Convention on the Territorial Sea and the Contiguous Zone (15 UST 1606); or

"(2) The presence of oil in or on the waters of the high seas outside the territorial limits of the United States—

"(A) when discharged in connection with activities conducted under the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1331 et seq.);

"(B) causing injury to or loss of natural resources belonging to, appertaining to, or under the exclusive management authority of the United States; or

"(3) the presence of oil in or on the territorial sea, internal waters, or adjacent shoreline, of a foreign country, in a case where damages are recoverable by a foreign claimant under this title;

"(k) 'United States claimant' means any person residing in the United States, the Government of the United States or an agency thereof, or the government of a State or a political subdivision thereof, who asserts a claim;

"(l) 'foreign claimant' means any person residing in a foreign country, or any agency or political subdivision thereof, who asserts a claim;

"(m) 'United States' and 'State' include the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Marianas, the Trust Territory of the Pacific Islands, and any other territory or possession over which the United States has jurisdiction;

"(n) 'oil' means petroleum, including crude oil or any fraction or residue therefrom;

"(o) 'cleanup costs' means costs of reasonable measures taken, after an incident has occurred, to prevent, minimize, or mitigate oil pollution from that incident;

"(p) 'damages' means compensation sought pursuant to this title by any person suffering any direct and actual injury proximately caused by the discharge of oil from an offshore facility or vessel, except that such term does not include clean-up costs;

"(q) 'person in charge' means the individual immediately responsible for the operation of a vessel or facility;

"(r) 'claim' means a demand in writing for a sum certain;

"(s) 'discharge' means any emission, intentional or unintentional, and includes spilling, leaking, pumping, pouring, emptying, or dumping;

"(t) 'owner' means any person holding title to, or in the absence of title, any other indicia of ownership of, a vessel or offshore facility, whether by lease, permit, contract, license, or other form of agreement, or with respect to any facility abandoned without prior approval of the Secretary of the Interior, the person who owned such facility immediately prior to such abandonment; but does not include a person who, without participating in the management or operation of a vessel or offshore facility, holds indicia of ownership primarily to protect his security interests n the vessel or offshore facility;

"(u) 'operator' means—

"(1) in the case of a vessel, a charterer by demise or any other person, except the owner who is responsible for the operation, manning, victualing, and supplying of the vessel; or

"(2) in the case of an offshore facility, any person, except the owner, responsible for the operation of the facility by agreement with the owner;

"(v) 'property' means littoral, riparian, or marine property;

"(w) 'removal costs' means—

"(1) costs incurred under section 5 of the Intervention on the High Seas Act; and

"(2) cleanup costs, other than the costs described in clause (1);

"(x) 'guarantor' means the person, other than the owner or operator, who provides evidence of financial responsibility for an owner or operator;

"(y) 'gross ton' means a unit of 100 cubic feet for the purpose of measuring the total unit capacity of a vessel; and

"(z) 'barrel' means 42 United States gallons at 60 degrees Fahrenheit.

"FUND ESTABLISHMENT, ADMINISTRATIVE, AND FINANCING

"SEC. 302. (a) There is hereby established in the Treasury of the United States an Offshore Oil Pollution Compensation Fund, not to exceed $200,000,000, except that such limitation shall be increased to the extent necessary to permit any moneys recovered or collected which are referred to in subsection (b) (2) and (3) of this section being paid into such fund. The fund shall be administered by the Secretary and the Secretary of the Treasury, as specified in this section. The fund may sue and be sued in its own name.

"(b) The fund shall be constituted from—

"(1) all fees collected pursuant to subsection (d);

"(2) all moneys recovered on behalf of the fund under section 308; and

"(3) all other moneys recovered or collected on behalf of the fund, under this title.

"(c) In addition to the processing and settlement of claims under section 307, the fund shall be immediately available for the removal costs described in section 301(w)(1), and the Secretary is authorized to promulgate regulations designating the person or persons who may obligate available money in the fund for such purposes.

"(d)(1) The Secretary shall levy and the Secretary of the Treasury shall collect a fee of not to exceed 3 cents per barrel on oil obtained from the Outer Continental Shelf, which shall be imposed on the owner of the oil, when such oil is produced.

"(2) The Secretary of the Treasury, after consulting with the Secretary, may promulgate reasonable rules and regulations relating to the collection of the fees authorized by paragraph (1) and, from time to time, the modification thereof. Modifications shall become effective on the date specified therein, but no earlier than the ninetieth day following the date the modifying regulation is published in the Federal Register. Any modification of the fee shall be designed to insure that the fund is maintained at a level not less than $100,000,000 and not more than $200,000,000. No regulation that modifies fees, nor any modification of such a regulation, whether or not in effect, may be stayed by any court pending completion of judicial review of that regulation or modification. No modified fees paid by any owner pending completion of judicial review of the modified fee regulation shall be repaid to such owner notwithstanding the final judicial determination.

"(3)(A) Any person who fails to collect or pay fees as required by the regulations promulgated under paragraph (2) shall be liable for a civil penalty not to exceed $10,000, to be assessed by the Secretary of the Treasury, in addition to the fees required to be collected or paid and the interest on those fees at the rate the fees would have earned if collected or paid when due and invested in special obligations of the United States in accordance with subsection (e)(2). Upon the failure of any person so liable to pay any penalty, fee, or interest upon demand, the Attorney General may, at the request of the Secretary of the Treasury, bring an action in the name of the fund against that person for such amount.

"(B) Any person who falsifies records or documents required to be maintained under any regulation promulgated under this subsection shall be subject to prosecution for a violation of section 1001 of title 18, United States Code.

"(4) The Secretary of the Treasury may, by regulation, designate the reasonably necessary records and documents to be kept by persons from whom fees are to be collected pursuant to paragraph (1) of this subsection and the Secretary of the Treasury and the Comptroller General of the United States shall have access to such required material for the purpose of audit and examination.

"(e)(1) The Secretary shall determine the level of funding required for immediate access in order to meet potential obligations of the fund.

"(2) The Secretary of the Treasury may invest any excess in the fund, above the level determined under paragraph (1), in interest-bearing special obligations of the United States. Such special obligations may be redeemed at any time in accordance with the terms of the special issue and pursuant to regulations promulgated by the Secretary of the Treasury. The interest on, and the proceeds from the sale of, any obligations held in the fund shall be credited to and form a part of the fund.

"(f) If at any time the moneys available in the fund are insufficient to meet the obligations of the fund, the Secretary shall issue to the Secretary of the Treasury notes or other obligations in the forms and denominations, bearing the interest rates and maturities and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. Redemption of these notes or obligations shall be made by the Secretary from moneys in the fund. These notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding marketable obligations of comparable maturity. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and, for that purpose, he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act. The purpose for which securities may be issued under that Act are extended to include any purchase of these notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of these notes or other obligations shall be treated as public debt transactions of the United States.

"DAMAGE AND CLAIMING"

"SEC. 303. (a) Claims for damages for economic loss, arising out of or directly resulting from oil pollution, may be asserted for—

"(1) removal costs;

"(2) injury to, or destruction of, real or personal property;

"(3) loss of use of real or personal property;

"(4) injury to, or destruction of, natural resources;

"(5) loss of use of natural resources;

"(6) loss of profits or impairment of earning capacity due to injury or destruction of real or personal property or natural resources; and

"(7) loss of tax revenue for a period of one year due to injury to real or personal property.

"(b) A claim authorized by subsection (a) may be asserted—

"(1) under item 1, by any claimant: *Provided*, That the owner or operator of a vessel of offshore facility involved in an incident may assert such a claim only if he can show that he is entitled to a defense to liability under section 304(c)(1) or 304(c)(2) or, if not entitled to such a defense to liability, that he is entitled to a limitation of liability under section 304(b): *Provided further*, That where he is not entitled to such a defense to liability but entitled to such a limitation of liability, such claim may be asserted only as to the removal costs incurred in excess of that limitation;

"(2) under items 2, 3, and 5, by any United States claimant, if the property involved is owned or leased, or the natural resource involved is utilized, by the claimant;

"(3) under item 4, by the President, as trustees for natural resources over which the United States Government has sovereign rights or exercises exclusive management authority; or by any State for natural resources within the boundary of the State belonging to, managed by, controlled by, or appertaining to the State: *Provided*, That compensation paid under this item shall be used only for the restoration of the natural resources damaged or for acquisition of equivalent resources;

"(4) under item 6, by any United States claimant if the claimant derives at least 25 per centum of his earnings from activities which utilize the property or natural resource;

"(5) under item 7, by any State or political subdivision thereof;

"(6) under items 2 through 7, by a foreign claimant to the same extent that a United States claimant may assert a claim if—

"(A) the oil pollution occurred (1) in the navigable waters or (2) in or on the territorial sea or adjacent shoreline of a foreign country of which the claimant is a resident;

"(B) the claimant is not otherwise compensated for his loss;

"(C) the oil was discharged from an offshore facility or from a vessel in connection with the activities conducted under the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1331 et seq.) and

"(D) recovery is authorized by a treaty or an executive agreement between the United States and the foreign country involved or if the Secretary of State, in consultation with the Attorney General and other appropriate officials, certifies that such country provides a comparable remedy for United States claimants.

"(7) under any item, by the Attorney General, on his own motion or at the request of the Secretary, on behalf of any group of United States claimants who may assert a claim under this subsection, when he determines that the claimants would be more adequately represented as a class in asserting their claims.

"(c) If the Attorney General fails to take action under clause (7) of subsection (b) within sixty days of the date on which the Secretary designates a source under section 306 any member of a group may maintain a class action to recover damages on behalf of that group. Failure of the Attorney General to take action shall have no bearing on any class action maintained by any claimant for damages authorized by this section.

"(d) If the number of members of a class in an action brought under subsection (b)(7) or subsection (c) exceeds one thousand, publication of notice of such action in local newspapers of general circulation in the areas in which the damaged persons reside shall be deemed to fulfill the requirement for public notice established by rule 23(c)(2) of the Federal Rules of Civil Procedure.

"LIABILITY

"SEC. 304. (a) Subject to the provisions of subsections (b) and (c), the owner and operator of a vessel other than a public vessel, or of an offshore facility, which is the source of oil pollution, or poses a threat of oil pollution in circumstances which justify the incurrence of the type of costs described in section 301(w)(1) of this title, shall be jointly, severally, and strictly liable for all damages for which a claim may be asserted under section 303.

"(b) Except when the incident is caused primarily by willful misconduct or gross negligence, within the privity or knowledge of the owner or operator; or is caused primarily by a violation, within the privity or knowledge of the owner or operator, of applicable safety, construction, or operating standards or regulations of the Federal Government; or except when the owner or operator fails or refuses to provide all reasonable cooperation and assistance requested by the responsible Federal official in furtherance of cleanup activities, the total of the liability under subsection (a) and any removal costs incurred by, or on behalf of, the owner or operator shall be limited to—

"(1) in the case of a vessel, $250,000 or $300 per gross ton (up to a maximum of $30,000,000), whichever is greater, or

"(2) in the case of an offshore facility operated under authority of the Outer Continental Shelf Lands Act, the total of removal and cleanup costs, and other damages up to $35,000,000.

"(c) There shall be no liability under subsection (a)—

"(1) where the incident is caused primarily by an act of war, hostilities, civil war, or insurrection, or by a natural phenomenon of an exceptional, inevitable, and irresistible character;

"(2) to the extent that the incident is caused by an act or omission of a person other than—

"(A) the claimant,

"(B) the owner or operator,

'(C) an employee or agent of the claimant, the owner, or the operator, or

'(D) one whose act or omission occurs in connection with a contractural relationship with the claimant, the owner, or the operator;

"(3) as to a particular claimant, where the incident or the economic loss is caused, in whole or in part, by the gross negligence or willful misconduct of that claimant; or

"(4) as to a particular claimant, to the extent that the incident or economic loss is caused by the negligence of that claimant.

"(d) The Secretary shall, from time to time, report to Congress on the desirability of adjusting the monetary limitation of liability specified in subsection (b).

"(e)(1) Subject to the provisions of paragraph (2) hereof, the fund shall be liable, without any limitation, for all damages for which a claim may be asserted under section 303, to the extent that the loss is not otherwise compensated.

"(2) Except for the removal costs specified in clause (1) of section 301(w), there shall be no liability under paragraph (1) hereof—

"(A) where the incident is caused primarily by an act of war, hostilities, civil war, or insurrection;

"(B) as to a particular claimant, where the incident or economic loss is caused, in whole or in part, by the gross negligence or willful misconduct of that claimant; or

"(C) as to a particular claimant, to the extent that the incident or economic loss is caused by the negligence of that claimant.

"(f)(1) In addition to the damages for which claims may be asserted under section 303, and without regard to the limitation of liability provided in section 304(b), the owner, operator, or guarantor shall be liable to the claimant for interest on the amount paid in satisfaction of the claim for the period from the date upon which the claim was presented to such person to the date upon which the claimant is paid, inclusive, less the period, if any, from the date upon which the owner, operator, or guarantor shall offer to the claimant an amount equal to or greater than that finally paid in satisfaction of the claim to the date upon which the claimant shall accept that amount, inclusive. However, if the owner, operator, or guarantor shall offer to the claimant, within sixty days of the date upon which the claim was presented, or of the date upon which advertising was commenced pursuant to section 306, whichever is later, an amount equal to or greater than that finally paid in satisfaction of the claim, the owner, operator, or guarantor shall be liable for the interest provided in this paragraph only from the date the offer was accepted by the claimant to the date upon which payment is made to the claimant, inclusive.

"(2) The interest provided in paragraph (1) shall be calculated at the average of the highest rate for commercial and finance company paper of maturities of one hundred and eighty days or less obtaining on each of the days included within the period for which interest must be paid to the claimant, as published in the Federal Reserve Bulletin.

"(g) No indemnification, hold harmless, or similar agreement shall be effective, to transfer from the owner or operator of a facility, to any other person, the liability imposed under subsection (a) hereof, other than as specified in this title.

"(h) Nothing in this title, including the provisions of subsection (g) hereof, shall bar a cause of action that an owner or operator, subject to a liability under subsection (a), or a guarantor, has or would have, by reason of subrogation or otherwise, against any person.

"(i) To the extent that they are in conflict with, or otherwise inconsistent with, any other provisions of law relating to liability or the limitation thereof, the provisions of this section shall supersede all such other provisions of law, including those of section 4283(a) of the Revised Statutes, as amended (46 U.S.C. 183(a)).

"FINANCIAL RESPONSIBILITY

"SEC. 305. (a)(1) The owner or operator of any vessel (except a non-self-propelled barge that does not carry oil as fuel or cargo), which uses an offshore facility shall establish and maintain, in accordance with regulations promulgated by the President, evidence of financial responsibility sufficient to satisfy the maximum amount of liability to which the owner or operator of such vessel would be exposed in a case where he would be entitled to limit his liability in accordance with the provisions of section 304(b) of this title. Financial responsibility may be established by any one, or any combination, of the following methods acceptable to the President: evidence of insurance, guarantee, surety bond, or qualification as a self-insurer. Any bond filed shall be issued by a bonding company authorized to do business in the United States. In cases where an owner or operator owns, operates, or charters more

than one vessel subject to this subsection, evidence of financial responsibility need be established only to meet the maximum liability applicable to the largest of such vessels.

"(2) The Secretary of the Treasury shall refuse the clearance required by section 4197 of the Revised Statutes of the United States to any vessel, subject to this subsection, which does not have certification furnished by the President that the financial responsibility provisions of paragraph (1) of this subsection have been complied with.

"(3) The Secretary, in accordance with regulations promulgated by him shall have access to all offshore facilities and vessels conducting activities under the Outer Continental Shelf Lands Act; and such facility or vessel shall, upon request, show certification of financial responsibility.

"(b) The owner or operator of a facility which (1) is used for drilling for producing, or processing oil, or (2) has the capacity to transport, store, transfer, or otherwise handle more than one thousand barrels of oil at any one time, shall establish and maintain, in accordance with regulations promulgated by the Secretary, evidence of financial responsibility sufficient to satisfy the maximum amount of liability to which the owner or operator of the facility would be exposed, in a case where he would be entitled to limit his liability, in accordance with the provisions of section 304(b) of this title, or $35,000,000, whichever is less.

"(c) Any claim authorized by section 303 (a) may be asserted directly against any guarantor providing evidence of financial responsibility as required under this section. In defending such claim, the guarantor shall be entitled to invoke all rights and defenses which would be available to the owner or operator under this title. He shall also be entitled to invoke the defense that the incident was caused by the willful misconduct of the owner or operator, but shall not be entitled to invoke any other de fense which he might have been entitled to invoke in proceedings brought by the owner or operator against him.

"(d) The President shall conduct a study to determine (1) whether adequate private oil pollution insurance protection is available on reasonable terms and conditions to the owners and operators of vessels, and offshore facilities subject to liability under section 304, and (2) whether the market for such insurance is sufficiently competitive to assure purchasers of features such as a reasonable range of deductibles, coinsurance provisions and exclusions. The President shall submit the results of his study, together with his recommendations, within one year of the date of enactment of this Act, and shall submit an interim report on his study within three months of the date of enactment of this Act.

"NOTIFICATION, DESIGNATION, AND ADVERTISEMENT

"SEC. 306. (a) The person in charge of a vessel or offshore facility, which is involved in an incident, shall immediately notify the Secretary of the incident, as soon as he has knowledge thereof. Notification received pursuant to this subsection or information obtained by the exploitation of such notification shall not be used against any such person or his employer in any criminal case, other than a case involving prosecution for perjury or for giving a false statement.

"(b)(1) When the Secretary receives information, pursuant to subsection (a) or otherwise, of an incident which involves oil pollution, the Secretary shall, where possible, designate the source or sources of the oil pollution and shall immediately notify the owner and operator of such source, and the guarantor, of that designation.

"(2) When a source designated under paragraph (1) is a vessel or offshore facility, and the owner, operator, or guarantor fails to inform the Secretary, within five days after receiving notification of the designation, of his denial of such designation, such owner, operator or guarantor, as required by regulations promulgated by the Secretary, shall advertise the designation and the procedures by which claims may be presented to him. If advertisement is not otherwise made in acordance with this paragraph, the Secretary shall, as he finds necessary, and at the expense of the owner, operator, or guarantor involved, advertise the designation and the procedures by which claims may be presented to that owner, operator, or guarantor.

"(c) In a case where—

"(1) the owner, operator, and guarantor all deny a designation in acordance with paragraph (2) of subsection (c).

"(2) the source of the discharge was a public vessel or

"(3) the Secretary is unable to designate the source or sources of the discharge under paragraph (1) of subsection (b), the Secretary shall advertise or otherwise notify potential claimants of the procedures by which claims may be presented to the fund.

"(d) Advertisement under subsection (b) shall commence no later than fifteen days from the date of the designation made thereunder to continue for a period of no less than thirty days.

"CLAIMS SETTLEMENT

"SEC. 307. (a) Except as provided in subsection (b), all claims shall be presented to the owner, operator, or guarantor.

"(b) All claims shall be presented to the fund—

"(1) Where the Secretary has advertised or otherwise notified claimants in accordance with section 306(c), or

"(2) Where the owner or operator may recover under the provisions of section 303 (b)(1).

"(c) In the case of a claim presented in accordance with subsection (a), and in which—

"(1) the person to whom the claim is presented denies all liability for the claim, for any reason, or

"(2) the claim is not settled by any person by payment to the claimant within sixty days of the date upon which (A) the claim was presented, or (B) advertising was commenced pursuant to section 306(b)(2), whichever is later,

the claimant may elect to commence an action in court against the owner, operator, or guarantor, or to present the claim to the fund, that election to be irrevocable and exclusive.

"(d) In the case of a claim presented in accordance with subsection (a), where full and adequate compensation is unavailable, either because the claim exceeds a limit of liability invoked under section 304, or because the owner, operator, and guarantor are financially incapable of meeting their obligations in full, a claim for the uncompensated damages may be presented to the fund.

"(e) In the case of a claim which has been presented to any person, pursuant to subsection (a), and which is being presented to the fund, pursuant to subsection (c) or (d), such person, at the request of the claimant, shall transmit the claim and supporting documents to the fund. The Secretary may, by regulation, prescribe the documents to be transmitted and the terms under which they are to be transmitted.

"(f) In the case of a claim presented to the fund, pursuant to subsection (b), (c) or (d), and in which the fund—

"(1) denies all liability for the claim, for any reason, or

"(2) does not settle the claim by payment to the claimant within sixty days of the date upon which (A) the claim was presented to the fund or (B) advertising was commenced pursuant to section 306(c), whichever is later.

the claimant may submit the dispute to the Secretary for decision in accordance with section 554 of title 5, United States Code. However, a claimant who has presented a claim to the fund pursuant to subsection (b) may elect to commence an action in court against the fund in lieu of submission of the dispute to the Secretary for decision, that election is to be irrevocable and exclusive.

"(g)(1) The Secretary shall promulgate regulations which establish uniform procedures and standards for the appraisal and settlement of claims against the fund.

"(2) Except as provided in paragraph (3), the Secretary shall use the facilities and services of private insurance and claims adjusting organizations or State agencies in processing claims against the fund and may contract to pay compensation for those facilities and services. Any contract made under the provisions of this paragraph may be made without regard to the provisions of section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), upon a showing by the Secretary that advertising is not reasonably practicable. The Secretary may make advance payments to a contractor for services and facilities, and the Secretary may advance to the contractor funds to be used for the payment of claims. The Secretary may review and audit claim payments made pursuant to this subsection. A payment to a claimant for single claim in excess of $100,000, or two or more claims aggregating in excess of $200,000, shall be first approved by the Secretary. When the services of a State agency are used in processing and settling claims, no payment may be made on a claim asserted on or behalf of that State or any of its agencies or subdivisions unless the payment has been approved by the Secretary.

"(3) To the extent necessitated by extraordinary circumstances, where the services of such private organizations or State agencies are inadequate, the Secretary may use Federal personnel to process claims against the fund.

"(h) Without regard to subsection (b) of section 556 of title 5, United States Code, the Secretary is authorized to appoint, from time to time for a period not to exceed one hundred and eighty days, one or more panels, each comprised of three individuals, to hear and decide disputes submitted to the Secretary pursuant to subsection (f). At least one member of each panel shall be qualified in the conduct of adjudicatory proceedings and shall preside over the activities of the panel. Each member of a panel shall possess competence in the evaluation and assessment of property damage and the economic losses resulting therefrom. Panel members may be appointed from private life or from any Federal agency except the staff administering the fund. Each panel member appointed from private life shall receive a per diem compensation, and each panel member shall receive necessary traveling and other expenses while engaged in the work of a panel. The provisions of chapter 11 of title 18, United States Code, and of Executive Order 11222, as amended, regarding special government employees, apply to panel members appointed from private life.

"(i)(1) Upon receipt of a request for decision from a claimant, properly made, the Secretary shall refer the dispute to (A) an administrative law judge, appointed under section 3105 of title 5, United States Code, or (B) a panel appointed under subsection (h).

"(2) The administrative law judge and each member of a panel to which a dispute is referred for decision shall be a resident of the United States judicial circuit within which the damage complained of occurred, or, if the damage complained of occurred within two or more circuits, of any of the affected circuits, or, if the damage occurred outside any circuit of the nearest circuit.

"(3) Upon receipt of a dispute, the administrative law judge or panel shall adjudicate

the case and render a decision in accordance with section 554 of title 5, United States Code. In any proceeding subject to this subsection, the presiding officer may require by subpena any person to appear and testify or to appear and produce books, papers, documents, or tangible things at a hearing or deposition at any designated place. Subpenas shall be issued and enforced in accordance with procedures in subsection (d) of section 555 of title 5, United States Code, and rules promulgated by the Secretary. If a person fails or refuses to obey a subpena, the Secretary may invoke the aid of the district court of the United States where the person is found, resides, or transacts business in requiring the attendance and testimony of the person and the production by him or books, papers, documents, or any tangible things.

"(4) A hearing conducted under this subsection shall be conducted within the United States judicial district within which, or nearest to which, the damage complained of occurred, or, if the damage complained of occurred within two or more districts, in any of the affected districts, or, if the damage occurred outside any district, of the nearest district.

"(5) The decision of the administrative law judge or panel under this subsection shall be the final order of the Secretary, except that the Secretary, in his discretion and in accordance with rules which he may promulgate, may review the decision upon his own initiative or upon exception of the claimant or the fund.

"(6) Final orders of the Secretary made under this subsection shall be reviewable pursuant to section 702 of title 5, United States Code, in the district courts of the United States.

"(j)(1) In any action brought against an owner, operator, or guarantor, both the plaintiff and defendant shall serve a copy of the complaint and all subsequent pleadings therein upon the fund at the same time those pleadings are served upon the opposing parties.

"(2) The fund may intervene in the action as a matter of right.

"(3) In any action to which the fund is a party, if the owner, operator, or guarantor admits liability under this title, the fund upon its motion shall be dismissed therefrom to the extent of the admitted liability.

"(4) If the fund receives from either the plaintiff or the defendant notice of such an action, the fund shall be bound by any judgment entered therein, whether or not the fund was a party to the action.

"(5) If neither the plaintiff nor the defendant gives notice of such an action to the fund, the limitation of liability otherwise permitted by section 304(b) of this title is not available to the defendant, and the plaintiff shall not recover from the fund any sums not paid by the defendant.

"(k) In any action brought against the fund, the plaintiff may join any owner, operator, or guarantor, and the fund may implead any person who is or may be liable to the fund under any provision of this title.

"(l) No claim may be present, nor may an action be commenced for damages recoverable under this title, unless that claim is presented to, or that action is commenced against, the owner, operator, or guarantor, or against the fund, as to their respective liabilities, within three years from the date of discovery of the economic loss for which a claim may be asserted under section 303(a), or within six years of the date of the incident which resulted in that loss, whichever is earlier.

"SUBROGATION

"SEC. 308. (a) Any person or governmental entity, including the fund, who shall pay compensation to any claimant for an economic loss, compensable under section 303, shall be subrogated to all rights, claims, and causes of action which that claimant has under this title.

"(b) Upon request of the Secretary, the Attorney General may commence an action, on behalf of the fund, for the compensation paid by the fund to any claimant pursuant to this title. Such an action may be commenced against any owner, operator or guarantor or against any other person or governmental entity who is liable pursuant to any law to the compensated claimant or to the fund for damages for which the compensation was paid.

"(c) In all claims or actions by the fund against any owner, operator, or guarantor, pursuant to the provisions of subsections (a) and (b), the fund shall recover—

"(1) for a claim presented to the fund (where there has been a denial of source designation) pursuant to section 307(b)(1), or (where there has been a denial of liability) pursuant to section 307(c)(1)—

"(A) subject only to the limitation of liability to which the defendant is entitled under section 304(b), the amount the fund has paid to the claimant, without reduction;

"(B) interest on that amount, at the rate calculated in accordance with section 304(g)(2), from the date upon which the claim was presented by the claimant to the defendant to the date upon which the fund is paid by the defendant, inclusive, less the period, if any, from the date upon which the fund shall offer to the claimant the amount finally paid by the fund to the claimant in satisfaction of the claim against the fund to the date upon which the claimant shall accept that offer, inclusive; and

"(C) all costs incurred by the fund by reason of the claim, both of the claimant against the fund and the fund against the defendant, including, but not limited to, processing costs, investigating costs, court costs, and attorneys' fees; and

"(2) for a claim presented to the fund pursuant to section 307(c)(2)—

"(A) in which the amount the fund has paid to the claimant exceeds the largest amount, if any, the defendant offered to the claimant in satisfaction of the claim of the claimant against the defendant—

"(i) subject to dispute by the defendant as to any excess over the amount offered to the claimant by the defendant, the amount the fund has paid to the claimant;

"(ii) interest, at the rate calculated in accordance with section 304(g)(2), for the period specified in clause (1) of this subsection; and

"(iii) all costs incurred by the fund by reason of the claim of the fund against the defendant, including, but not limited to, processing costs, investigating costs, court costs and attorneys' fees; or

"(B) in which the amount the fund has paid to the claimant is less than or equal to the largest amount the defendant offered to the claimant in satisfaction of the claim of the claimant against the defendant—

"(i) the amount the fund has paid to the claimant, without reduction;

"(ii) interest, at the rate calculated in accordance with section 304(g)(2), from the date upon which the claim was presented by the claimant to the defendant to the date upon which the defendant offered to the claimant the largest amount referred to in this subclause: *Provided*, That if the defendant tendered the offer of the largest amount referred to in this subclause within sixty days of the date upon which the claim of the claimant was either presented to the defendant or advertising was commenced pursuant to section 306, the defendant shall not be liable for interest for that period; and

"(iii) interest from the date upon which the claim of the fund against the defendant was presented to the defendant to the date upon which the fund is paid, inclusive, less the period, if any, from the date upon which the defendant shall offer to the fund the amount finally paid to the fund in satisfaction of the claim of the fund to the date upon which the fund shall accept that offer, inclusive.

"(d) The fund shall pay over to the claimant that portion of any interest the fund shall recover, pursuant to clause (1) and subclause (A) of clause (2) of subsection (c), for the period from the date upon which the claim of the claimant was presented to the defendant to the date upon which the claimant was paid by the fund, inclusive, less the period from the date upon which the fund offered to the claimant the amount finally paid to the claimant in satisfaction of the claim to the date upon which the claimant shall accept the offer, inclusive.

"(e) The fund is entitled to recover for all interest and claim of the claimant was either presented to the defendant or advertising was commenced pursuant to section 306, the defendant shall not be liable for interest for that period; and

"(iii) interest from the date upon which the claim of the fund against the defendant was presented to the defendant to the date upon which the fund is paid, inclusive, less the period, if any, from the date upon which the defendant shall offer to the fund the amount finally paid to the fund in satisfaction to the claim of the fund to the date inclusive.

"(d) The fund shall pay over to the claimant that portion of any interest the fund shall recover, pursuant to clause (1) and subclause (A) of clause (2) of subsection (c), for the period from the date upon which the claim of the claimant was presented to the defendant to the date upon which the claimant was paid by the fund, inclusive, less the period from the date upon which the fund offered to the claimant the amount finally paid to the claimant in satisfaction of the claim to the date upon which the claimant shall accept that offer, inclusive.

"(e) The fund is entitled to recover for all interest and costs specified in subsection (c) without regard to any limitation of liability to which the defendant may otherwise be entitled.

"JURISDICTION AND VENUE

"SEC. 309. (a) The United States district courts shall have exclusive original jurisdiction over all controversies arising under this title, without regard to the citizenship of the parties or the amount in controversy.

"(b) Venue shall lie in any district wherein the injury complained of occurred, or wherein the defendant resides, may be found, or has his principal office. For the purposes of this section, the fund shall reside in the District of Columbia.

"PREEMPTION

"SEC. 310. (a) Except as provided in this title—

"(1) no action may be brought in any court of the United States, or of any State or political subdivision thereof, for damages for an economic loss described in section 303(a), a claim for which may be asserted under this title, and

"(2) no person may be required to contribute to any fund, the purpose of which is to pay compensation for such a loss, nor to establish or maintain evidence of financial responsibility relating to the satisfaction of a claim for such a loss.

"(b) Nothing in subsection (a) shall preclude any State from imposing a tax or fee upon any person or upon oil in order to finance the purchase and pre-positioning of oil pollution cleanup and removal equipment.

"(c) Nothing in subsection (a) shall prohibit an action by the fund under any other provision of law, to recover compensation paid pursuant to this title.

"PROHIBITION

"SEC. 311. The discharge of oil from any offshore facility or vessel, in quantities which the President under section 311(b) of the

Federal Water Pollution Control Act (33 U.S.C. 1321(b)) determines to be harmful is prohibited.

"PENALITIES

"SEC. 312. (a)(1) Any person who fails to comply with the requirements of section 305, the regulations promulgated thereunder, or any denial or detention order, shall be subject to a civil penalty of not more than $10,000.

"(2) Such penalty may be assessed and compromised by the President or his designee, in connection with section 305(a)(1), and by the Secretary, in connection with section 305(a)(3) and section 305 (b). No penalty shall be assessed until notice and an opportunity for hearing on the alleged violation have been given. In determining the amount of the penalty or the amount agreed upon in compromise, the demonstrated good faith of the party shall be taken into consideration.

(a) At the request of the official assessing the penalty, the Attorney General may bring an action in the name of the fund to collect the penalty assessed.

(b) Any person in charge, subject to the jurisdiction of the United States, who fails to give the notification required by section 306(a) shall, upon conviction, be fined not more than $10,000, or imprisoned for not more than one year, or both.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 313. (a) There is authorized to be appropriated for the administration of this title $10,000,000, for the fiscal year ending September 30, 1979, $5,000,000 for the fiscal year ending September 30, 1980, and $5,000,000, for the fiscal year ending September 30, 1981.

"(b) There are also authorized to be appropriated to the Fund from time to time such amounts as may be necessary to carry out the purposes of the applicable provisions of this title, including the entering into contracts, any disbursements of funds, and the issuance of notes or other obligations pursuant to section 302(f) of this title.

"(c) Notwithstanding any other provision of this title, the authority to make contracts, to make disbursements, to issue notes or other obligations pursuant to section 302(f) of this title, and to charge and collect fees pursuant to section 302(d) of this title or to exercise any other spending authority shall be effective only to the extent provided, without fiscal year limitation, in appropriation Acts enacted after the date of enactment of this title.

"ANNUAL REPORT

"SEC. 314. Within six months after the end of each fiscal year, the Secretary shall submit to the Congress (1) a report on the administration of the fund during such fiscal year, and (2) his recommendations for such legislative changes as he finds necessary or appropriate to improve the management of the fund and the administration of the liability provisions of this title.

"SEC. 314. (a) This section, subsection (d) of section 305, section 316, and all provisions of this title authorizing the delegation of authority or the promulgation regulations shall be effective on the date of enactment of this Act.

"(b) All other provisions of this title, and the regulations applicable thereto shall be effective on the one hundred and eightieth day after the date of enactment of this Act.

"SEC. 316. If any provisions of this Act or the applicability thereof is held invalid, the remainder of this Act shall not be affected thereby."

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. DISPOSITION OF REVENUES.—Section 9 of the Outer Continental Shelf Lands Act (43 U.S.C. 1338) is amended to read as follows:

"(a) Beginning June 5, 1950; and ending September 30, 1978, all rentals, royalties, revenues, or other sums paid to the Secretary or the Secretary of the Navy pursuant to, or in connection with, any lease for any area of the Outer Continental Shelf shall be deposited in the Treasury of the United States and credited to miscellaneous receipts."

"(b)(1) For the period beginning October 1, 1978 all rentals, royalties, revenues, or other sums paid to the Secretary or the Secretary of the Navy pursuant to, or in connection with, any lease for any area of the Outer Continental Shelf shall be deposited in the Treasury of the United States and credited to miscellaneous receipts; and of the amounts so deposited, in each fiscal year, 20 per centum shall be paid by the Secretary of the Treasury in annual grants to affected States in accordance with the provisions of this subsection: *Provided*, That any monies paid to any State shall be used by such State and its subdivisions as the legislature of a State may direct giving priority to those subdivisions of the State socially or economically impacted by development of minerals leased under the Act for (A) planning, (B) construction and maintenance of public facilities and (C) provision of public services, except that the State shall first apply any moneys received for the repayment of the outstanding balance of any loan made to such State by the Secretary of Commerce pursuant to section 308(d)(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 145a(d)(1)).

"(2) the amounts granted to affected States under this subsection shall be, with respect to any such State for any fiscal year, the sum of the amounts calculated, with respect to such State, pursuant to subparagraphs (A), (B), (C), and (D):

"(A) An amount which bears, to two-fifths of the amount granted to affected States under this section for each fiscal year, the same ratio that the amount of Outer Continental Shelf acreage which is adjacent to such State and which is newly leased by the Federal Government in the immediately preceding fiscal year bears to the total amount of Outer Continenal Shelf acreage which is newly leased by the Federal Government in the immediately preceding fiscal year: *Provided*, That, for all purposes of this subparagraph, acreage which is leased exclusively for exploration shall be considered as acreage which is newly leased, but any subsequent leasing of such acreage for purposes of development and production shall not be considered as acreage which is newly leased.

"(B) An amount which bears to one-fifth of the amount granted to affected states for each fiscal year, the same ratio that the volume of oil and natural gas produced in the immediately preceding fiscal year from the Outer Continental Shelf acreage which is adjacent to such state and which is leased by the Federal Government bears to the total volume of oil and natural gas produced in such year from all of the Outer Continental Shelf acreage which is leased by the Federal Government.

"(C) An amount which bears to one-fifth of the amount granted to affected states for each fiscal year, the same ratio that the volume of oil and natural gas produced from Outer Continental Shelf acreage leased by the Federal Government which is first landed in such state in the immediately preceding fiscal year bears to the total volume of oil and natural gas produced from all Outer Continental Shelf acreage leased by the Federal Government which is first landed in all of the affected states in such year.

"(D) An amount which bears, to one-fifth of the amount granted to affected states each fiscal year, the same ratio that the number of individuals residing in such state in the immediately preceding fiscal year who obtain new employment in such year as a result of new or expanded Outer Continental Shelf energy activities bears to the total number of individuals residing in all of the coastal states in such year who obtain new employment in such year as a result of such Outer Continental Shelf energy activities.

"(3)(A) The Secretary of the Treasury shall determine annually the amounts of the grants to be provided under this subsection and shall collect and evaluate such information as may be necessary to make such determinations. Each federal department, agency, and instrumentality shall provide to the Secretary of the Treasury such assistance in collecting and evaluating such information.

"(B) For purposes of making calculations under paragraph (2), (i) 6000 cubic feet of natural gas shall be considered the equivalent of one barrel of oil; and (ii) Outer Continental Shelf acreage is adjacent to a particular coastal state if such acreage lies on that state's side of the extended lateral seaward boundaries of such state. The extended lateral seaward boundaries of a coastal state shall be determined as follows:

"(i) If lateral seaward boundaries have been clearly defined or fixed by an interstate compact, agreement, or judicial decision (if entered into, agreed to, or issued before the date of the enactment of this paragraph), such boundaries shall be extended on the basis of the principles of delimitation used to so define or fix them in such compact, agreement, or decision.

"(ii) If no lateral seaward boundaries, or any portion thereof, have been clearly defined or fixed by interstate compact, agreement, or judicial decision, lateral seaward boundaries shall be determined according to the applicable principles of the Convention on the Territorial Sea and Contiguous Zone, and extended on the basis of such principles.

"(iii) If, after the date of enactment of this paragraph, two or more coastal States enter into or amend an interstate compact or agreement in order to clearly define or fix lateral seaward boundaries, such boundaries shall thereafter be extended on the basis of the principles of delimitation used to so define or fix them in such compact or agreement.

"(C) For purposes of making calculations under paragraph (2), amounts granted to any State may not exceed 30 percent of the total amount granted in any fiscal year, and any amounts in excess of that amount shall be allocated to other affected States in accordance with paragraph (2). No State in te area in which Outer Continental Shelf acreage was leased by the Federal Government in such fiscal year shall receive less than 1 per centum of the total amount granted to affected states in such fiscal year.

"(D) The total amount paid to all States pursuant to paragraph (2) of this subsection shall not—

"(i) in fiscal year 1979 exceed $200,000,000; and

"(ii) in any fiscal year after fiscal year 1979, exceed $200,000,000 multiplied by a fraction the numerator of which is the Consumer Price Index of October of such fiscal year and denominator of which is the Consumer Price Index of October of 1978.

"(c) Any funds paid to the Secretary of the Navy pursuant to, or in connection with, a lease, but which are held in escrow pending the determination of a controversy as to whether the lands with respect to which payment of such funds are paid constitute part of the Outer Continental Shelf shall, to the extent that such lands are ultimately determined to constitute a part of the Outer Continental Shelf, be distributed—

"(1) in accordance with subsection (a), if paid for the period described in such section; and

"(2) in accordance with subsection (b), if paid for the period described in such subsection except that for the purposes of such distribution such sums shall be deemed to have been deposited in the Treasury in the

fiscal year in which they were paid to the Secretary or the Secretary of the Navy.

"(d) Nothing contained in this Act shall be construed to alter, limit, or modify in any manner, any right, claim, or interest of any State in any funds received before the date of enactment of this section and held in escrow pending the determination of any controversy as to whether the submerged lands with respect to which the payment of such funds is made constitute a part of the Outer Continental Shelf.

"(e) Notwithstanding any other provision of this title, no authority to enter into contracts, to incure obligations, or to make payments under this title shall be effective except to the extent or in such amounts as are provided in advance in appropriation acts.

SEC. 402. (a) In a report submitted within six months after the date of enactment of this Act, and in his annual report thereafter, the Secretary shall list all shut-in oil and gas wells and wells flaring natural gas on leases issued under the Outer Continental Shelf Lands Act. Each such report shall be submitted to the Comptroller General and shall indicate why each well is shut in or flaring natural gas, and whether the Secretary intends to require production on such a shut-in well or order cessation of flaring.

(b) Within six months after receipt of the Secretary's report, the Comptroller General shall review and evaluate the methodology used by the Secretary in allowing the wells to be shut in or to flare natural gas and submit his findings and recommendations to the Congress.

REVIEW AND REVISION OF ROYALTY PAYMENTS

SEC. 403. As soon as feasible but no later than ninety days after the date of enactment to this Act, and annually thereafter, the Secretary of the Interior shall submit a report or reports to the Congress describing the extent, during the two-year period preceding such report, of delinquent royalty accounts under leases issued under any Act which regulates the development of oil and gas on Federal lands, and what new auditing, post-auditing, and accounting procedures have been adopted to assure accurate and timely payment of royalties and net profit shares. Such report or reports shall include any recommendations for corrective action which the Secretary of the Interior determines to be appropriate.

NATURAL GAS DISTRIBUTION

SEC. 404. The Federal Power Commission shall, pursuant to its authority under section 7 of the Natural Gas Act, permit any natural gas distributing company which engages, directly or indirectly, in development and production of natural gas from the Outer Continental Shelf to transport to its service area for distribution any natural gas obtained by such natural gas distributing company from such development and production. For purposes of this section, the term "natural gas distributing company" means any person (1) engaged in the distribution of natural gas at retail, and (2) regulated or operated as a public utility by a State or local government.

ANTIDISCRIMINATION PROVISIONS

SEC. 405. Each Federal agency or department given responsibility for the promulgation or enforcement of regulations under this Act or the Outer Continental Shelf Lands Act shall take such affirmative action as deemed necessary to assure that no person shall, on the grounds of race, creed, color, national origin, or sex, be excluded from receiving or participating in any activity, sale, or employment conducted pursuant to the provisions of this Act or the Outer Continental Shelf Lands Act. The agency or department shall promulgate such rules as it deems necessary to carry out the purposes of this section, and any rules promulgated under this section, through agency and department provisions and rules which shall be similar to those established and in effect under title VI of the Civil Rights Act of 1964.

SUNSHINE IN GOVERNMENT

SEC. 406. (a) Each officer or employee of the Department of the Interior who—

(1) performs any function or duty under this Act or the Outer Continental Shelf Lands Act, as amended by this Act; and

(2) has any known financial interest in any person who (A) applies for or receives any permit or lease under, or (B) is otherwise subject to, the provisions of this Act or the Outer Continental Shelf Lands Act, shall, beginning on February 1, 1978, annually file with the Secretary of the Interior a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

(b) The Secretary of the Interior shall—

(1) within ninety days after the date of enactment of this Act—

(A) define the term "known financial interest" for purposes of subsection (a) of this section; and

(B) establish the methods by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Secretary of such statements; and

(2) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

(c) In the rules prescribed in subsection (b) of this section, the Secretary may identify specific positions within the Department of the Interior which are of a nonregulatory or nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

(d) Any officer or employee who is subject to, and knowingly violates, this section shall be fined not more than $2,500 or imprisoned not more than one year, or both.

INVESTIGATION OF AVAILABILITY OF OIL AND NATURAL GAS FROM THE OUTER CONTINENTAL SHELF

SEC. 407. (a) The Congress hereby finds that—

(1) there is a serious lack of adequate basic energy information available to the Congress and the Secretary of the Interior with respect to the availability of oil and natural gas from the Outer Continental Shelf;

(2) there is currently an urgent need for such information;

(3) the existing collection of information by Federal departments and agencies relevant to the determination of the availability of such oil and natural gas is uncoordinated, is jurisdictionally limited in scope, and relies too heavily on unverified information from industry sources;

(4) adequate, reliable, and comprehensive information with respect to the availability of such oil and natural gas is essential to the national security of the United States; and

(5) this lack of adequate reserve data requires a reexamination of past data as well as the acquisition of adequate current data.

(b) The purpose of this section is to enable the Secretary of the Interior and the Congress to gain the best possible knowledge of the status of Outer Continental Shelf oil and natural gas reserves, resources, productive capacity, and production available to meet current and future energy supply emergencies, to gain accurate knowledge of the potential quantity of oil and natural gas resources which could be made available to meet such emergencies, and to aid in establishing energy pricing and conservation policies.

(c) The Secretary of the Interior shall conduct a continuing investigation, based on data and information which he determines has been adequately and independently audited and verified, for the purpose of determining the availability of all oil and natural gas produced or located on the Outer Continental Shelf.

(d) The investigation conducted pursuant to this section shall include, among other items—

(1) an independent determination of the MER (maximum efficient rate) and MPR (maximum production rate) in relation to the actual production from the fields, reservoirs, and wells on the Outer Continental Shelf commencing with production during the twelve-month period immediately prior to the date of enactment of this section, and an independent estimate indicating whether production from such fields, reservoirs, and wells has been less than the maximum efficient rate and maximum production rate, and, if so, the reason for such difference;

(2) an independent estimate of total discovered reserves (including proved and indicated reserves) and undiscovered resources (including hypothetical and speculative resources) of Outer Continental Shelf oil and natural gas by fields and reservoirs;

(3) a determination of the utilization of Outer Continental Shelf oil and natural gas in terms of end-use markets so as to ascertain the consumption by different classes and types of end users;

(4) the relationship of any and all such information to the requirements of conservation, industry, commerce, and the national defense; and

(5) an independent evaluation of trade association estimates of Outer Continental Shelf reserves, ultimate recovery, and productive capacity since 1965 which shall be accompanied by a detailed description of procedures used by such associations and the manner in which their data relates to the results yielded in the investigation under this section. In order to provide maximum opportunity for evaluation and continuity, the Secretary of the Interior shall obtain all of the available data and other records which the trade associations have used in compiling their data with respect to reserves.

(e) The Secretary of the Interior shall, not later than six months after the date of enactment of this section, submit an initial report to the Congress on the results of the continuing investigation required under this section and shall submit subsequent reports annually thereafter. The initial report shall include cost estimates for the separate components of the continuing investigation and a time schedule for meeting all of its specifications. The schedule shall provide for producing all the required information within a year after the date of enactment of this section. The Secretary of the Interior shall make separate reports on past data as follows:

(1) within six months after the date of enactment of this section, on the acquisition and details of trade association data and information; and

(2) within twelve months after such date, an evaluation of the trade association materials, and within eighteen months after such date, the relationship between trade association data and the new data collected under this section.

(f) The Secretary of the Interior shall consult with the Federal Trade Commission regarding categories of information acquired pursuant to this section. Notwithstanding any other provision of law, the Secretary of the Interior shall, upon request of the Federal Trade Commission, make available to such Commission any information acquired under this section.

(g) For purpose of this section, the term "Outer Continental Shelf" has the meaning given such term in section 2(a) of the Outer Continental Shelf Lands Act.

STATE MANAGEMENT PROGRAM

SEC. 408. Section 307(c)(3)(B)(ii) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456(c)(3)(B)(ii)) is amended to read as follows:

"(ii) concurrence by such state with such certification is conclusively presumed as provided for in subparagraph (A), except that the time period after which such concurrence shall be presumed shall be three months; or".

RELATIONSHIP TO EXISTING LAW

SEC. 409. Except as otherwise expressly provided in this Act, nothing in this Act shall be construed to amend, modify, or repeal any provision of the Coastal Zone Management Act of 1972, the National Environmental Policy Act of 1969, the Mining and Mineral Policy Act of 1970, or any other Act.

Mr. BREAUX (during the reading). Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. BREAUX. Mr. Chairman, the present situation as regards what we are doing in the oil and gas and energy business is very clear and very simple. We are presently dependent for over one-half of all our energy sources on supplies coming from overseas, from OPEC nations that can very easily bring his country to its knees simply by turning off very slightly the spigot controlling the flow of imported oil to the United States.

I have the opinion—and I think it is one that is shared by a majority of the Members of the House—that we should be trying to do everything humanly possible to maximize our own domestic production and at the same time coming up with a realistic conservation program. The committee bill is in my opinion defective in a number of areas, and the substitute that is now before the House, I think, corrects those defects.

One of the arguments and one of the reasons why the committee says we need a new bill is that we must try to see whether we are getting the maximum return possible to the U.S. Treasury from offshore oil and gas revenues. Yesterday during general debate evidence was presented to show that since OCS drilling has been going on, the Federal Government has gotten 83 percent of all the revenues coming from OCS under the existing system. I say that is a very healthy and a very substantial return to the U.S. Treasury under the existing system.

In my substitute I make about five major changes in the committee bill. I think it is a realistic compromise type of an approach. I have not taken the attitude that no changes are necessary but, rather, if we are going to make changes, we should make some rational changes which do not kill the system that has worked so well in the past.

For instance, the committee bill says that we should try new experimental bids; we should try new ways of leasing our offshore lands. I have no objection to that statement; and, in fact, I have included the same new experimental bid system in my substitute as is in the committee bill, with one major difference, however. The committee bill says that at least 50 percent of the frontier areas have to use the new experimental untried system. The substitute bill, on the other hand, says—

If you are going to experiment, fine; but let us put a ceiling on it, and say you can experiment up to 50 percent of the time, but not up to 100 percent of the time, as the committee bill provides.

I think if we are going to experiment, we should do it rationally. The Committee on the Budget estimates that the committee bill would cause a loss of revenue of over $1.3 billion, mainly because of the new experimental bid system. No one knows how it is going to work.

I say that if we are going to experiment, let us take it a little at the time rather than as the committee bill does.

A second major feature is that the committee bill very clearly says that the Federal Government can do geological and geophysical drilling. They can do that right now.

My bill says that they can do geological and geophysical exploration. What the committee bill does is to go a step further. The committe bill says that they can do core and test drilling, which means drilling for oil and gas, trying to find oil and gas.

I do not think that is necessary. Right now the Department of the Interior has all of the information that they can possibly use in trying to evaluate what the assets in OCS are. They get information from every company out there. They have more information than any single oil company which makes a bid on OCS.

I say we do not need a Government drilling company doing the drilling and having the taxpayers pay for that unless someone can show that it is necessary. If they can show that it is necessary, let them come back and ask for a specific appropriation showing how much it would cost.

Nowhere in this bill is there any specific authorization level for Government drilling. It is a blank check. It think that is a terrible step in the wrong direction. The Federal Government does not need to be in the oil and gas business.

In addition, the committee bill places OSHA as the lead agency in regulating OCS activities from the divers' standpoint and other hazards. I do not think that OSHA has the equipment, manpower, training, and background to do it. I think the Coast Guard, which has been doing it for over a quarter century, should remain in the same capacity.

If we are going to make any changes at any time, some more equipment and tools will be needed in order to achieve that goal.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield at that point?

Mr. BREAUX. I only have 5 minutes.

Mr. MURPHY of New York. Mr. Chairman, I would support a request by the gentleman for more time because of the nature of this debate.

Mr. BREAUX. Mr. Chairman, in that case, I will be glad to yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Chairman, I thank the gentleman for yielding.

The bill as it is now written does not provide for OSHA to be the lead agency in the Outer Continental Shelf. It clearly specifies that the Coast Guard will be the lead agency as is its "existing authority" for enforcement of all regulations.

It does say that OSHA will have the opportunity to participate with respect to certain safety regulation enforcement, but the Coast Guard is the lead agency.

Mr. BREAUX. Does not the gentleman's bill clearly say that OSHA will be the lead agency in writing the regulations for offshore diving activities?

The CHAIRMAN. The time of the gentleman from Louisiana (Mr. BREAUX) has expired.

(By unanimous consent, Mr. BREAUX was allowed to proceed for 5 additional minutes.)

Mr. BREAUX. Mr. Chairman, the last major point is that I think our bill differs from the committee bill in the sense that I think we tried to eliminate any additional regulations that we find to be unnecessary.

We have had testimony before the committee, and people differ in their interpretation. They disagree with it, but an independent study done by the University of Rhode Island and Tulane University indicated that if the committee bill was passed, we would be facing an additional delay of anywhere from 3 to 6 years in trying to bring offshore oil and gas onshore.

Right now, Mr. Chairman, between the time a lease is granted to go offshore and the time oil is brought in, 8 years elapse before it is brought onshore.

I do not think we have the luxury of affording the existing delays that are incorporated in the legislation. Eight years is too long a time. Additional delays, in my opinion, are just going to do severe damage to our national energy policy. If any Member has any kind of an idea that we are helping ourselves to become self-sufficient by this kind of activity, I say that that is not correct at all.

I would say further to my colleagues that quite frankly and honestly that we have all worked on this legislation for some 3 years. It has been a long haul. It has been controversial. I think in fairness to all that I must say that the proposed Republican substitute does not incorporate enough of the things that I am concerned with. I think the Breaux substitute is the kind of a compromise that goes right down the middle, providing additional regulations where needed, at the same time eliminating the Federal Government becoming involved in core drilling for oil and gas offshore.

I think we have eliminated such bad features as the dual leasing such as the committee bill comes up with, and which

says, well, we will be able to try a new type of system by giving companies a lease in order for them to explore but if they happen to find oil and gas they cannot develop it and produce it but at first we will have to have a new leasing procedure, we will have to have a second lease. Right now it is a one-step process that gives them the right to explore and if they find oil and gas they can then produce it and bring it onshore.

The dual leasing provision which is in the committee bill says that the Secretary can come back to the Congress and tell us how it will be run. When he testified before the committee he had no idea as to how it would work, although he would like to participate in it.

So, Mr. Chairman, I would just say that I believe that in all fairness to our constituents that this kind of a compromise approach is, in my opinion, a strong approach in the interest of becoming energy self-sufficient and at the same time protecting very carefully our environmental needs.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Chairman, I would ask the gentleman from Louisiana (Mr. BREAUX) if the gentleman can point to any section in the committee bill which set up a Federal oil corporation.

Mr. BREAUX. If the gentleman from New Jersey (Mr. HUGHES) will read over my remarks, the gentleman will see that I did not say anything about a Federal oil corporation. I said the section that is giving me concern is that which is found on page 15 of the committee report which clearly says:

> The Secretary or any other Federal department or agency, and any person whom the Secretary by permit or regulation may authorize, may conduct geological and geophysical explorations, including core and test drilling, in the Outer Continental Shelf, . . .

In my opinion that means they can drill for oil and gas, it clearly says the Federal Government can do this. I object to that. I do not think it is good procedure.

Mr. HUGHES. Mr. Chairman, will the gentleman yield still further?

Mr. BREAUX. I yield further to the gentleman from New Jersey (Mr. HUGHES).

Mr. HUGHES. In other words, the legislation does not provide for the same type of core drilling by the Secretary of the Interior?

Mr. BREAUX. I do not think it does. I think what the existing legislation allows the Secretary to do is to authorize geological and geophysical explorations, which he is presently doing, but the reason he has not done so with regard to core test drilling, which they would like to do, is because he does not feel he has the clear authority to do so.

Mr. HUGHES. The gentleman did not answer my question.

Mr. BREAUX. That is my answer and that is as clear as I can answer it that he does not think he has the authority to do it right now. That is why he has come to the committee to ask them to grant him the authority.

Mr. LIVINGSTON. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to my colleague, the gentleman from Louisiana (Mr. LIVINGSTON).

Mr. LIVINGSTON. Mr. Chairman, as the gentleman knows, the proposed studies as to the dual leasing will delay this further and has the potential of involving considerable losses.

Mr. BREAUX. Let me state to the gentleman from Louisiana (Mr. LIVINGSTON) that in the general debate the gentlewoman from Louisiana (Mrs. BOGGS) made the point about the costs involved to this country through additional delays, and this will inevitably cost the Treasury additional money.

The CHAIRMAN. The time of the gentleman has again expired.

(On request of Mr. HUGHES and by unanimous consent, Mr. BREAUX was allowed to proceed for 1 additional minute.)

Mr. HUGHES. I wonder if the gentleman will tell me: Does the Secretary of the Interior presently offer to the industry the right to sink stratigraphic test wells off-structure?

Mr. BREAUX. The gentleman very clearly knows as well as I that the Secretary does now have cost wells drilled off of his Atlantic coastline. They are drilled off-structure.

Mr. HUGHES. Could the gentleman then tell me why the oil industry would not want the Secretary of the Interior to offer them the right to seek a permit to sink those test wells in areas where we believe there is oil and gas?

Mr. BREAUX. There is no problem with the Secretary's, I think from the industry's standpoint, offering industry the right to drill on-structure. They just do not want the Secretary to start doing the drilling himself. They are very fearful that the Federal Government should be doing that type of work. I do not think we can afford it, and I do not think it is in anyone's interest.

Mr. HUGHES. If the gentleman will yield further, as the gentleman in the well knows, the industry does not have to take any permit either on-structure or off-structure. Why is the oil industry so much against being given the right to apply for on-structure permits?

Mr. STUDDS. Mr. Chairman, I rise in opposition to the amendment.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. STUDDS. I yield to the gentleman from Texas.

Mr. GONZALEZ. I thank the gentleman for yielding.

Mr. Chairman, one of the principal arguments raised in favor of this bill is that it would encourage greater competition for leases on the Outer Continental Shelf lands, by requiring that a variety of new leasing arrangements be tried, in lieu of the traditional cash bonus system.

What I wonder about is this: Do the data show that small companies are excluded now? I understand that small companies do bid, and that so far, 172 companies have obtained OCS acreage. It would appear from the data I have that the number of bidders is increasing, not decreasing—surely a sign that competition is alive.

It may well be that new bidding systems will add to competition. But the opposite effect is also possible, which leads me to believe that we might be unwise to mandate that a majority of leases be let under alternative bidding systems.

These systems have not been tested, and we do not know what effect they might have, one way or the other, on existing trends in competition. Moreover, we do not know which of these alternative systems might have the greatest benefit for the Federal Government. What do we do if it should turn out that the traditional, cash bonus system works best and provides the greatest benefit? Should we not provide more flexibility here, so that the Secretary might have a free hand in determining the bid systems to be used—especially if experience shows that the prescription in this bill is wrong?

Beyond this, I am concerned that the overall impact of this legislation would be to delay exploration and production of potential oil resources. If that happens, I want to warn clearly that it is the small companies that can least afford delays. The big companies can wait, they can litigate, and they can wrestle with redtape forever. Big companies can afford better than anyone else the huge carrying costs of laid up and idle equipment. A small operator who cannot afford huge interest costs forever, who cannot fight with confounding regulations and lawsuits for years on end, simply will get out of the OCS business if this bill makes for delays in getting onto leased acreage and bringing it into production.

I have talked to small oil producers about this. The thing they fear most about this bill is that it will complicate, not clarify, the problems of doing business on the OCS. These companies tell me that they foresee dozens of new regulations mandated by this bill—each and every one of them the potential source of lawsuits and delays; each and every one of them costly to comply with; and each and every one of them adding nothing to the capability of finding and bringing in new energy sources.

We say that we are favoring the creation of competition by this bill. I say that if we are making life more difficult than it already is, the big companies will be the only ones left. They, and they alone, can afford the nearly infinite costs that can arise from the writing, interpretation, and application of boundless regulations.

The regulations that stem from the FEA law alone now amount to better than 20,000 pages. I get a regular supplement of these regulations. It would take a good part of a clerk's time just to keep them filed properly. What company can best afford that kind of thing—it is the big one.

We should take care here, not to enact a bill that would stifle the competition its supporters say they want to foster.

Mr. STUDDS. Mr. Chairman, I take this time to try to deal, while there are still some Members here, with the most pervasive and most fraudulent charge levied against this bill. We heard a mo-

ment ago the same charge that we have seen in full-page ads in the Washington Post throughout this week and that we have seen in Dear Colleague letters to every Member of this House—namely that this legislation would cause a 6-year delay in offshore activities, and attendant upon that an enormous loss of hundreds of thousands of jobs and billions of dollars. That is an absolutely fraudulent claim. It is based upon a fraudulent study which is based upon a fraudulent assumption. This was documented during general debate yesterday, but, unfortunately, there was no one here but us members of the committee who have been talking to each other going on 4 years now on this subject. While there are still a few Members here, I would like the House to realize that the claims being thrown around this Chamber for the entirety of this week with respect to a 6-year delay are entirely without basis. Those claims are based upon a study done by Mr. W. F. Rogers of the University of Rhode Island. That study was funded by the American Petroleum Institute, which does not necessarily discredit it—but let me read to the Members from the study. Every single statement that this bill would lead to 6 years of delay is based upon extrapolations derived from this study, and this study in turn is based upon a simply false premise, and I quote from this study:

> Section 11(g) requires the Secretary to seek applicants for on-structure exploratory drilling prior to lease sale. Should he elect to pursue this option, then the sequence of actions required to implement it becomes the critical path. I will therefore address in detail the delays implicit in this action . . .

This reference by Dr. Rogers is to one paragraph in the bill added by the gentleman from New Jersey (Mr. HUGHES) which simply authorizes the Secretary once—once—in the 2 years following enactment of this legislation to solicit industry bids on one occasion in one area for one time to conduct on-structure exploratory drilling. That is all it does. It involves no delay. There is no suggestion of holding up all offshore activities pending this process. It is an authorization of the Secretary one time within 2 years to see if industry would like to conduct onstructure drilling.

Mr. MILLER of California, Mr. Chairman, will the gentleman yield?

Mr. STUDDS. I yield to the gentleman from California.

Mr. MILLER of California. Is it really the case, as the Secretary has stated, that he expects delays due to the regulations of really no more than 4 to 6 weeks because, in fact, the Department has been anticipating the passage of this legislation, and that they have already begun work on the regulations, and that they are prepared to issue them at the earliest possible date after the passage of this bill, and that the Rogers study is in fact based upon assumptions that no body other than Mr. Rogers seems to hold?

Mr. STUDDS. The gentleman is correct. If the gentleman will permit, I should like to complete my quotations from this study, just hoping that we can put this to rest once and for all.

If I may quote further from the study:

> Although not specifically stated in the bill, we assumed that the intent of this section is to provide the Government with improved estimates of the resource contents of a lease area prior to lease sale.

Quoting further:

> We therefore assumed, in addition, that a moratorium on lease sales would be placed in effect pending the completion of this activity.

That is simply not the case. It is not stated in the language. It is not the intent of the committee. It is not the intent of the author. It will not be in this law if it is enacted.

The assumption upon which a 6-year delay is based is that of a 3-year and subsequently a 6-year moratorium. That is not what the legislation says.

Mr. MILLER of California. Mr. Chairman, if the gentleman will yield further, I assume when Dr. Rogers says "we assumed," he is talking about himself and the American Petroleum Institute which commissioned the study?

Mr. STUDDS. I do not know Dr. Rogers but I do know this study and it is just plain wrong.

He further stated:

> We further estimated that a 3-year delay would entail a loss to the economy of a minimum of $7.6 billion and a 3-year delay in creating 119,000 direct and 178,000 indirect jobs.

He then doubles his estimate and says:

> * * * if the Secretary interprets the intent of Congress to be that lease sales take place only after the resource content of the lease areas is largely determined, then a very extensive drilling program will be required which we estimate very conservatively will take 3 years additional for a total of 6 years' delay.

That is the set of assumptions upon which all claims of billions of dollars lost and hundreds of thousands of jobs lost and the 6-year delay are based, and they are based upon a misleading—perhaps that is not fair—they are based on what he understood to be a section of the bill, which was subsequently changed in committee, and there is no longer such a thing. There is no basis whatsoever for claims of 3 to 6 years delay in this legislation.

I would plead with members of the committee and Members of the House that we restrict our disagreements to those honest policy disagreements we may have and not wave about claims of studies which are without any basis at all.

Mrs. BOGGS. Mr. Chairman, will the gentleman yield?

Mr. STUDDS. I yield to the gentlewoman from Louisiana.

Mrs. BOGGS. Mr. Chairman, I would like to advise the gentleman that the study to which we referred earlier this morning when the gentleman from Louisiana was in the well was a study conducted by a brilliant microeconomist, Dr. John Moroney of Tulane University, and at the behest of independent small service companies, supply companies, and independent oil and gas companies. It had nothing to do with big industry. It was an independent study by a man with fine credentials from a splendid university.

Mr. STUDDS. May I ask the gentlewoman whether that study was not in turn based on extrapolations drawn from the Rhode Island study?

Mrs. BOGGS. Of course some of the study was based on any available knowledge in the field, including some of Dr. Rogers' studies, but it was an independent study which took in many other disciplines and many other sources, and it came up with virtually the same conclusions.

Mr. STUDDS. I thank the gentlewoman.

I would like the record to reflect that the Tulane study takes off from the conclusions of Dr. Rogers, which have been shown to be utterly without basis.

Mr. MURPHY of New York. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the Breaux amendment in the nature of a substitute.

Mr. Chairman, I want to assure the Members that every issue that is included in the Breaux substitute was debated and each issue was offered as an amendment during the markup process of H.R. 1614 before it came to this floor. It was dealt with fairly and I felt competently by the committee and rejected for one reason or another. However, we in no way feel we should not consider the Breaux amendment; it was through our cooperation that the Breaux amendment is being considered first and hopefully we can dispose of that substitute in the beginning.

Once we dispose of that, we will then get into substantive amendments on an individual basis on H.R. 1614; but in my opinion, the real difference between H.R. 1614 and the Breaux-industry substitute centers on competition. All along, I have felt that industry's main objection to H.R. 1614 was the threat of competition it would bring to OCS activities. The Breaux-industry substitute serves only to reconfirm that conviction. By allowing a reduction in the percentage of new bidding systems used, the substitute would allow fewer small companies to become involved in OCS activities. Limiting Government receipt of all interpretive data and eliminating the dual leasing option would hamper efforts to assess our OCS oil and gas resources and insure a fair return to the public; not only in terms of bonus bid money, but greater actual production. Prohibiting on-structure drilling would deprive smaller companies of a way to acquire information upon which to base their competitive bids. And, the exemption for joint bidding would be equivalent to no real joint bidding ban for the major oil companies at all. Let me further address some other specific and rather troubling aspects of the Breaux substitute—many of which are anticompetitive as I have stated.

The crux of the Breaux-industry substitute is the limitation of 50 percent it would place on the use of new bidding systems in frontier areas. The way the substitute rewrites this provision would allow present and future Secretaries not to use new bidding at all if they so desire. This would mean fewer small companies involved in OCS activities and would completely defeat the purpose of the bill.

H.R. 1614 requires that such new bidding systems shall be utilized a minimum of 50 percent of the time. Of course, if a sound reason is found by the Secretary for going below the 50-percent requirement, he can do so—subject to one-House disapproval. Our provision is necessary to enhance competition on the OCS which is patently the main fear of the major oil companies—and the reason they oppose the bill. Hear the words of Husky Oil, a small, independent oil company as it argues for the use of alternate bidding systems.

We submit the rules for exploring the OCS need to be revised, as the current bonus bid system is too restrictive and diverts needed capital away from the expensive job of finding reserves. The OCS should be shifted from a short-term money producing program for the U.S. Treasury to a long-range energy producing program to increase needed supplies. To increase potential exploration exposure, a fundamental thrust of any program should be the inclusion of more companies, and not fewer, in the search for oil. (House OCS Hearings, 1977, pg. 1623)

In addition, under the Breaux substitute the Secretary would not be allowed to exclude any tract from the random selection process for choosing tracts to be offered under both the cash bonus and alternate bidding systems. This affords the Secretary absolutely no flexibility to experiment with the new systems, and hence dilutes the compromise random selection language that was accepted by the committee.

Second, Mr. BREAUX has stated that his substitute will require lessees and permittees to provide the Secretary of Interior with a "representative interpretation" of seismic and "other data" which he does not now receive. The crux of the matter here is who determines and what constitutes a "representative interpretation" and will the Secretary have access to any and all data upon request at a reasonable charge for reproduction costs. That is, it is not necessary that the Interior Department actually receive every reel of data produced. However, it is imperative that the Interior Department have access to all information which it feels may be of significance, and that through regulations or even on an ad hoc basis, the Secretary be authorized to require the submission of specified types of information in a timely manner. So, while in some cases the Department may be satisfied by "representative interpretations," in other instances it may require that all related data be submitted for inspection. Frankly, this authority is essential to the Department if it is going to properly assess our OCS resources, regulate the performance of oil and gas companies, insure due diligence on Federal leases on the OCS, and insure a fair return to the public.

Third, the prelease offstructure exploratory program that the Breaux substitute would mandate for each frontier area provides no new authority for the Secretary, and in fact limits his present authority. Under section 11(g) of H.R. 1614, the Secretary is to offer permits to qualified applicants from industry to conduct geological explorations, and to offer such permits for onstructure tests at least once within 2 years of the date of enactment. The type of activity which Mr. BREAUX would mandate has been conducted under permit by the Interior Department for a number of years under the so-called COST (continental offshore stratigraphic test) program and industry participation in this program has been widespread. But some companies have complained that they have sought onstructure permits from the prior Secretary and their request was denied. Now, with the support of the Secretary of Interior, H.R. 1614 would provide new language to allow the Secretary to issue permits for the industry to drill "onstructure" where there is the greatest likelihood of encountering oil and gas. Of course, the Secretary maintains broad authority to conduct geological and geophysical explorations, but it is far more desirable that industry conduct such activity under permit or lease. In this way, by participating in what would be analogous to "group shoots," larger numbers of smaller independent companies grouped into consortiums can participate in OCS exploration from a greater competitive position.

Fourth, the language of the Breaux substitute, which permits the Secretary to permit joint bidding, among companies controlling 1.6 million barrels per day of production worldwide, on certain tracts, if he finds that is the only way to achieve exploration and production, should not be included in the House bill because it is too broad an exemption and limits the competitive aspects of this provision.

Fifth, the substitute completely eliminates authority for use of the "dual leasing" option, which Secretary Andrus specifically requested during the committee hearings. The dual leasing system separates exploration leases and development leases. In committee, an amendment by Mr. TREEN, of Louisiana, was accepted which would require that before the Secretary employs the dual leasing system or any other bidding system not specified in the bill, such system must be established by rule on the record after a public hearing and such rule must be transmitted to Congress.

The intent of this provision is to insure that before other new systems are implemented they be well thought out and defined. Under the Breaux substitute, it would probably be nearly a year and a half before the Interior Department could bring such a proposal before the Congress, and, in effect, additional legislation would be required.

Next Mr. BREAUX would remove from the bill language requiring that the Secretary write regulations for the establishment of air quality standards for operations on the OCS. The present language—supported by the administration—is necessary to insure that OCS activities do not develop into a harmful source of environmental pollution, which could affect our Nation and other countries in any number of ways.

The Breaux substitute would also prohibit the retroactivity of regulations governing exploration and development activities if they would cause "delay," while H.R. 1614 employs an "undue delay" criterion. If H.R. 1614 becomes law, it is unthinkable that minor delays might prohibit the implementation of new and improved regulations. Such would be the case if Mr. BREAUX's language is adopted.

Regarding citizen suits and judicial review, the substitute would limit citizen suits to those persons having a valid legal interest which "is" adversely affected. Language would be eliminated from the bill which would allow suits for persons that "may be" affected. Hence, the language of the substitute would be more restrictive and less preventive in nature. It would increase litigation—under other laws and common law—known as an inadequate remedy under this act.

Furthermore, the Breaux text seeks to eliminate OSHA's cooperative involvement in OCS worker's safety regulations and enforcement which would be provided in H.R. 1614. Such a step would create a tremendous health and safety void in an industry which is extremely hazardous, and presents an unacceptable risk for workers.

Finally, Mr. Chairman, Mr. BREAUX's substitute would establish a fiscally irresponsible and dangerous system for the sharing of Federal OCS revenues with States. It would mandate that 20 percent of Federal OCS revenues—with a ceiling of $200 million per year—would be granted to the States for vaguely stated purposes. No provision is made, for example, for either environmental protection or environmental restoration purposes.

This revenue-sharing provision was proposed during committee markup and defeated because of the devastating effect it would have on the planning and management work presently being carried out by States under the Coastal Zone Management Act (CZMA) of 1972. In 1976, Congress passed substantial amendments to the CZMA to address, in a responsible manner, the financial requirements of States that are affected by OCS and other energy activity along the coast. Certain technical and administrative problems in the CZMA grant section were brought to the attention of the committee and each one was rectified through title IV of the committee's bill. The CZMA amendment in the committee's bill raises the authorization level to $125 million per year, beginning in fiscal year 1979, thus complying with the Budget Act and maintaining the integrity of the congressional appropriations process. The substitute amendment, on the other hand, raises serious questions with respect to the requirements of the Budget Act and completely circumvents the appropriations system.

In short, for these and other reasons, I strongly urge the defeat of the Breaux-industry substitute, which, in a veiled but effective fashion would gut the committee bill.

I would hope that the committee would defeat the Breaux substitute and the substitutes offered thereto.

AMENDMENT OFFERED BY MR. JOHN L. BURTON TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BREAUX

Mr. JOHN L. BURTON. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. JOHN L. BURTON to the amendment in the nature of a substitute offered by Mr. BREAUX: At the end of section 205 add a new subsection:

"(d) The Secretary shall exclude from any lease or pre-lease exploratory drilling any tract lying within fifteen miles of the boundaries of any National Wilderness Area, except if a State conducts a leasing or development within its tidelands adjacent to such area."

Mr. JOHN L. BURTON. Mr. Chairman, I have discussed this matter with the gentleman from Louisiana (Mr. BREAUX) and with the gentleman from New York (Mr. MURPHY). I discussed with the gentleman from New York (Mr. FISH). That was the amendment that was sent over yesterday.

Basically, what this amendment does is to say that if there is a wilderness on the coastline—there is only one in the continental United States, and that happens to be within the district that I represent—that the Secretary shall be prohibited from drilling or exploration within 15 miles of such wilderness, and he is released from that if the State decides to start drilling or exploring for oil within the State coastal zone.

We have wilderness areas. They are certainly there to be protected. You cannot even drive a car over the wilderness areas.

Mr. BREAUX. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I yield to the gentleman from Louisiana.

Mr. BREAUX. I thank the gentleman for yielding.

I would like to ask a couple of questions. The gentleman says that his information is that there is only one such area that would be affected, and that is an area off the coast of California?

Mr. JOHN L. BURTON. That is my understanding. In the continental United States. I have heard that there may be a wilderness in the Virgin Islands. But this is about a 20-mile strip in the bay area of California. There are no other wilderness areas in the country that are on the coastline.

Mr. BREAUX. One of my concerns is that off the coast of Louisiana we have a number of national refuges which are not national wilderness areas but are wildlife refuge areas, and we do have production, which I think has worked out very well, adjacent to those.

Mr. JOHN L. BURTON. This would not affect that. "A wilderness" is a definition that is a term of art. It is the highest possible protection. And it would not in any way affect a refuge.

Mr. BREAUX. If the gentleman will yield further, with that understanding, if it only affects the gentleman's area and existing coast—and that seems to be the agreement or the allegation—I would have no objection.

Mr. ROBERTS. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I yield to the gentleman from Texas.

Mr. ROBERTS. I thank the gentleman for yielding.

Mr. Chairman, would the gentleman assume that this means existing areas that we might go out and drill a well? Does this mean existing wilderness areas?

Mr. JOHN L. BURTON. It is existing wilderness areas, yes. Congress has to declare an area a wilderness.

Mr. ROBERTS. I know. But we had millions of acres up in Alaska.

Mr. JOHN L. BURTON. The gentleman is talking about an existing wilderness area.

Mr. ROBERTS. Any existing wilderness area?

Mr. JOHN L. BURTON. Right.

Mr. TREEN. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I yield to the gentleman from Louisiana.

Mr. TREEN. I thank the gentleman for yielding.

Mr. Chairman, I have the same concern. Does the gentleman's amendment specifically limit it to existing wilderness areas? I do not have the amendment before me.

Mr. JOHN L. BURTON. It does not say that. I would ask unanimous consent that the amendment say "existing." Wildernesses have to be created by the Congress, and I could not conceive of the Congress creating a wilderness in the Gulf of Mexico.

Mr. Chairman, I ask unanimous consent to modify my amendment by inserting the word "existing" following the word "any."

The CHAIRMAN. Is there objection to the unanimous-consent request of the gentleman from California (Mr. JOHN L. BURTON) to modify his amendment?

There was no objection.

Mr. TREEN. Mr. Chairman, would the gentleman yield further?

Mr. JOHN L. BURTON. I yield to the gentleman from Louisiana.

Mr. TREEN. Mr. Chairman, can the gentleman assure us now that this would not affect any OCS activity off the coast of Alaska, anywhere off of the coast of Alaska? I am not familiar with the wilderness situation in Alaska. I think we have a bill now to put substantial acreage into wilderness areas in Alaska. And, of course, the gentleman's amendment, as it has now been amended, would exclude any future wilderness. Can the gentleman assure me that this amendment would not affect any activity off of the coast of Alaska?

Mr. JOHN L. BURTON. That is not the purpose of this amendment. In other words, if we had a wilderness in Alaska that was inside 15 miles, then they could drill anyway.

In other words, this is the only coastal wilderness in the Nation. The wilderness is right on the coast.

Mr. TREEN. That is what I am asking the gentleman. I want him to assure us that there is no Alaskan wilderness that involves any coastline in Alaska or involves any inlets or bays.

Mr. JOHN L. BURTON. That is correct. There is none in existence at the present time at all.

Mr. TREEN. Only in California?

Mr. JOHN L. BURTON. Only in this one area.

Mr. TREEN. And the gentleman said this involves about 20 miles of coastline?

Mr. JOHN L. BURTON. The gentleman is correct.

The CHAIRMAN. The time of the gentleman from California (Mr. JOHN L. BURTON) has expired.

(On request of Mr. ROUSSELOT and by unanimous consent, Mr. JOHN L. BURTON was allowed to proceed for 5 additional minutes.)

Mr. TREEN. Mr. Chairman, will the gentleman yield further?

Mr. JOHN L. BURTON. I yield to the gentleman from Louisiana.

Mr. TREEN. Mr. Chairman, let me make sure I understand this.

On the question of the amount of coastline involved, the gentleman said there is about 20 miles of coastline at issue?

Mr. JOHN L. BURTON. Yes.

Mr. TREEN. And this would prohibit from development, then, a rectangular area, say about 20 miles by 15 miles, taking it out of any possible leasing, exploration, or production; is that correct?

Mr. JOHN L. BURTON. Yes. However, if the State within its area decides to go into this, the Secretary is free to go into it also. But the Congress has established this as a wilderness.

They can only have one fire trail in the whole area. They cannot even have tractors there, because a wilderness area, as the gentleman knows, is the height of protection. This protects that one area, and I really do not believe that it does any damage whatsoever or forecloses us from any exploration of oil resources.

Mr. TREEN. On that question of foreclosure, does the gentleman know if that area would include any of the areas that the Secretary of the Interior has indicated in his 5-year plan might be subject to exploration?

Mr. JOHN L. BURTON. I think the Secretary included almost everything in the whole world in that plan.

Mr. TREEN. Well, there are certain areas that might be involved.

I wonder if there is anybody who could enlighten us on that, as to whether or not we would be taking out some of the really good prospective areas. I think that is an important point in deciding whether we go along with this amendment.

Mr. JOHN L. BURTON. Well, I could tell the gentleman that there are not a million dinosaurs buried offshore under that area.

Mr. TREEN. We do not really need those.

Mr. JOHN L. BURTON. What I am saying is that this is, I think, a legitimate concern in the matter of protection. The Congress designates wilderness areas, and we do that for protection. I just think it really makes sense, and I do not believe it causes any threat to any type of OCS leasing.

As the Members know, certainly if we did that, our good friend, the gentleman from Louisiana, would not be accepting the amendment.

Mr. TREEN. Then I hope the gentleman will support the Breaux substitute if this amendment is added to it.

Mr. JOHN L. BURTON. I think it might be a felony to exchange votes in a quid pro quo.

Mr. TREEN. I did not offer anything.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I yield to the gentleman from New York.

Mr. FISH. Mr. Chairman, I wonder if the gentleman would implement his statement and comment on what the applicability of the Fish and Wildlife Coordination Act would be to this problem. According to my understanding, this already meets the goals the gentleman has in mind.

Mr. JOHN L. BURTON. Mr. Chairman, I could not comment on that. In discussing this matter with other people, we felt this provides the best protection possible for the wilderness area, and I could not address myself to that problem.

Mr. FISH. Let us take this one step further. The thrust of the gentleman's amendment, then, is to say that for the protection of existing national wilderness areas, we simply do not want to have drilling in the Outer Continental Shelf within 15 miles because of the possibility that spills and seepage from the rigging equipment would adversely affect the national wilderness area?

Mr. JOHN L. BURTON. That is one big part of it, yes.

Mr. FISH. Mr. Chairman, I think this is a good amendment, and I would accept it.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I would be happy to yield to my friend, the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I wonder if the gentleman would tell us this: How did he select the figure of 15 miles? What is the significance of that figure?

Mr. JOHN L. BURTON. Well, there are some people, as the gentleman knows, who are extremists in the field of environmentalism and who are trying to say this should not be done. We thought that 15 miles would be a proper figure. We felt if there was a significant amount of oil somewhere in the area, that 15-mile figure would still put it in a radius where it would not be too difficult to explore.

But also, the people of the United States, through their Congress, declared for it; and the Congress paid out money, went out and looked at the wilderness as they might be looking at the place where Sir Francis Drake sailed the *Golden Hind*.

One would not necessarily see an oil derrick 6 miles away. Some people said 25; some said 50.

Mr. ROUSSELOT. Therefore, it is the visual sight of the oil derrick; is that it?

Mr. JOHN L. BURTON. That is what the 15 miles is for.

Mr. ROUSSELOT. Is that for the platform?

Mr. JOHN L. BURTON. Fifteen miles just seemed to be adequate.

Mr. ROUSSELOT. Supposing that in the near future, which I understand is a possibility, say, 10 or 15 years downstream, we are able to put this to work.

The CHAIRMAN. The time of the gentleman from California (Mr. JOHN L. BURTON) has expired.

(On request of Mr. ROUSSELOT and by unanimous consent, Mr. JOHN L. BURTON was allowed to proceed for 5 additional minutes.)

Mr. JOHN L. BURTON. Mr. Chairman, if I can anticipate the question, I would like to answer it.

Mr. ROUSSELOT. Mr. Chairman, if the gentleman will yield further, if the platform could be moved away would that alleviate the problem? There would be no visual object, if the prime concern is the visual. Would that be correct?

Mr. JOHN L. BURTON. No. That is where the 15 miles is. The prime concern is the seepage and what can happen to the wilderness area.

Mr. ROUSSELOT. Is not the Secretary already under that obligation, even under present law?

Mr. JOHN L. BURTON. No.

Mr. ROUSSELOT. That is my understanding of the law.

Mr. JOHN L. BURTON. No.

Mr. ROUSSELOT. The gentleman says no. The Secretary of the Interior says that he is required to make sure that checks are made for seepage beforehand and to protect against those kinds of problems before leases are granted.

Mr. JOHN L. BURTON. I think I can assure the gentleman that in 10 years or even in 5 years if both of us are here——

Mr. ROUSSELOT. I did not talk about whether we were here. I am just talking about how it relates to the platform.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, one of the reasons the distance was selected is because the coast, as we know, in that area is subject to some of the highest onshore winds in the entire United States.

We are concerned about our ability, if we did have this spill, break, seepage, or whatever, to control the situation. Given the rough seas and wind factors, it would take us a considerable amount of time to deal with the problem in that area. That is the reason for the selection of that distance.

Mr. ROUSSELOT. Mr. Chairman, if the gentleman will yield further, is not much of that control of which the gentleman speaks supposed to be handled by the Secretary of the Interior prior to the granting of leases? I am talking about checking. If they have adequate procedures for checking oil seepage and that sort of thing, I thought all of that was already covered.

Mr. MILLER of California. This is in the event of what we call an accident.

Mr. ROUSSELOT. Because of wind, does the gentleman mean?

Mr. JOHN L. BURTON. Mr. Chairman, if I may say this to the gentleman, an emergency was just declared in part of that area because high waves moved in and knocked everything out.

Mr. ROUSSELOT. Does this affect only the platform or can there also be slant drilling?

Mr. JOHN L. BURTON. Only the platform.

Would the gentleman permit me to make a further statement?

Mr. ROUSSELOT. If the gentleman will wait, we want to check into this.

Mr. JOHN L. BURTON. It is my understanding that I have the time.

I think the amendment really speaks for itself. I do not think it does any damage to the exploration of oil or other forms of energy. We really are not trying to do that.

Mr. ROUSSELOT. If the gentleman will yield further, Mr. Chairman, it does not affect slant drilling, does it?

Mr. JOHN L. BURTON. I would have to find that out later.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, the gentleman understands the concept of slant drilling as used by the oil companies, does he not?

In other words, if the gentleman says that it does not affect slant drilling, it is possible in 15 miles, at a point beyond the wilderness, there could be a well sunk, and in resorting to slant drilling they could go closer; is that correct?

Mr. JOHN L. BURTON. That is why I did not give an affirmative answer to that question.

Mr. BAUMAN. Or any answer.

Mr. JOHN L. BURTON. It is because I am not certain.

Mr. ROUSSELOT. If the gentleman will yield further, Mr. Chairman, does the gentleman say that he does not know?

Mr. JOHN L. BURTON. I do not know. The gentleman in the well is an honest person.

Mr. BADHAM. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I yield to the gentleman from California.

Mr. BADHAM. Mr. Chairman, the exact language of the gentleman's amendment would appear to apply since it says:

> The Secretary shall exclude from any lease or pre-lease exploratory drilling any tract lying within 15 miles * * *

Slant drilling would certainly cover that area, no matter how one gets to it. It is not where one puts the platform.

May I suggest to my good friend, the gentleman from California (Mr. JOHN L. BURTON), that if one excluded drilling on prelease exploration work within the confines of the tract within a radius of 15 miles, that would allow for slant drilling, and it might solve the problem through this innocuous amendment.

Mr. JOHN L. BURTON. What we are trying to do with this amendment is to protect this area.

I would assume even with slant drilling you could have the seepage. I would say to the gentleman if the amendment were adopted and the measure gets into conference that I would be happy in the conference committee and to the others who have expressed grave concern over what is kind of a local issue between the little brother and the big brother so that they can try to work it out so that everybody is happy, because as the gentleman from California (Mr. ROUSSELOT) knows no one wants to be loved better than the junior Congressman from San Francisco.

The CHAIRMAN. The question is on the amendment, as modified, offered by

the gentleman from California (Mr. JOHN L. BURTON) to the amendment in the nature of a substitute offered by the gentleman from Louisiana (Mr. BREAUX).

The amendment, as modified, to the amendment in the nature of a substitute was agreed to.

Mr. KRUEGER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Breaux amendment.

Mr. Chairman, I rise in support of the Breaux amendment as being the best available compromise at this time, and as an approach that I believe would help the people of this Nation to enlarge our domestic energy supplies and reduce our reliance on foreign imports.

Mr. Chairman, this past year we paid about $45 billion for foreign oil. It will be necessary, for our own economic recovery, that we maximize our own energy reserves. This maximization of our own energy reserves can come most readily if we adopt the Breaux amendment rather than the committee amendment, because the committee bill would inevitably cause delays in the exploration and development process.

We have heard testimony on both sides with regard to specific economic studies. The longer one studies energy questions, the more one can find studies to support whatever position he wishes to adopt.

The fact of the matter is that if the committee spent 4 years in hassling over this bill we should have little doubt that the various people in the Department of the Interior and other Government agencies will be faced with similar periods of time in which also to continue the hassling as they review the undertaking of new leasing procedures and of new exploration for additional energy resources. There can be no question that the committee bill will cause regulatory delays, with consequent increased costs to consumers. Anyone interested in furthering regulating simplicity and lessening the economic stagnation that comes from bureaucratic extenuation will favor the Breaux substitute.

Beyond this, we have in the committee bill the establishment of a dual leasing process whereby one person is expected to go out and search for the fossil fuel, and once that fossil fuel is found, the person who found it then is supposed to stop so that a second round of bidding can begin. This, in my judgment, could be very troublesome. Indeed, this would certainly tend to discourage people from wanting to go out and look for energy resources, because, once they have found them, at that point they are not likely to receive their rewards. I would think it very possible that the smaller companies who might do initial exploration might not be able to bid against the majors at the point of second bidding for the recovery and development of the maximum reserves which are to be obtained.

Mr. BREAUX. Mr. Chairman, will the gentleman yield?

Mr. KRUEGER. I yield to the gentleman from Louisiana.

Mr. BREAUX. Mr. Chairman, I am glad that the gentleman from Texas (Mr. KRUEGER) has touched on this point of the small oil companies because we have had so many speakers say that unless we accept the committee bill we will do grave damage to some of the smaller companies. The facts are just the opposite. I would like to share with the Members a letter I have received from the Independent Petroleum Association of America in which it states:

> As President of the Independent Petroleum Association of America, which represents more than 5000 independent explorer-producers of crude oil and natural gas, I would like to take this opportunity to urge you to oppose this legislation. . . .

They conclude: If H.R. 1614, as reported by committee, cannot be rejected in its entirey, the IPAA urges adoption of the Breaux substitute.

So I think that clearly puts it on record as envisioning the Breaux substitute as having the features that they need in the small companies to help them produce expeditiously, and that they are solidly, completely, and unanimously opposed to the committee bill.

Mr. KRUEGER. I thank the gentleman from Louisiana. I certainly agree that his is a more reasonable compromise than the committee bill itself.

There is a second question that I think we must address and this is the opportunity, under the committee bill, for people to bring suit to stop all drilling activities if, for example, their esthetic sensibilities are violated by the construction of a drilling platform. We have just extended drilling restrictions to offshore areas within 15 miles of a wilderness area.

The committee bill opens the possibility of some individual sitting 1,000 miles inland who might indirectly be affected by a drilling procedure bringing suit and holding up the much needed energy recovery in this country for perhaps some mischievous and willful cause. That denies good common sense. We must on occasion act in the interests of the majority, and the majority of the people of this country do not want to see their import dependency grow. They do not want to see us pay higher prices to foreigners than we pay to ourselves and our consumers do not want to pay higher prices because of an increasing import dependency. Yet the committee bill would have such an effect.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. KRUEGER was allowed to proceed for 30 additional seconds.)

Mr. KRUEGER. They do not wish to see the Middle Eastern countries gain still greater hold over our economy. It seems to me that if we go with the Breaux substitute, we go with a much more reasonable compromise for getting the energy which we require for our own economic recovery. I, therefore, urge support of this amendment and yield back the remainder of my time.

Mr. WAGGONNER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Breaux substitute.

Mr. Chairman, the substitute Outer Continental Shelf bill offered by Mr. BREAUX will save valuable time in the search for more energy supplies and keep us from wasting large amounts of the taxpayers' money. The substitute will do this by encouraging the Federal Government to stay out of the oil exploration and production business. This they should do.

Proponents of H.R. 1614 say they want to "see what's there before we lease it." Their bill would allow Federal wildcat drilling in the OCS. The so-called dual leasing provision would open another door. These Federal drilling programs are a formula for Government failure and waste.

Determining oil and gas reserves is not like using a dipstick in your car to check the motor oil level. One test well or a few test wells are not enough to measure the resources in a structure or a region.

As an example, during the past 29 years, companies have drilled some 17,000 wells in the Gulf of Mexico and still have not fully defined the extent of its resources. As recently as 1975, 204 of 239 wildcat wells in the gulf were dry holes. At $2 million or more per dry hole, would the taxpayer put up with a Government venture into such a risky business? I think not.

Privately owned oil companies for years have willingly borne the high cost and high risk of the search for oil and natural gas. Why should these burdens be shifted to the taxpayer?

Furthermore, the Government is not likely to increase lease sale revenue through Federal drilling. Far more offshore geological structures are condemned by the drill bit than are enhanced. So, Government drilling will more likely reduce revenues, not increase them. For example, the largest field found to date in the Gulf of Mexico—the Bay Marchand field—was discovered only after drilling 12 costly dry holes. If the Government had drilled a few of those dry holes and then asked for lease bids, how high do you think the bids would have been?

Another example: In the Destin Anticline off the Florida coast, oil companies spent $15 million drilling eight dry holes. If that information had been available before leasing, the Government might not have had any bidders at all. As it was, the companies—not the taxpayers—paid for the exploration, and the Government got about $900 million from the lease sale.

It is doubtful further exploration will occur on these leases. Would the Congress or the taxpayers stand still for such a loss as this? Of course not. I would like to see a congressional investigation of such a fiasco.

All of the exploration to date in the Gulf of Alaska has resulted in dry holes, but the companies are continuing the search—at no risk to the public.

Mr. Chairman, Government drilling will find very little oil—if it finds any at all. Government drilling will cost the U.S. Treasury millions and billions of dollars in lost lease sale revenues.

The country will just have to sit around and wait while the Government tries to decide how much the leases are worth. But time is too valuable to waste, while our oil imports continue to climb.

If the Government happened to find oil and gas in significant amounts, it would probably be tempted to form a Federal Oil and Gas Corporation—FOGCO—to produce it. FOGCO, however, would become a byword of inefficiency. In 1975, the Federal Energy Administration thoroughly studied Government oil companies in other countries and concluded that "without exception the performance of these entities has been markedly inferior to that of competing private companies." FEA labeled the overall contrast as "pathetic."

Mr. Chairman, the Breaux bill will avoid the costly mistake of Federal drilling. We can and we should depend on the system that has worked so well for nearly 30 years. If we do otherwise, the public will be the biggest loser.

AMENDMENT OFFERED BY MR. LAGOMARSINO TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BREAUX

Mr. LAGOMARSINO. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. LAGOMARSINO to the amendment in the nature of a substitute offered by Mr. BREAUX: Under Title IV, Miscellaneous Provisions, add the following new section.

RECOMMENDATIONS FOR TRAINING PROGRAM

SEC. 410. Not later than 90 days after the date of enactment of this Act, the Secretary of the Interior, in consultation with the Secretary of the Department in which the Coast Guard is operating, shall prepare and submit to the Congress a report which sets forth the recommendations of the Secretary for a program to assure that any individual—

(1) who is employed on any artificial island, installation or other device located on the Outer Continental Shelf; and

(2) who, as part of such employment, operates, or supervises the operation of pollution-prevention equipment, is properly trained to operate, or supervise the operation of such equipment, as the case may be.

Mr. LAGOMARSINO. Mr. Chairman, I offer an amendment to title IV of the Breaux amendment to help insure that those individuals who are directly responsible for the operation, implementation, and/or supervision of antipollution equipment know how to operate this equipment and can effectively install and operate it during emergency conditions.

It is a simple amendment and I think not controversial.

Simply stated, the amendment would require the Secretary of the Interior, in consultation with the Coast Guard, to submit his recommendations to Congress within 90 days after the date of enactment for a training program for key OCS employees. The program should be directed to those individuals who are directly responsible for the implementation and operation of antipollution equipment, and primarily we are talking about antiblowout preventers. At such time the Congress receives the Secretary's recommendations, it would be my hope that the appropriate committees would review the Secretary's recommendations in both an oversight capacity and also to determine if further legislation is necessary.

Mr. Chairman, as you may know, the Department of the Interior, through the U.S. Geological Survey, recently completed work on such a training and certification program and declared that all drilling crew members must attend a certified school in order to stay on the job. I commend the Department for their commitment and responsiveness in this matter. I should point out that the Department now has the regulatory authority to institute such a program.

In light of this recent development, I believe my amendment has perhaps a greater significance and need now than before the Department's action. First, it would provide a formal method for congressional oversight, which I believe to be very important to assure the training program is both effective and would not seriously disrupt OCS activities for frivolous purposes. Second, it would mandate into law the commitment of Congress to a training and certification program for key OCS workers. Under the current authority, the Department of Interior may or may not institute such a program; and subsequent administrations may decide to discontinue the program. It seems to me this matter is of vital concern. It could lead to significantly improved OCS safety records and the Congress should endorse it.

The need for a Federal training program has been tragically demonstrated all too often in the past. The disastrous blowout in the Santa Barbara Channel in 1969 resulted in millions of dollars in damage and severe environmental impacts. Thousands of birds were contaminated and died, the beaches were fouled, and commercial and pleasure craft were coated with black crude. This tragedy resulted as far as we can tell because of inexperienced and poorly trained crews who failed to act with established procedure during an emergency situation. In fact, the crews committed one mistake after another, and still the situation could have been brought under control if the proper procedure had been followed at the very last.

Following the most recent blowout in the North Sea, an official commission of inquiry ruled that insufficient training, poor organization, and inadequate inspections were responsible for that mishap which resulted in millions of gallons of crude oil being dumped into the ocean.

In fact, I understand the crew in that case tried to put the blowout preventer on upside down, certainly something that could have been prevented with proper training.

In fact, if one studies the causes of all of the significant accidents on the OCS you find that a major portion is directly attributable to human error and poor training; not equipment failure. Clearly, there is sufficient cause for responsible Government action to rectify this situation and just as clearly there is a responsibility with this body to insure that Federal training programs are effective and will not unnecessarily disrupt production activities on the OCS.

Mr. Chairman, I want to emphasize that my amendment will not in anyway interfere with the ongoing efforts of the Department of the Interior to establish a training and certification program. The amendment will, however, demonstrate congressional interest in the safe development of OCS oil and gas.

In closing, I want to point out I have contacted every responsible party I could think of that may have an interest in this amendment. We have checked with industry representatives, environmental groups, and the U.S. Geological Survey and all have been supportive of the concept. I have not been informed of any opposition.

I urge adoption of the amendment.

Mr. BREAUX. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, just very briefly, I would like to congratulate the gentleman from California for his amendment. I think it has a great deal of merit and does address one of the key issues which we have learned of durin[illegible] our 2 years of hearings which is, in fact, a problem in the OCS; that is lack of proper training for the men and women that do work offshore.

I am particularly pleased that the gentleman has seen in the wisdom of the gentleman's amendment to place the related agencies or departments to carry out this program in the Coast Guard, which does have a history of marine expertise.

I think with the additional strength this amendment provides, clearly it will be a big help to the Breaux substitute. I ask my colleagues to support it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. LAGOMARSINO) to the amendment in the nature of a substitute offered by the gentleman from Louisiana (Mr. BREAUX).

The amendment to the amendment in the nature of a substitute was agreed to.

Mr. HUGHES. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman and colleagues, I have served in the Congress for about 3 years and have accordingly become rather accustomed to the distortions and the representations that often occur as we argue over a bill. But I must say that this particular legislation takes the cake. I think the gross distortions and outright fabrications that have taken place over this legislation are just inexcusable.

I think there are two things that the oil industry is concerned about in this legislation. There are a lot of other things they do not like, but there are two areas of this bill that the major oil companies feel really threaten their domain.

One is the threat to the bonus bid system, which has benefited them for many, many years. They see that system being seriously eroded by this bill. Second, they are concerned about a provision that I authored in committee, both in the 94th Congress and also in this Congress, that would provide for onstructure stratigraphic drilling. In essence, it will permit the Secretary to learn a little more about what we are selling before we sell it.

Rather than talk about generalities, let us examine the substance of the bill. Let us read it. I have heard it described by some of my colleagues as the first step toward Federal exploration. It has been described as the creation of an oil corporation at the Federal level. It has been described as Federal wildcat drilling. Now let us examine what the section says. Section 11(g), the section in question, says,

The Secretary may permit qualified applicants—

That is, the oil companies—

. . . qualified applicants to conduct geological explorations, including core and test drilling, in those areas and subsurface geological structures of the outer Continental Shelf which the Secretary or the applicants believe contain significant hydrocarbon accumulations.

That is, where we believe there is oil and gas. Then, it goes on in the second part:

The Secretary shall, at least once during the two-year period beginning on the date of enactment of this subsection, offer—

That is, offer—

persons wishing to conduct geological explorations pursuant to permits issued under paragraph (1) of this subsection an opportunity to apply for such permits.

In essence, it is saying to the oil companies, "If you want to sink a test well into where you believe there is oil and gas, you may apply for a permit."

Now, why are the oil companies so concerned about the Secretary of the Interior offering to them a permit to sink a test well into structure—that is, where we believe there is oil or gas—instead of off-structure, where we know there is no oil or gas? I will try to tell you what really concerns the oil companies. They do not want the independent companies to have that opportunity to seek permits. They know that if the Secretary offers the permit, some independent oil companies are going to seek such a permit. They are going to sink a stratigraphic well into structures where that potential for hydrocarbons exist, and then they might have the wherewithal to go to the bank to finance exploration and production.

Why is it that the major companies are concerned about that? They are concerned because they are the only ones with enough capital under the present bonus bid system to seriously explore in the frontier waters.

There is nothing new about sinking stratigraphic test wells off a structure.

I live in the State of New Jersey and represent the Second Congressional District. Just about a year and one-half ago the Citgo J, a rig that sinks exploratory wells, moved into the mid-Atlantic region, sunk a test well some 15,000 feet in the offshore area, into an area where we knew there probably were not any hydrocarbons. That was a year and one-half ago. If they had moved that rig over just a few miles to where the seismic and geophysical evidence indicated there were probable structures which might contain hydrocarbons, we might know more today about what exists in the mid-Atlantic region.

The CHAIRMAN. The time of the gentleman from New Jersey (Mr. HUGHES) has expired.

(By unanimous consent, Mr. HUGHES was allowed to proceed for 3 additional minutes.)

Mr. HUGHES. Mr. Chairman, that test well cost the oil companies $9 million.

Does it not make more sense to encourage the oil industry, by offering permits to them, to move that rig into areas where we believe there are structures that contain those resources?

I have heard the story of the Destin Dome, I would venture to say, 75 times in the some 3 years that I have been in the Congress. The oil companies come before our committee and they say, "We drilled 15 dry holes in that area. They further say that we lost $10 million, or thereabouts, per well. In the past, I have replied, "Well, then, you must be supporting an amendment which I am going to offer which would permit you to sink test wells into the structure."

There was considerable seismic and geophysical data in connection with the Destin Dome. Why, didn't the oil industry seek a permit to sink a test well right into the structure instead of off-structure?

The answer, unfortunately, is that the major oil companies do not want the Secretary of the Interior to have any more information than he now has before we sell public lands to the oil companies. They like the present system because the Secretary of the Interior really does not have that much information under the present system, a system which does not now have onstructure stratigraphic drilling.

I hope, once and for all, that we can put to rest the great myth that has been created about a Federal oil company moving in. There is no Federal oil company in the bill. There is not much more in the legislation for prelease discovery than we are doing now, and we want to perfect what we are doing.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from New York.

Mr. MURPHY of New York. I thank the gentleman for yielding.

Mr. Chairman, we have had this issue before the Congress for 3½ years. I have clearly stated that I am opposed to the creation of any Federal oil and gas company. The majority of the committee expressed that, and I think that the majority of the Congress and the American people feel that way. To try to throw in FOGCO—Federal oil and gas company—is just an attempt to create a misimpression. There is nothing in this legislation, H.R. 1614, that smacks or even hints of a Federal oil and gas company, so let us just put it to rest at this point.

Mr. HUGHES. I thank the gentleman for his remarks.

I think the Chairman will agree that the vote on H.R. 1614 is going to decide whether it is the major oil companies of this country or the President and the Congress that is setting policy with regard to our Nation's energy resources.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from Arizona.

Mr. UDALL. I thank the gentleman for yielding.

Mr. Chairman, I want to thank the gentleman for the very important work the gentleman has done on the ad hoc committee and for the statement he is making. He is dead right. I did not even recognize the bill—a bill which I helped put together and which I support—from the description of it here on the floor and from the description contained in the flood of material that has arrived at the Members' desks.

Mr. Chairman, it is a good bill, a balanced bill, and the provision the gentleman is describing is described accurately. We ought to put this to rest.

Mr. HUGHES. I thank the gentleman.

Mr. Chairman, one final thing. It has been suggested that the administration is not behind H.R. 1614. I would like to say that the administration strongly supports the legislation. Administration witnesses have been before our committee, and offered a number of amendments which I believe strengthen the legislation.

The CHAIRMAN. The time of the gentleman from New Jersey (Mr. HUGHES) has again expired.

(By unanimous consent, Mr. HUGHES was allowed to proceed for 1 additional minute.)

Mr. HUGHES. Mr. Chairman, I would like to share with my colleagues a letter directed to our committee chairman, the Honorable JOHN M. MURPHY, dated January 26 of this year and signed by James R. Schlesinger, Secretary. The letter is as follows:

"I am pleased that the full House is considering H.R. 1614 this week. On January 24, 1978, Secretary of the Interior Andrus wrote you regarding the Administration's strong support for this legislation. I write separately to emphasize the Department of Energy's support for and commitment to this important legislation and our opposition to the Breaux substitute amendment. We urge expeditious passage of this important legislation.

"H.R. 1614 provides a comprehensive framework for exploration, development, and production of our Outer Continental Shelf energy resources. These resources will play a major and increasingly important role in America's energy future. As you are aware, this Department will have substantial responsibilities under this legislation. Please be assured we shall strive to exercise our mandate effectively."

Mr. Chairman, I urge the Members to defeat the Breaux substitute and support H.R. 1614 in its original sate.

Mr. TREEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to have the attention of my colleague on the committee, the gentleman from New Jersey (Mr. HUGHES), for whom I have great respect.

On this issue of drilling onstructure, referring to the amendment that the gentleman offered in committee and which appears in H.R. 1614 as section (g) (1) and (2), my understanding of this is that it would require the Secretary at least once during the 2-year period after enactment to offer persons wishing to conduct geological explorations pursuant to permits issued under paragraph (1) of this subsection an opportunity to apply for such permits.

Would the gentleman tell me what would be necessary, in terms of the extent of this type of drilling, for the Secretary to comply with this section, section (g)(2)?

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. TREEN. I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Chairman, it is merely contemplated that, just as in the

question of off-structure drilling where the oil companies indicate an interest in the particular structure area, such as off the mid-Atlantic coast where a consortium put together to sink a strategic test well, the Secretary will determine first the areas of interest to the industry. Then it will be indicated to the industry that the Secretary will entertain an application for permits to sink a test well in formations where there is potential for hydrocarbons. That is all it provides.

Mr. TREEN. We could have a variety of structures involved and a number of wells.

In other words, let us say that pursuant to section (g) he did offer opportunities to whomever wanted to conduct geological explorations structure. If there were interest in, let us say, 20 or 30 structures, and there were applications to drill at least one well in each structure, then under this language he would really have to negotiate with them, would he not? He would be obliged to negotiate to permit that; is that correct?

Mr. HUGHES. Well, what the language contemplates is that the Secretary would, first of all, use his or her judgment with regard to where a stratigraphic test well onstructure will be permitted. It only requires the Secretary to give it a try one time.

Mr. TREEN. He could try it one time, but it could involve more than just one structure or one well, is that not correct?

Mr. HUGHES. If in fact the industry applies for a permit for more than one structure, and the Secretary feels it is in the national interest to grant such a permit, the Secretary in that event would, of course, have that additional discretion.

Mr. TREEN. He is required under this section to offer the opportunity, it seems to me, to the extent there is interest.

Mr. HUGHES. Yes. If my colleague will yield further, that is true only if there is an interest. This does not require the oil companies to do anything. It does not require the Secretary to sink a stratigraphic test well in the structure.

Mr. TREEN. Mr. Chairman, with respect to these stratigraphic tests, I do not care if they drill onstructure or offstructure; it does not make any difference to me. But the possible delays involved are what concern me.

There is an internal study done by the Department of the Interior which I have before me. It was sent to me by Secretary of the Interior Andrus. In that study there are examined the various options—perhaps the gentleman has seen this—for onstructure exploratory drilling, and it covers many options. It gives the pros and cons. Let me just quote from the report, if I may:

Exploration on representative types of structures identifiable by seismic data and known to produce oil and gas in other geologic basins.

Drill one well per structure on several structures.

These are the pros, or the benefits of that scenario, according to the Interior Department report:

Could suggest the regional presence or absence of significant oil and gas accumulations.

Would eventually focus dollars and equipment on areas with the greatest likelihood of containing significant oil and gas accumulations.

These are the cons, or the disadvantages; "would not provide conclusive information on prospects and value of the entire area."

Another disadvantage—and this is the one I want to emphasize—according to the Department of Interior's own study, is that it "would require 2 to 5 years delay in planning for leasing each area."

Therefore, a delay situation is inherent in the gentleman's proposal. It seems to me, quite apart from what the onstructure information might show, that we do have the possibility of extensive delay, and that is according to a study by the Interior Department itself.

Mr. HUGHES. Mr. Chairman, if my colleague will yield further, there are two things.

First of all, as my colleague well knows, we do not really know what any structure, even a producing one in the gulf, will produce with certainty. We will not know what an entire structure will produce until the structure has been well developed.

The CHAIRMAN. The time of the gentleman from Louisiana (Mr. TREEN) has expired.

(By unanimous consent, Mr. TREEN was allowed to proceed for 1 additional minute.)

Mr. HUGHES. If the gentleman will yield further, Mr. Chairman, the second thing is that there is one built-in assumption. It seems to me that this study which the gentleman refers to does the same thing as the Dr. Rogers study.

Mr. TREEN. That was not paid for by the API. It was paid for by Secretary Andrus.

Mr. HUGHES. But it is based on one of the assumed alternatives; that is, permitting a start test on-structure on a number of different structures. If that option were used, it could cause some delay. But that is far afield from the provisions of 11G.

That provision states that we should give it a try at least once to see if, in fact, it does produce more information and is in the public interest. There should be no more of a delay than the present system causes.

Mr. TREEN. This is a study done by the Department of the Interior itself, which actually supports the gentleman's amendment.

It says that there are some benefits, but they are pointing out some of the disadvantages.

The CHAIRMAN. The time of the gentleman from Louisiana (Mr. TREEN) has expired.

(On request of Mr. HUGHES and by unanimous consent, Mr. TREEN was allowed to proceed for an additional 30 seconds.)

Mr. TREEN. Mr. Chairman, there is one additional thing. One of the most important issues we have before us today is the question of getting on with production. It seems to me in the atmosphere we have today that is our overriding consideration.

Mr. HUGHES. If the gentleman will yield further, I could commission a study where we could have a 25-year delay. All you have to do is do assume hundreds of test wells in the Atlantic region. It seems to me that that is the fallacy of the study which the gentleman refers to.

Mr. TREEN. I can only say that it is the Secretary of the Interior's study.

AMENDMENT OFFERED BY MR. DINGELL TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BREAUX

Mr. DINGELL. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. DINGELL to the amendment in the nature of a substitute offered by Mr. BREAUX: strike all of section 404 of the Breaux amendment and insert in lieu thereof the following:

SEC. 404. (a) The purpose of this section is to facilitate expanded participation by local distribution companies in acquisition of leases and development of natural gas resources on the Outer Continental Shelf. The Congress finds that in order to achieve this objective, greater certainty is needed regarding the terms and conditions under which the Federal Energy Regulatory Commission will grant a certificate of public convenience and necessity, pursuant to section 7 of the Natural Gas Act, for the transportation in interstate commerce of natural gas, which is produced from a lease located on the Outer Continental Shelf and owned by a local distribution company, from such lease to the service area of such local distribution company.

(b) The Federal Energy Regulatory Commission shall, after opportunity for presentation of written and oral views, promply promulgate and publish in the Federal Register a statement of Commission policy setting forth the standards under which the Commission will consider applications for certificates of public convenience and necessity, pursuant to section 7 of the Natural Gas Act, for the transportation in interstate commerce of natural gas, which is produced from a lease located on the Outer Continental Shelf and owned by a local distribution company, from such lease to the service area of such local distribution company. Such statement of policy shall specify the criteria, limitations, or requirements FERC will apply in determining:

(1) whether the application of any local distribution company qualifies for consideration under the statement of policy; and

(2) whether the public convenience and necessity will be served by the issuance of the requested certificate of transportation.

Such statement of policy shall also set forth the terms or limitations on which the Federal Energy Regulatory Commission may condition, pursuant to Section 7 of the Natural Gas Act, the issuance of a certificate of transportation under such statement of policy.

(c) For purposes of this section:

(1) the term "local distribution company" means any person:

(A) engaged in the distribution of natural gas at retail; and

(B) regulated, or operated as a public utility, by a State or local government or agency thereof.

(2) The term "interstate commerce" shall have the same meaning as such term has under section 2(7) of the Natural Gas Act.

(3) The term "Commission" means the Federal Energy Regulatory Commission.

Mr. DINGELL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. DINGELL. Mr. Chairman, my amendment changes section 404 of the amendment offered by our friend and colleague the gentleman from Louisiana (Mr. BREAUX) which is identical to section 503 of the committee bill. The section referred to would require that the Federal Energy Regulatory Commission issue certificates to distributors which would compel pipelines to pick up the gas which is gathered by the distributor company as a result of drilling operations undertaken by that company. This appears to be an innocent amendment and appears to strengthen the bill. In point of fact, section 404 is very bad for a whole series of reasons. I would observe that I have a letter from the chairman of FERC in strong opposition to this section.

This amendment achieves the objectives sought to be accomplished by the ad hoc committee and Mr. BREAUX without creating the potential adverse consequences of the broader language utilized by the ad hoc committee. The ad hoc amendment goes beyond present law. Under present law the discretionary nature of FERC's authority has created uncertainty. It is this uncertainty which the ad hoc committee sought to remove. My amendment changes present law by requiring FERC to promptly prescribe a statement of Commission policy setting forth the standards on which future Commission action on applications for transportation certificates by local distribution companies will be based. This statement of policy will give local distribution companies the assurances, lacking today, needed before they can justify the large front-end investment required to develop OCS natural gas resources.

The amendment leaves to FERC its existing authority under the Natural Gas Act to assure that the public convenience and necessity is served by the grant of a transportation certificate. The retention of this authority is essential to assuring that abuses and unintended adverse consequences may be controlled or eliminated by FERC.

A similar approach has been adopted by FERC in order 533. This approach has proved highly successful in dealing with the analogous question of transportation of natural gas purchased by a high-priority industrial user for its own use.

In summation, the amendment requires FERC to set forth the rules of the game, in advance, thereby removing the uncertainty which presently limits OCS participation by local distribution companies. Thus, the amendment accomplishes the objectives set forth in the report of the ad hoc committee, but avoids the potential for serious adverse consequences created by the overly broad language in the bill.

It also does something else, it subjects the Federal Government to a vast potential liability in terms of litigation and of being responsible in damages to other producers under their contracts and under the take or pay provisions. It may subject the Federal Government to liability to the pipelines and to other distributors and to other users of natural gas who might be adversely affected by this action. Further, there are no bounds, no guidelines, and no discretion which are made available so as to limit FERC in connection with its actions. It simply must—and I repeat—it simply must issue a certificate of convenience and necessity.

I emphasize that the purpose of the amendment I am offering is to achieve approximately the same results without the adverse consequences which would obtain with regard to section 404.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. DINGELL was allowed to proceed for 3 additional minutes.)

Mr. DINGELL. It allows the distributing company the authority to go into FERC to get a certificate which they can then carry to their State regulatory agency. It says that we have got authority to drill. It says we have got authority to transport, and I am sure that the State regulatory commission would be cooperative.

At this point, I insert the letter I received today from the chairman of the FERC concerning this amendment:

FEDERAL ENERGY REGULATORY COMMISSION,
Washington, D.C., January 26, 1978.

Hon. JOHN D. DINGELL,
Chairman, Subcommittee on Energy and Power, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is written in response to your inquiry regarding a provision of H.R. 1614 which would require the Federal Power Commission to permit any natural gas distribution company to transport natural gas from the Outer Continental Shelf to its service area, pursuant to section 7 of the Natural Gas Act.* The provision, contained in section 503 of the Bill, raises several concerns regarding the Commission's authority to provide adequately for the public convenience and necessity, as it is required to do pursuant to section 7 of the Natural Gas Act, and the manner in which the Commission's authority would be required to be exercised.

The potential effect of mandatory Commission certification of local distribution company transportation arrangements also raises serious implications with respect to the Commission's existing authority over interstate natural gas pipelines. Specifically, section 503 is silent with respect to whether this Commission is to continue to have authority to attach to such a certificate conditions which it finds to be necessary to protect the public interest.

Section 7 of the Natural Gas Act allows the Commission the discretion to condition the issuance of a certificate upon any conditions consistent with the Act which may be necessary to protect the public interest. Yet, section 503 of the Bill is silent with regard to the manner in which the Commission may condition the issuance of a certificate under section 7, if, indeed, it may do so at all.

The Commission has certificated transportation arrangements under section 7 of the Natural Gas Act for local distribution company-owned gas from the OCS (Michigan Storage Company, Docket No. CP74-322, *et al.*, November 10, 1977). The certification in that case was conditioned upon the transporting pipeline company's ability in certain emergency curtailment situations to treat the distribution company's gas as its own system supply. The Commission should be able to consider the advisability of such arrangements in light of general natural gas supply conditions and the priority of the customers to be served by the distribution company, and should be able to attach conditions to the certification as required by the public interest. However, a statutory requirement that the Commission certificate OCS transportation arrangements involving a local distribution company would leave the Commission no flexibility to consider and weigh the public interest involved in such a transaction.

Equally serious questions arise with respect to the effect of mandatory certificates issued pursuant to section 503 of the Bill on outstanding certificate holders. Although the Ad Hoc Committee Report on H.R. 1614 indicates that the Commission's authority over curtailments, other than for local distribution company gas, would not be affected by section 503, such an impact may be unavoidable. For example, a pipeline subject to our jurisdiction may not have sufficient capacity to transport both local distribution company gas and interstate natural gas necessary to protect high priority customers of interstate pipelines.

The amendment may also result in the diversion of OCS gas from customers served by interstate pipelines to those now in the intrastate market (which already have preferential advantage in obtaining onshore gas supplies), thus creating even greater disparities between the interstate and intrastate markets, and impairing the ability of FERC adequately to protect natural gas consumers. Diversion of OCS gas from customers served by interstate pipelines, for whom the Commission has its curtailment responsibility, exacerbates the difficulties of this Commission in dealing with national gas shortages.

The scope of the Commission's authority to review the manner in which a local distribution company engages "directly or indirectly" in the development and production of OCS gas in order to qualify for a transportation certificate is unclear. This could be troublesome. The public interest may require a review of affiliate transactions to assure that OCS gas, which would otherwise be destined for the interstate market, would not be siphoned off to the intrastate market through unreasonable contractual relationships between production and distribution company affiliates.

If I can be of further assistance, please do not hesitate to call on me.

For the Commission:

CHARLES B. CURTIS,
Chairman.

Commissioner Holden not participating.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. I thank the gentleman for yielding.

Could I ask the gentleman how this amendment will achieve the certainty which the gentleman in the well claims for it, or which it is purported to achieve?

Mr. DINGELL. As best as I can, I will observe simply that the Federal Energy Regulatory Commission will commence a proceeding setting forth standards under which it will consider applications for certificates of convenience and necessity pursuant to section 7 of the Natural Gas Act for the transportation in interstate commerce of natural gas produced—and I am quoting here—"from a lease located on the Outer Continental Shelf and owned by a local distribution company, from such lease to the service

* Under the Department of Energy Organization Act, the Federal Power Commission functions under section 7 of the Natural Gas Act were transferred to the Federal Energy Regulatory Commission.

area of such local distribution company." Such statement of policy shall include the criteria, limitations, or requirements, and then it lays down these criteria.

Mr. BROWN of Ohio. Under section 7 of the Natural Gas Act the Federal Energy Regulatory Commission (nee FPC) has the right to spell out the limitations by which it will allow companies to do this, and it has already done this in the 533 order for private industries.

Mr. DINGELL. The gentleman is correct, and they have also certified folks to go out and do this drilling under existing law. I assume they would be at least as broad in their interpretation of this as they are under the existing law, and possibly broader by reason of the legislative history we are making today.

Mr. BROWN of Ohio. By spelling it out ahead of time, some certainty is provided as to how the lease arrangement for distribution companies will work.

Mr. DINGELL. The gentleman is correct, and I will assure him also that if I am the chairman of the subcommittee—and I will be yet until the end of Congress, and I hope for some further time—I will see to it that they understand what this means.

Mr. BROWN of Ohio. The second question is does the amendment change any existing law?

Mr. DINGELL. To what does the gentleman refer?

Mr. BROWN of Ohio. It does not modify existing law specifically; does it? It does not change either the Natural Gas Act or any of the current law with reference to the drilling of off-shore wells?

The CHAIRMAN The time of the gentleman has expired.

(At the request of Mr. BROWN of Ohio, and by unanimous consent, Mr. DINGELL was allowed to proceed for 3 additional minutes.)

Mr. BROWN of Ohio. Will the gentleman from Michigan yield further?

Mr. DINGELL. I continue to yield to the gentleman from Ohio.

Mr. BROWN of Ohio. The question is does the amendment which the gentleman offers change existing law either by providing rights to FERC which it now does not have, or modifying the Natural Gas Act, or anything else?

Mr. DINGELL. The answer is it provides clear instructions to FERC to initiate proceedings laying out general rules under which this can be done.

Mr. BROWN of Ohio. But only with regard to distribution companies?

Mr. DINGELL. But only with regard to distribution companies and not with regard to other companies. But I would observe my interpretation of the amendment is that a single distribution company could come under this and get the certificate, or several could come in together.

It is also my interpretation the local distribution company could go forward and join in with drilling by some major oil companies and participate in the lease sale arrangement and participate in the lease as a participant and take its service to the companies.

Mr. BROWN of Ohio. How would this affect the distribution companies' self-help program which currently exists? In effect, it broadens it; does it not?

Mr. DINGELL. I think it probably broadens those self-help programs but it also gives the FERC the ability to help the local distribution companies in their applications to the State regulatory agencies for the ability to engage in this kind of activity within the rate base under State law.

Mr. BROWN of Ohio. This would not necessarily provide that those local State utility commissions would be overridden but rather that FERC would set the parameters by which the distribution company could do it and have the rate base affected. Is that correct?

Mr. DINGELL. I think the answer to that question is yes. This would not however deny the State utility commission the authority to go a little more broadly because it is both general authority to engage in the undertaking and there also remains the authority in FERC to do it on a case-by-case basis as they may do it now. So there would be two ways that the distribution company could go about getting its authority from the State and the Federal authorities to run out and do the drilling.

Mr. BROWN of Ohio. Finally, is it the impression of the gentleman that the amendment clearly, then, permits the distribution company to go into the offshore for drilling?

Mr. DINGELL. Some are now doing it. The one in my area is doing it. That is why I am a strong supporter of the proposal.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. DINGELL) has expired.

(On request of Mr. BREAUX, and by unanimous consent, Mr. DINGELL was allowed to proceed for 1 additional minute.)

Mr. BREAUX. Mr. Chairman, not being a gas expert, as I read the situation both in the committee bill and in the Breaux substitute, we have an absolute statement that the FERC shall permit any natural gas distribution company that gets gas in the OCS, we shall permit them to distribute that back to their service area. It is an absolute statement that they shall permit the service companies to do that and allow them to do that.

I understand the gentleman's amendment says that before the FERC would be able to grant that type of permit, that they first have to promulgate the standards by which they are to consider these particular applications and make those standards public and sort of set a criterion under which they are to consider the request.

Mr. DINGELL. The gentleman is correct. The reason for that is that the difficulties I have cited in the committee bill, for example, that they might displace gas belonging to other pipelines or might subject the Federal Government to litigation. As I read the committee bill, there is no discretion as to whether or not they do it. Not only that, they might adversely affect the allocation system. We might find some folks in Louisiana who had not gone out and engaged in this drilling who would find they would not be able to get gas out of the pipeline because somebody north of them had a certificate and that they would carry the gas up to the north to service those customers under this mandatory procedure. I do not think the gentleman wants to see that kind of situation happen which might leave the folks cold in his district.

Mr. BREAUX. What would happen in the situation where the natural gas distribution company participates in a lease sale and gets the lease and finds gas?

The CHAIRMAN. The time of the gentleman from Michigan has again expired.

(On request of Mr. BROWN of Ohio, and by unanimous consent, Mr. DINGELL was allowed to proceed for 2 additional minutes.)

Mr. BREAUX. Mr. Chairman, if the gentleman will yield further, continuing the question, if the natural gas company participated in the lease sale and was awarded the lease and found oil and gas, and at that time what would they do with the gas if they have the permit denied?

Mr. DINGELL. I very seriously would doubt they would be denied because they have done this under existing law and we in no way tamper with that.

The gentleman from Ohio asked me to yield and, with the permission of the Chair, I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I want to be sure that I am clear and the House is clear in the authority here. Does this amendment provide for FERC's being able to get into the price of this gas?

Mr. DINGELL. This does not deal with the price of gas. I want to make it very clear that I am not tinkering with the question of price. We will go and deal with that at another time. The gentleman from Ohio knows we have differences on that elsewhere.

Mr. BROWN of Ohio. Mr. Chairman, if the gentleman will yield further, as I understand, the Breaux amendment as written allows for offshore drilling by distribution companies.

Mr. DINGELL. The gentleman is correct, but it requires that gas must be certificated to flow through the pipeline and that has the defects I cited earlier.

Mr. BROWN of Ohio. Under the Breaux amendment the certification would be automatic, but would not have any parameters put on it by FERC for certification; Is that correct?

Mr. DINGELL. That is correct under the Breaux amendment. Those are conditions FERC has always done and failing to do that would subject the Federal Government to enormous problems.

The CHAIRMAN. The time of the gentleman from Michigan has again expired.

(At the request of Mr. BROWN of Ohio, and by unanimous consent, Mr. DINGELL was allowed to proceed for 1 additional minute.)

Mr. RONCALIO. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Wyoming.

Mr. RONCALIO. Mr. Chairman, first, I thank my friend from Ohio.

Second, I would like to ask the author of the amendment to the substitute, is

there a possibility FERC may attempt to exert jurisdiction over any intrastate gaslines?

Mr. DINGELL. I have made the point that the language of the provisions of section 404 of the Breaux amendment, or the provisions of section 503, I believe it is, of the committee bill, would permit FERC to exert jurisdiction over intrastate gaslines.

Mr. RONCALIO. Is it the intention of the author of the amendment to the Breaux substitute that his amendment would remove the basis of jurisdiction over intrastate gas?

Mr. DINGELL. It is not only my intention, but it is the clear intention of the amendment to change it so they cannot do that.

Mr. RONCALIO. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. DINGELL) to the amendment in the nature of a substitute offered by the gentleman from Louisiana (Mr. BREAUX).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. BROWN OF OHIO TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BREAUX

Mr. BROWN of Ohio. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. BROWN of Ohio to the amendment in the nature of a substitute offered by Mr. BREAUX: In section 201 of the Breaux amendment insert the following subsection before the new subsection (c):

"(b) The term 'Secretary' means the Secretary of the Interior, except that with respect to functions under this Act transferred to, or vested in, the Secretary of Energy or the Federal Energy Regulatory Commission by or pursuant to the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), the term 'Secretary' means the Secretary of Energy, or the Federal Energy Regulatory Commission, as the case may be.

Mr. BROWN of Ohio. Mr. Chairman, the purpose of this amendment is to technically improve the Breaux amendment in a way in which, unfortunately, I think all three of the pieces of legislation before us, the basic Murphy bill, H.R. 1614, the Breaux amendment and the Fish amendment, need to be improved in order to maintain the actions we took in establishment of the Department of Energy. The purpose of it is to see that the word 'Secretary' as used in the basic bill and the Breaux amendment refers not only to the Secretary of the Department of Interior, but to the Secretary of the Department of Energy as well.

In the establishment of the Department of Energy, we specifically provided that certain authorities would go to DOE, and I assume that we do not, just a few months after the passage of that basic piece of legislation, now want to modify it to remove some of those authorities that we clearly wanted to move into the hands of the Secretary and responsibility of the Department of Energy.

Mr. Chairman, as we know, Congress in establishing the new Energy Department transferred to DOE, at the request of President Carter, certain functions concerning oil and gas leasing, including functions relating to competition, alternative bidding, and rates of production including in this transfer certain provisions of the Energy Policy and Conservation Act that apply to the Outer Continental Shelf.

The Energy Policy and Conservation Act originated in the Committee on Interstate and Foreign Commerce, the Subcommittee on Energy and Power, chaired by the gentleman from Michigan (Mr. DINGELL), on which I serve as ranking Republican member.

Mr. DINGELL. Mr. Chairman, would my very good friend from Ohio yield to me?

Mr. BROWN of Ohio. Of course.

Mr. DINGELL. Mr. Chairman, I thank my good friend for yielding. My colleagues on the committee have done a good job with a very, very difficult task, and I do not think they ought to be faulted for the fact that their action requires here an amendment which is purely technical. I think the gentleman from Ohio stresses that this is just purely a technical amendment. Am I correct?

Mr. BROWN of Ohio. It is technical, as I understand it. The gentleman may concur or not as he sees fit. Mr. MURPHY indicated that this was an oversight in the original drafting of the bill, and carried through in the Breaux amendment, and also in the Fish amendment.

Mr. DINGELL. That is my interpretation of it. What this does is simply restore to both the Breaux amendment—and the gentleman from Ohio (Mr. BROWN) and I will offer one later to the committee bill—a meaning of the word "Secretary" so that the actions taken in the last session of this Congress allocating responsibilities among the Secretary of the Interior, the Secretary of Energy and FERC shall remain unchanged and unimpaired. Am I correct in my interpretation?

Mr. BROWN of Ohio. The gentleman is, and I think that probably is part of the basic language of the DOE Act.

Mr. DINGELL. I thank the gentleman, and I join him in support of the amendment.

Mr. BREAUX. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Louisiana.

Mr. BREAUX. It is my understanding that what the gentleman is offering, when we were talking about the Secretary, he is saying that it could be the Secretary of the Department of Energy, as appropriate, by other existing rules and regulations and statutes.

Mr. BROWN of Ohio. Well, but this language does not move from the Department of Energy and Secretary of the Department of Energy authorities which he was given in the Department of Energy Act.

Mr. BREAUX. But it would not give him any additional authority?

Mr. BROWN of Ohio. It would not give him any additional authority, or would not take away from what he was given in the DOE Act.

Mr. BREAUX. With that understanding, I support the gentleman's amendment.

Mr. BROWN of Ohio. Mr. Chairman, I am not a lawyer, but I understand that once a lawyer has pleaded his case, or at least got nods from the jury and have retired, it is time to stop.

Mr. SIKES. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I am delighted to yield to the gentleman from Florida.

Mr. SIKES. I appreciate very much my distinguished friend's courtesy in yielding to me. I rise in support of the Breaux substitute amendment.

Mr. Chairman, the administration has proposed a national energy plan in an effort to decrease our dependence on insecure foreign oil supplies. This plan depends for its success on conservation practices, as well as increased domestic production.

Having set these goals, where will we look for the additional domestic supplies that we need? For at least the next several years, we must look to oil and natural gas for the bulk of increased energy production. Many people—in and out of government—now recognize the constraints that are hindering production and use of coal and nuclear energy.

And where will we look for the oil that must be found? The greatest potential lies off our shores in the Outer Continental Shelf. Clean and safe development of those lands must be encouraged. However, the national energy plan fails to adequately address the issue of offshore development. We in Congress have taken the initiative, but we are headed in the wrong direction, and the Nation will suffer for it, unless we change course. The legislation before us now—H.R. 1614—will create endless bureaucratic delays. It mandates the use of new and untried bidding systems. It allows the leasing of exploration without production rights. It opens the door for the Federal Government to become involved in exploration. And it would create a tangled mass of increased regulation.

The best system is the existing one—if we let it work. However, if the system which has served us so well must be changed, there is an approach better than H.R. 1614. The Breaux substitute bill provides us with an opportunity to update existing law without destroying hope of adequate and timely offshore development.

The Breaux bill would delete the authorization of Federal core and test drilling, thus placing some congressional restraints on the eventual entry by the Federal Government into the petroleum industry. This provision is a wise one, because the petroleum business is very risky, even for the experienced.

This bill would also provide direct revenue sharing for coastal States—rather than the H.R. 1614 provision authorizing appropriations under the Coastal Zone Management Act. In addition, the bill would limit to 50 percent the number of tracts to be sold under untested bidding systems. H.R. 1614 requires that at least half of the tracts be sold under these untried bidding systems.

In 1976, 14 percent of U.S. domestic oil production and 22 percent of U.S. domes-

tic natural gas production came from offshore waters according to a recent Republican Study Committee "Fact Sheet." Moreover, offshore potential reserves—estimated conservatively—are more than 80 percent of proven U.S. oil reserves and 47 percent of proven U.S. natural gas reserves.

Here, then, is where we must turn for our future energy supplies. We must provide a rational set of guidelines for the development of those resources. We cannot afford to tie the hands of those who seek to provide the domestic energy so desperately needed by the U.S. consumer.

Mr. Chairman, I urge the adoption of the Breaux substitute.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. BROWN) to the amendment in the nature of a substitute offered by the gentleman from Louisiana (Mr. BREAUX).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. LIVINGSTON TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BREAUX

Mr. LIVINGSTON. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. LIVINGSTON to the amendment in the nature of a substitute offered by Mr. BREAUX: Title II, add the following new section 331.

"SEC. 31. DOCUMENTATION AND REGISTRY.—(a) Within six months after the date of enactment of this section, the Secretary of the Department in which the Coast Guard is operating shall by regulation require that any vessel, rig, platform, or other vehicle or structure which is used for activities pursuant to this Act, shall comply with such minimum standards of design, construction, alteration, and repair as the Secretary of the Department in which the Coast Guard is operating establishes; and except as provided in subsection (b) of this section and which is contracted to be built or rebuilt one year after enactment for use in the exploration, development or production of the mineral resources located on or under the seabed and subsoil of the Outer Continental Shelf be built or rebuilt in the United States and when required to be documented, be documented under the laws of the United States;

(b) The Secretary may waive the requirements of this section if he determines that:

(1) compliance will unreasonably delay completion of any vessel or structure beyond its contracted delivery date;

(2) the requirements will result in costs that are unreasonable; or

(3) the articles, materials, or supplies of the class or kind to be used in the building or rebuilding are not produced or manufactured in the United States in sufficient and usually available commercial quantities and of a satisfactory quality.

(c) As used in this section, the terms "vessel", "documented under the laws of the United States," shall have the meaning assigned to them under section 2 of the Shipping Act of 1916 (46 U.S.C. 801 and 802), and "built or rebuilt in the United States" means that only articles, materials, and supplies of the growth, production or manufacture of the United States as defined in paragraph K of section 1401 of manufacture of the Tariff Act of 1930 may be used in such building or rebuilding.

Mr. LIVINGSTON. Mr. Chairman, I have asked that this amendment be considered to amend the Breaux substitute to H.R. 1614. My amendment is fundamentally the same language as that offered by the Chairman, the gentleman from New York (Mr. MURPHY), in his amendment to the original bill, H.R. 1614, with respect to "Buy American" provisions.

I am aware that the vote on the Breaux amendment may be very close, and it is my firm conviction that the Breaux amendment is extremely important to the future of oil and gas exploration, not only in my own State of Louisiana, but through the coastal regions of these United States.

Mr. Chairman, it is also my belief and my knowledge that roughly 80 percent of the American offshore drilling equipment is manufactured abroad and not in these United States, and that valuable jobs are lost to this country simply by virtue of the reason that that equipment is produced abroad. As a result, our economy stands to suffer. For that reason I have offered this language, to induce my colleagues to consider buying American equipment, inducing American equipment to be produced here in the United States, thereby boosting the number of jobs in the United States, and in my own district, which, by the way, is one of the largest geographical producers of oil and gas in this country.

The Outer Continental Shelf legislation with the Breaux amendment will affect an enormous amount of drilling throughout the country. The first offshore well was drilled in Louisiana in 1947. Since that time production has been extremely important to the State's economy.

In 1972, a peak year for offshore drilling activity, OCS related employment accounted for more than 17,000 jobs. These jobs are those related directly to drilling activity and the service industries that support it. They do not include jobs in activities caused by offshore drilling, such as refining.

It is easy to see that offshore drilling is a big industry for Louisiana. Yet construction of equipment has not added appreciably to that economic activity. This is a factor my amendment would correct.

The people of this country need jobs. And jobs can be provided if we take steps to include this amendment in the Breaux substitute, as it is included in the committee bill.

I am proposing this amendment because it means jobs for the First District and other districts in Louisiana.

Mr. Chairman, I urge my collleagues to support this amendment, and to support the Breaux Amendment to H.R. 1614.

Mr. BEAUX. Mr. Chairman, will the gentleman yield?

Mr. LIVINGSTON. I yield to the gentleman from Louisiana.

Mr. BREAUX. I thank the gentleman for yielding.

Mr. Chairman, basically, I understand the gentleman's amendment to be what we have called in the committee a "buy American" type of provision, and I understand it does not go further and require that crews be American crews throughout OCS activities.

Mr. LIVINGSTON. Mr. Chairman, the gentleman is correct. As the gentleman recalls, the language of the chairman of the committee, the gentleman from New York (Mr. MURPHY), in his amendment to the principal bill includes the manning by American crews. That provision has been omitted from this particular amendment.

Mr. BREAUX. Then, with that understanding, I think the "Buy American" provision is an important one. I think the gentleman's amendment has a great deal of merit, and I support it.

Mr. STEIGER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I admit that I hesitate to get in the middle of this orchestrated scenario that we seem to have worked out.

What we are doing when we agree to an amendment lke this one, whether it is one offered by our distinguished colleague, the gentleman from Louisiana (Mr. LIVINGSTON), who wishes to adopt, I suppose, what ought rightly be called the Louisiana Buy American concept that is a part of the statutes of Louisiana—or whether we buy it as a part of the Breaux amendment or whether we buy it as a part of the original bill—what we are doing is being shortsighted.

I recognize that it is so very easy to succumb to that siren song that the best interests of the United States are served by "Buy American." Yes, it is true that there is a substantial amount of work that is often done onshore and offshore through goods and services, including rigs and other kinds of equipment, produced by other than American companies.

Yet I must say to my colleagues that it would not be, in my view, in our best interests if we were to be quite as shortsighted as I am afraid we would be if we adopt this amendment.

Let us look at where we are. If we look at what happens, then I think it is fair to say that at the present time the United States of America produces about 90 percent of the world's oil and gas production equipment. That is what ths country produces: 90 percent of the oil and gas production equipment.

The Department of Commerce, in its book, the "U.S. Industrial Outlook for '76," forecast that the expected growth in foreign exploratory activity during the next 10 years would assure a strong export market for U.S. equipment. The Department went on to say that U.S. exports of oilfield machinery are projected to reach $3.1 billion, increasing at a compound rate of 9 percent from 1975 levels.

In 1976 exports of the tvpes of products amounted to $1.69 billion—63 percent of the total sales of these products were exports. Thus, it makes very little sense to me to jeopardize our growing exports in the oil production field by providing our trading partners with a legitimate basis for retaliation.

That is exactly what I am afraid this amendment is designed to do.

Great Britain. Norway, and the European communities have already protested anything of this character—and, I think, for some very good reasons—because they are under understandable

pressure, as we are under understandable pressure, from their own labor unions and business organizations to institute "buy and hire national" restrictions in the North Sea oil fields for example.

American sales to Great Britain for North Sea projects during the first 8 months of 1977 have already exceeded $77.5 million, and an additional amount was earned by Americans providing services. Sales to Norway were $14.6 million during the first 8 months of 1977, and clearly, American firms and American technicians are going to be the losers if there is a proliferation of "national buy and hire" restrictions.

Thus, Mr. Chairman, I hope this body will think somewhat more carefully before we fall prey to a very short-sighted effort to have us adopt an amendment of this kind. The amendment ought to be rejected.

Mr. DUNCAN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. STEIGER. I yield to my colleague, the gentleman from Oregon.

Mr. DUNCAN of Oregon. Mr. Chairman, I would like to join with the gentleman from Wisconsin (Mr. STEIGER) in calling the attention of the House to the very profound and wise statements made by him.

We have American drilling rigs in the North Sea area and all over this world. In the long run, American industry and American labor are going to be better served by avoiding the retaliation that is inevitably going to be the result of action of this sort.

I would like to suggest also that for one reason or another there are American drilling outfits which have had to acquire foreign-built rigs, and if this "Buy American" amendment is passed, it is going to mean those rigs will be unusable in the Outer Continental Shelf, to the detriment of American companies.

Mr. Chairman, I want to join the gentleman from Wisconsin (Mr. STEIGER) in urging caution in adopting legislation of this sort.

Mr. STEIGER. Mr. Chairman, I thank my colleague, the gentleman from Oregon, very much for his statement. I urge that the amendment be defeated.

Mr. BAUMAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Livingston amendment.

Mr. Chairman, I was very interested in the comments of my colleague, the gentleman from Wisconsin (Mr. STEIGER), regarding this amendment.

I seem to remember that it was only a few months ago that in relation to the issue of subsidized dairy imports and cheeses from the European Common Market, he was one of the strongest proponents of our taking action to stop this kind of foreign trade, which is very harmful to the dairy farmers of his State. In fact, I think I cosigned a letter to which he was also a signatory on this very issue.

Mr. Chairman, the point that I am trying to make is that it is entirely possible that some sort of retaliation might be suggested if an amendment such as the buy American amendment is adopted to the OCS bill, but I rather doubt that. Many of the countries that have sought to compete with us are in one way or another given assistance from their own national governments. Therefore, American workers are at a disadvantage.

We did not choose to give cargo preference a few weeks ago to those shipping oil into the United States, and American shipbuilding is going to suffer.

Mr. Chairman, I think it is time, even though I do generally support the concept of free trade, that we decide whether or not this trade is really free. It seems to be the practice on the part of our State Department, on the part of our trade negotiators, to fight for free trade. Yet, the subsidized trade from other countries cannot really be called free.

Mr. Chairman, the gentleman from Louisiana (Mr. LIVINGSTON) has made a point, throughout his brief career in the House of Representatives, of working very hard in support of legislation that will provide jobs. The need for jobs is something that President Carter repeated in his state of the Union message. It seems to me that this is a small part of trade negotiators, to fight for free trade. The gentleman from Louisiana (Mr. LIVINGSTON) is to be commended, not condemned.

This is certainly consistent with the amendment that would have been offered and may be offered by the gentleman from New York (Mr. MURPHY). It is a bipartisan approach, and I urge adoption of the Livingston amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana (Mr. LIVINGSTON) to the amendment in the nature of a substitute offered by the gentleman from Louisiana (Mr. BREAUX).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. MOORE TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BREAUX

Mr. MOORE. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. MOORE to the amendment in the nature of a substitute offered by Mr. BREAUX: Immediately following section 408 add the following new section:

RULE AND REGULATION REVIEW

SEC. 409. (a) Any rule or regulation prescribed pursuant to this Act or the Outer Continental Shelf Lands Act, as amended by this Act, by the head of any Federal department or agency may by resolution of either House of Congress be disapproved, in whole or in part, if such resolution of disapproval is adopted not later than the end of the first period of 60 calendar days when Congress is in session (whether or not continuous) which period begins on the date such rule or regulation is finally adopted by the head of such department or agency. The head of any Federal department or agency who prescribes such a rule or regulation shall transmit such rule or regulation to each House of Congress immediately upon its final adoption. Upon adoption of such resolution of disapproval by either House of Congress within such 60-day period, such rule or regulation, or part thereof, as the case may be, shall cease to be in effect.

(b) Congressional inaction on or rejection of a resolution of disapproval of a rule or regulation promulgated under this Act or the Outer Continental Shelf Lands Act, as amended by this Act, shall not be deemed an expression of approval of such rule or regulation.

(c) The provisions of this section shall not apply to any finding or action by the Secretary of the Interior pursuant to section 8(a)(5)(C)(ii) or 8(b)(4) of the Outer Continental Shelf Lands Act, as amended by this Act.

Strike out "409" and insert in lieu thereof "410".

In table of contents, strike out:

"Sec. 409. Relationship in existing law."

And insert in lieu thereof:

"Sec. 409. Rule and regulation review.

"Sec. 410. Relationship to existing law.".

Mr. MOORE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. MOORE. Mr. Chairman, I will not use the full 5 minutes allotted to me.

This is the legislative veto amendment that has been introduced in the House many, many times in the 1st session of the 95th Congress. It became law seven times, and six more times it has been passed and is awaiting completion of the legislative process. That is 13 times that this Congress has already passed it.

Mr. Chairman, this amendment is being offered by myself and by the gentleman from California (Mr. KETCHUM) because of our strong belief and fear, that there will be some 40 sets of regulations possibly adopted by some 9 different agencies under this bill. Therefore, we need this right to come back and have some control over this matter once it becomes law, especially when we consider that it brings about control over exploration and development of much-needed domestic oil resources in this country.

Mr. Chairman, I have discussed this matter with the author of the substitute, the gentleman from Louisiana (Mr. BREAUX); and he has no objections.

Therefore, Mr. Chairman, I urge that the amendment be agreed to.

Mr. KETCHUM. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment.

Mr. Chairman, I shall not use the 5 minutes.

This issue has been debated up and down the Hill over the past two Congresses, finally to the point that the former Speaker of the House instructed the Committee on Rules to hear a bill which had been introduced by the gentleman from California (Mr. DEL CLAWSON).

It is not a partisan issue in any way. The gentleman from Georgia (Mr. LEVITAS) has offered a similar amendment, as has the gentleman from Georgia (Mr. MATHIS). It has always been adopted, the last few times practically by unanimous consent.

Mr. Chairman, I firmly support this amendment, and I believe that if we do not, we are the ones who will receive all the criticism for any bad regulation that is passed. If we are going to accept that responsibility, then let us vote on the regulations.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. KETCHUM. I yield to my colleague, the gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I would just like to join in support of the amendment offered by the gentleman from Louisiana (Mr. MOORE) and my colleague, the gentleman from California (Mr. KETCHUM). I believe there are three good reasons why Congress should have the authority to veto rules and regulations relating to the OCS. First is that the regulators who know that we have this authority will be more careful about the regulations they adopt in the first place.

Second, we will, I am sure, from time to time in this connection, actually veto regulations which are not in the public interest.

Third, Mr. Chairman, if we have this authority we no longer will be able to pass the buck and blame somebody else for the adoption of ridiculous regulations.

Mr. KETCHUM. I thank the gentleman for his remarks.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. KETCHUM. I yield to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Chairman, I also want to rise in support of the proposed amendment offered by these two gentlemen. I think it is absolutely necessary that the Congress either legislate in detail or if it is going to give this authority to the regulatory agencies of Government, that we be able to review the regulations because these regulations have the force of law and we are responsible for them.

Whether or not we accept that responsibility is the issue that is at stake here and I believe we should accept that responsibility.

Mr. Chairman, again I thank the gentleman for yielding.

Mr. KETCHUM. Mr. Chairman, I thank the gentleman from Ohio, (Mr. BROWN), for his comments.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana (Mr. MOORE) to the amendment in the nature of a substitute offered by the gentleman from Louisiana (Mr. BREAUX).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. GOLDWATER TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BREAUX

Mr. GOLDWATER. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. GOLDWATER to the amendment in the nature of a substitute offered by Mr. BREAUX: Title II, section 201: In section 2(q) of the Outer Continental Shelf Lands Act, as amended strike out the period immediately after "Channel" and insert in lieu thereof: ", except for those areas in the Channel in which leasing was begun prior to October 1, 1975, and on which exploration, development, or production was begun prior to January 1, 1978.".

Mr. GOLDWATER. Mr. Chairman, I offer this amendment to clarify the definition of "frontier area" as contained not only in the amendment in the nature of a substitute offered by the gentleman from Louisiana (Mr. BREAUX) but also as contained in the original bill offered by the committee.

It is my concern, and I think that of others, that in the definition of "frontier area" that there be included the Santa Barbara Channel, but that we not interrupt or change the rules of the game of those existing leases which are now under production or development.

Mr. BREAUX. Mr. Chairman, will the gentleman yield?

Mr. GOLDWATER. Mr. Chairman, I would prefer that the gentleman permit me to finish just one further paragraph and then I would like to have a colloquy with the gentleman from Louisiana (Mr. BREAUX).

Mr. Chairman, let me make it very clear to my colleagues that I have no quarrel with the committee nor with the gentleman from Louisiana (Mr. BREAUX) or others, that it is essential that we do protect the Santa Barbara Channel as well as the Outer Continental Shelf off the coast of California. This inclusion is meritorious and well intentioned and I do support it. I believe that the Santa Barbara Channel should be included in the definition.

However, it does concern me that those areas which are already under production or are already under development not be included under the definition of new frontier, and that they be treated as other areas or where there is onging activity.

In subsequent conversation with members of the committee and with the gentleman from Louisiana, it is my understanding that perhaps the definition does exclude those areas which are already under production or development. I would like to ask the gentleman from Louisiana (Mr. BREAUX) a question or two about this.

I am wondering in the gentleman's substitute under the definition of "frontier area," do the words in the definition apply to the Santa Barbara Channel?

Mr. BREAUX. Mr. Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman from Louisiana.

Mr. BREAUX. I thank the gentleman for yielding.

I think the gentleman's amendment is already contained in the language of the Breaux substitute. If the gentleman will look at the definition section in the frontier area, we say that a frontier area which has the original requirements that they have to meet is only an area that has had no development of any oil or gas prior to October 1, 1975, including the Santa Barbara Channel. In other words, if in the Santa Barbara Channel the gentleman has an area where they have had production prior to October 1, 1975, then that is not a frontier area if production was occurring before that time.

Mr. GOLDWATER. It is not the intention of the act or the substitute to impose new rules upon existing development or production activity that may exist in the Santa Barbara Channel?

Mr. BREAUX. All of the new regulations required for frontier areas would not be applicable to any area of the Santa Barbara Channel that has had production prior to October 1, 1975.

Mr. GOLDWATER. Further questioning the gentleman, in the definition of development it uses the words "in paying quantities." I am wondering if the gentleman can clarify precisely what that term means.

Mr. BREAUX. I am advised that it means a commercial return, whenever there is a percentage or extent of some commercial return.

Mr. GOLDWATER. I thank the gentleman for that clarification that it is the intent to exclude those areas which are currently under development or production from the provisions of the act where it pertains.

Mr. BREAUX. The gentleman is correct. The gentleman has to understand we are talking about the new regulations which would apply to frontier areas. Those new regulations would not apply to any part of the Santa Barbara area or the Santa Barbara Channel where production has occurred prior to October 1, 1975.

Mr. GOLDWATER. I thank the gentleman.

Mr. Chairman, with that understanding, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mrs. FENWICK. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Louiisana because I really do not believe that this is in the best interests of our country, and I would like to have a rollcall vote on that amendment.

Mr. VANIK. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from Ohio.

Mr. VANIK. I thank the gentlewoman for yielding. The gentlewoman, I think, refers to the amendment relating to the "Buy America" clause.

Mrs. FENWICK. I am.

Mr. VANIK. That was passed just a few moments ago by a voice vote.

Will the gentlewoman yield further to me?

Mrs. FENWICK. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Chairman, I want to point to my colleagues in the House that this highly restrictive amendment is very shortsighted as it would encourage retaliation against U.S. firms in the field of oil drilling equipment and services which currently have a predominant world position. American firms produce approxmately 90 percent of the world's oil and gas production equipment. The Department of Commerce in U.S. Industrial Outlook—1976 forecasts that "the expected growth in foreign exploratory activity during the next 10 years would assure a strong export market for U.S. made equipment. U.S. exports of oilfield machinery are projected to reach $3.1 billion, increasing at a compound rate of 9 percent from 1975 levels." In 1976, exports of the types of products amounted

to $1.69 billion—63 percent of total sales of these products were exports. It makes no sense to jeopardize our growing exports in the oil production field by providing our trading partners with a legitimate basis for retaliation.

The Embassies of Great Britain, Norway, and the European communities have protested the discriminatory provisions of section 31 and have noted that their governments are under considerable pressure from labor and industry groups to institute "buy and hire national" restrictions in the North Sea oilfields. American sales to Great Britain for North Sea projects during the first 8 months of 1977 have already exceeded $77.5 million. An additional amount was earned by Americans providing services. Sales of equipment to Norway were $14.6 million during the first 8 months of 1977. Clearly, American firms and technicians would be the big losers if there is a proliferation of "buy and hire national" restrictions, such as would most likely occur if section 31 remains in H.R. 1614.

Any documentation restriction which would require that rigs and vessels used on the Outer Continental Shelf be exclusively American made would prevent our taking advantage of any technological advances which other countries may make.

Section 31 would be contrary to our pledge in the International Energy Agency to endeavor to avoid trade restrictions on energy and energy-producing equipment. A proliferation of "buy and hire national" restrictions could slow down the development of new energy sources in International Energy Agency countries and thus interfere with our attempts to lessen our dependence on OPEC oil.

I hope that the House will vote down this ill-advised provision.

AMENDMENT OFFERED BY MR. DINGELL TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BREAUX

Mr. DINGELL. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. DINGELL to the amendment in the nature of a substitute offered by Mr. BREAUX: Section 8(a)(4)(B) of the Outer Continental Shelf Lands Act, as amended by the Breaux amendment, is amended by striking out "on the record after opportunity for an agency hearing. Any modification by the Secretary of any such bidding system shall be by rule" and inserting in lieu thereof: after an opportunity for a hearing, in accordance with section 501 of the Department of Energy Organization Act (42 U.S.C. 7191). Any modification of any such bidding system shall be by rule in accordance with such section 501.

Mr. DINGELL. Mr. Chairman, my colleagues will recall that the gentleman from Ohio (Mr. BROWN) and I sent out a "dear colleague" letter wherein we set forth a series of amendments which would be offered by us to the committee bill. It turns out that the amendments are necessary also to the Breaux amendment.

This particular amendment is offered to correct a very specific problem that exists with regard to both the Breaux amendment and with respect to the committee bill. The Breaux amendment requires that any new bidding system shall be only placed in being by the Department of Energy after there has been a rulemaking hearing on the record.

Now, to my colleagues I say those are the magic words.

The Department of Energy Act requires the proceeding to take place not before the Secretary, who is the expert on these matters, but before the FERC which has the visible defect of having an abundance of other hearings that it must conduct. It has sole responsibility for hearings under other law where they are mandated by statute. It has neither the staff nor the money nor the expertise in this particular matter, a consequence which I know my friend from Louisiana does not want.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Chairman, the gentleman from New York (Mr. FISH) has advised me he would accept the amendment on this side.

I think the issue is very clear. FERC is overloaded. This is an authority we gave the Secretary originally in the DOE legislation. It is within his specialty. It should remain with him. If we do not make the modest change in language proposed in the amendment, then FERC will get the job and it cannot give it up to DOE, but the Secretary if he wants to can yield it down to FERC to do that.

Mr. DINGELL. Yes, but FERC cannot send the authority up.

I know this is an oversight on the part of the gentleman from Louisiana who could not have intended an agency, already overworked and underskilled in this area and with wide responsibilities into other things including gas prices and certification of pipelines and independent producers and things of that kind. They should not have to take on this additional burden.

Mr. Chairman, I yield further to my friend, the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Chairman, I would only urge we adopt the amendment and hope the gentleman from Louisiana will accept it.

Mr. DINGELL. Mr. Chairman, I certainly urge my colleagues to support the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. DINGELL) to the amendment in the nature of a substitute offered by the gentleman from Louisiana (Mr. BREAUX).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. M'KINNEY TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BREAUX

Mr. McKINNEY. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. MCKINNEY to the amendment in the nature of a substitute offered by Mr. BREAUX: In section 208 of the Breaux amendment strike paragraph 28 and insert:

SEC. 28. LIMITATIONS ON EXPORTS.—(a) Any oil or gas produced from the outer Continental Shelf shall be subject to the requirements and provisions of the Export Administration Act of 1969.

(b) Before any oil or gas subject to this section may be exported under the requirements and provisions of the Export Administration Act of 1969, the President shall make and publish an express finding that such exports will not increase the number of barrels of oil or cubic feet of gas imported into this country, are in the national interest, and are in accordance with the provisions and requirements of the Export Administration Act of 1969.

(c) The President shall submit reports to the Congress containing the findings made under this section, and after the date of receipt of such reports Congress shall have a period of sixty calendar days, thirty days of which Congress must have been in session, to consider whether exports under the terms of this section meet the requirements of subsection b. If both Houses of Congress within such time period pass a resolution of disaproval stating disagreement with any of the President's findings concerning the requirements of subsection b, further exports made pursuant to such Presidential findings shall cease.

(d) The provisions of this section shall not apply to any oil or gas which is either exchanged in similar quantity for convenience or increased efficiency of transportation with persons or the government of an adjacent foreign state, or which is temporarily exported for convenience for increased efficiency of transportation across parts of an adjacent foreign state and reenters the United States."

Mr. McKINNEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. McKINNEY. Mr. Chairman, I will not take the time of the committee with this amendment, because I know everyone in the House has voted on the principle contained in this amendment before. The intent of this amendment is exactly the same as the amendment that we passed on the Alaskan pipeline bill and which this House instructed the conferees to stand by.

This amendment would simply state that not one drop of oil nor one cubic foot of this gas which we produced from our Outer Continental Shelf will be used for export or exchange agreements, if it is going to require that we import one more barrel of oil or one more drop of gas from a foreign nation.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. McKINNEY. I yield to the gentleman from New York.

Mr. FISH. Mr. Chairman, I am very happy to support the gentleman. I supported the gentleman before in this legislation and I think it should be adopted.

Mr. BREAUX. Mr. Chairman, will the gentleman yield?

Mr. McKINNEY. I yield to the gentleman from Louisiana.

Mr. BREAUX. Mr. Chairman, I am concerned, I do not think it is the gentleman's intent, but is there any possi-

bility of the gentleman's amendment restricting any exchange of oil or trading which companies might do in logistics, because in some sense it may be easier to exchange oil with companies in other areas because they do not have the oil they need?

Mr. McKINNEY. This is the problem we faced in the Alaskan oil situation. The idea in that instance was that oil companies would ship Alaskan oil to Japan and we would import oil to replace it from Saudi Arabia. This increased our dependence on foreign sources to meet the domestic demand for oil. This amendment would do nothing to prevent an exchange between American companies of domestic oil. It does prohibit what is sometimes called trilateral trade, which very conveniently makes us more dependent on foreign oil and thus more vulnerable to disruption in case of national emergency.

My own intentions were that I do not want to build up a system of trading oil that results in increased cost to this country. We will be drilling off the eastern shoreline, the Alaskan shoreline, and the gulf coast, and the inherent environmental dangers of that activity can only be repaid by full domestic use of the oil and gas produced.

Mr. BREAUX. Mr. Chairman, will the gentleman yield further?

Mr. McKINNEY. I yield.

Mr. BREAUX. As I understand, we would allow some of this OCS oil to be exported only if the result would not be an increase in imports from other sources.

Mr. McKINNEY. Yes, exactly. The wording is that it will not increase the number of barrels of oil or cubic feet of gas imported into this country.

Mr. BREAUX. Mr. Chairman, with that understanding, I support the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Connecticut (Mr. McKINNEY) to the amendment in the nature of a substitute offered by the gentleman from Louisiana (Mr. BREAUX).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. WIGGINS TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BREAUX

Mr. WIGGINS. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. WIGGINS to the amendment in the nature of a substitute offered by Mr. BREAUX: In section 5(a)(2) of the Outer Continental Shelf Lands Act as amended by the Breaux amendment strike out subparagraph (B) and insert in lieu thereof the following:

"(B) that such cancellation shall not foreclose any claim for compensation as may be required by the Constitution of the United States or any other law;"

In section 25(g)(2)(C) of such Act as amended by the Breaux substitute strike out "In the case" and all that follows through "clause (1) of this paragraph." and insert in lieu thereof "Such cancellation shall not foreclose any claim for compensation as may be required by the Constitution of the United States or any other law."

Mr. WIGGINS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WIGGINS. Mr. Chairman, the pending amendment corrects a fundamental error in the bill.

The issue is whether the Congress may enact a statute which authorizes the Secretary of the Interior to enter into a lease granting to a lessee the right to explore for minerals in the OCS and to extract those minerals found in commercial quantities, but reserving the right to cancel the lease upon a finding that an important national interest would be served by the cancellation, without paying just compensation to the lessee by reason of the cancellation.

The question is not whether reasonable regulations may be issued during the term of a lease which may affect its value. Such a right, granted in the bill and in the existing Outer Continental Shelf Lands Act, is within the police power of the United States. Cancellation, however, is not regulation. It is a rejection of the lease in its entirety and extinguishes all rights of the lessee thereunder. It is, in short, a taking.

Nor is the question whether the United States, acting through the Secretary of the Interior, may effect a taking of a property right. It may do so for a public purpose. But it must provide just compensation by reason of its act. And the standard is, and must be, the reasonable value of the property taken measured at the time of the taking.

The bill fails to meet this standard. Section 204 of the bill establishes a procedure authorizing the Secretary to cancel a lease for several stated reasons, including threatened harm or damage to the marine, coastal, or human environment.

If the lease is issued before the date of enactment of this bill, the lessee is entitled to the fair value of the canceled rights. Presumably, such compensation meets constitutional standards.

But if the lease is issued after the date of enactment and is canceled, the lessee is entitled only to his investment reduced by his revenues from the leasehold to the date of cancellation. In the case of a profitable lease where investment costs have been fully amortized, the lessee would be entitled to nothing.

The only arguable justification for such a confiscation of valuable property rights without payment is that the lessee waived his fifth amendment right to just compensation by executing a lease which incorporated the provisions of a statute authorizing the Secretary to exercise such an unconscionable power.

As a matter of policy, we should not attempt to force such a waiver upon prospective lessees, because the existence of the waiver, if valid, will surely reduce the value of the lease as a whole and force bidders to discount the lease accordingly.

But more than policy is involved here. The issue is one of constitutional law.

The right to just compensation for property taken is a fundamental constitutional right. The narrow question is whether the United States may compel a person to waive that right as the price of participation in a Federal program. The question is not a novel one. On many occasions, in a variety of settings, the Supreme Court has rejected such a proposition. At issue is not a negotiated waiver; nor an estoppel based upon the acts or omissions of the lessee. Here the waiver is commanded by law. And no attempt to justify such a compelled waiver in terms of compelling national interests. The only rationale seems to be the desire to avoid paying that which is otherwise due.

The plenary power of Congress to provide for the use and disposition of public lands does not authorize the imposition of unconstitutional conditions upon such use and disposition. Were it otherwise, the Constitution would be a dead letter with respect to all those powers committed exclusively to the Central Government. But the fifth amendment was created precisely to negate such a result.

The Federal Government may not exact as a price for the participation in its programs or activities the surrender of fundamental constitutional rights without compelling reasons for doing so.

The bill before us attempts to do so without justification and it must be corrected.

The House is narrowly divided on this bill. To my colleagues who are truly in doubt and are subject to persuasion, I say this: If the present cancellation language remains in the bill, you have the best of reasons for rejecting the bill in its entirety. It is unconstitutional.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield.

Mr. FISH. I would like to say that I am familiar with the gentleman's amendment, as he knows. It had been considered by the minority some time ago, and I rise in strong support of the amendment offered by the gentleman from California.

Mr. WIGGINS. I thank the gentleman.

Mr. BREAUX. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield.

Mr. BREAUX. My concern, and I do not think the gentleman's intent is to do that, but he is not trying to give a lessee any additional rights that he may not have under existing law, under the Constitution, or any other legal operation?

Mr. WIGGINS. That is correct. The amendment merely gives him that to which he is entitled, and does not accept the formula in the gentleman's bill, which in my view does not give him that right.

Mr. BREAUX. With this understanding, I think it is a good amendment.

Mr. WIGGINS. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. WIGGINS) to the amendment in the nature of a substitute offered by the gentleman from Louisiana (Mr. BREAUX).

The amendment to the amendment in the nature of a substitute was agreed to.

Mr. FISH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will not take the time of the committee. I had intended at an earlier time to offer a substitute for the minority. At this time, I rise in strong support of the Breaux substitute for the reasons that have been amply demonstrated here today, and I call for a favorable vote on the Breaux substitute.

Mr. WIRTH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, while I am sympathetic with the thrust of the Breaux amendment as it relates to dual leasing, as it relates to the overall bidding process and the Federal Government's involvement, I have a couple of questions about two other pieces of the amendment which I would like to address to the gentleman from Louisiana, if I might.

First of all, could the gentleman explain once again—I know he did earlier—explain once again the changes that he made in the funds going to coastal management and how that shifts into revenue sharing?

Mr. BREAUX. If the gentleman will yield on that point, I will say to the gentleman that a State that is going to be affected by any offshore oil and gas development off their coastline will receive financial assistance under the programs that we have set out. A State will not have to have an ongoing coastal management program in operation in order to receive those funds. The point is, the States affected should receive some assistance, regardless of whether their State legislature has tackled the political problem of passing a program or not. I think it is important enough, if you are going to be impacted and the Federal Government recognizes that problem, as it does with the interior States, to give them some assistance.

Mr. WIRTH. I thank the gentleman.

Mr. Chairman, as the gentleman and I discussed previously, I have some real problems with the dilution of some of the money going to coastal management. I was wondering if the chairman of the committee might address the same issue.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. WIRTH. I yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Chairman, this is an issue of revenue sharing which the gentleman from Colorado brings up. The committee carefully evaluated the differences that this bill could create with the Coastal Zone Management Act. Under the Coastal Zone Management Act, where an intrusion was made in a coastal State, we felt that they ought to be compensated for a demonstrated impact; and funding is based on such impact and need.

Under the Breaux substitute, we find a 20-percent figure or a $200 million figure being reserved for some very vaguely stated positions on a formulation based on the amount of product that comes over a given State's shoreline, and not really tied to impacts.

Obviously, States such as Louisiana and Texas will take the lion's share of those funds, and they will not go to impact related to that State's problems, as funds under the Coastal Zone Management now do.

Mr. WIRTH. I thank the gentleman.

Mr. Chairman, I have one other brief question I would like to ask the gentleman with reference to changes in the air quality provisions in the OCS bill.

Would the gentleman explain the changes made in the Breaux substitute from the initial legislation?

Mr. BREAUX. If the gentleman will yield, the committee bill says that, in addition to all other Clean Air Acts—and we have a Federal Clean Air Act—the Secretary of the Interior is required to promulgate additional regulations to put in operation the Clean Air Act in the OCS areas.

My approach, however, is to say that we are not going to affect anything in the existing Clean Air Act. It is going to stay in place; it is going to stay in effect. In addition, we continue the requirement that the Secretary issue regulations requiring compliance with any requirements established by any State so far as the Clean Air Act affecting the air quality of the State.

Mr. WIRTH. I thank the gentleman. But again I have a problem with the notion of each State setting up its own set of air quality standards or perhaps moving up to the situation where we have perhaps a more Byzantine approach.

Mr. BREAUX. It will not affect the national Federal Clean Air Act. It will just allow that State to promulgate additional regulations under their State act, if they saw fit to.

Mr. STUDDS. Mr. Chairman, will the gentleman yield?

Mr. WIRTH. I yield to the gentleman from Massachusetts.

Mr. STUDDS. I thank the gentleman for yielding.

Mr. Chairman, after 3 hours of debate on the substitute offered by the gentleman from Louisiana, the gentleman has succeeded in making me—and I am sure others—forget the effect of his substitute, namely, what was known in the committee for 3 years as the Louisiana repurchase section. The revenue-sharing provisions of this substitute result in most, or an extraordinary amount, of the money going to Louisiana and Texas and very little going anywhere else.

The first version coming before this House had 100 percent of the money going to Louisiana and none of it going under the appropriation process.

Mr. WIRTH. Mr. Chairman, I would like to ask one final question of the gentleman from Louisiana (Mr. BREAUX).

Am I correct that if the Breaux substitute loses at this point, the Treen amendments will then be up, and they address the question of dual leasing and bidding; is that correct?

Mr. BREAUX. If the Breaux amendment does not pass, I intend to offer many amendments at a later time to the Murphy bill.

I would also observe that the statement of the gentleman from Massachusetts is incorrect. Any revenue in my substitute is subject clearly to the appropriation process.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Louisiana (Mr. BREAUX), as amended.

The question was taken; and the Chairman being in doubt, the Committee divided, and there were—ayes 26, noes 22.

RECORDED VOTE

Mr. YATES. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 187, noes 211, not voting 34, as follows:

[Roll No. 15]

AYES—187

Abdnor	Goldwater	Montgomery
Alexander	Gonzalez	Moore
Anderson, Ill.	Goodling	Moorhead, Calif.
Andrews, N. Dak.	Gradison	Myers, Gary
Applegate	Grassley	Myers, John
Archer	Gudger	O'Brien
Badham	Hagedorn	Pickle
Bafalis	Hall	Poage
Barnard	Hammer-schmidt	Pritchard
Bauman	Hannaford	Quayle
Beard, Tenn.	Hansen	Quie
Boggs	Harsha	Quillen
Bowen	Heftel	Railsback
Breaux	Hightower	Regula
Brinkley	Holland	Rhodes
Brown, Mich.	Holt	Risenhoover
Brown, Ohio	Horton	Roberts
Broyhill	Hubbard	Robinson
Buchanan	Huckaby	Roncalio
Burgener	Hyde	Rousselot
Burke, Fla.	Ichord	Rudd
Burleson, Tex.	Jenkins	Runnels
Butler	Johnson, Colo.	Santini
Caputo	Jones, N.C.	Sarasin
Cederberg	Jones, Okla.	Satterfield
Chappell	Jones, Tenn.	Sawyer
Clausen, Don H.	Jordan	Schroeder
Clawson, Del	Kazen	Schulze
Cleveland	Kelly	Shuster
Cochran	Kemp	Sisk
Coleman	Ketchum	Skelton
Collins, Tex.	Kindness	Slack
Conable	Krueger	Smith, Nebr.
Corcoran	Lagomarsino	Snyder
Cornwell	Latta	Spence
Coughlin	Leach	Stangeland
Crane	Livingston	Stanton
Cunningham	Lloyd, Tenn.	Steed
Daniel, Dan	Long, La.	Steiger
Daniel, R. W.	Long, Md.	Stockman
Davis	Lott	Stump
Derwinski	Lujan	Taylor
Devine	Luken	Thone
Dickinson	Lundine	Treen
Dornan	McClory	Trible
Duncan, Tenn.	McDade	Vander Jagt
Edwards, Ala.	McDonald	Volkmer
Edwards, Okla.	McEwen	Waggonner
English	McKay	Walker
Erlenborn	McKinney	White
Evans, Del.	Madigan	Whitehurst
Fish	Mahon	Whitley
Flippo	Mann	Whitten
Flowers	Marlenee	Wiggins
Flynt	Marriott	Wilson, Tex.
Forsythe	Martin	Winn
Fountain	Mathis	Wright
Frenzel	Mattox	Wylie
Frey	Michel	Young, Alaska
Fuqua	Milford	Young, Fla.
Gammage	Miller, Ohio	Young, Mo.
Glickman	Mitchell, N.Y.	Young, Tex.
	Moliohan	

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Addabbo	Baucus	Bonior
Akaka	Beard, R.I.	Brademas
Allen	Bedell	Breckinridge
Ambro	Beilenson	Brodhead
Ammerman	Benjamin	Brown, Calif.
Anderson, Calif.	Bennett	Burke, Mass.
	Bevill	Burlison, Mo.
Andrews, N.C.	Biaggi	Burton, John
Annunzio	Bingham	Burton, Phillip
Ashley	Blanchard	Byron
Aspin	Blouin	Carney
AuCoin	Boland	Carr
Baldus	Bolling	Carter

Cavanaugh	Holtzman	Patterson
Chisholm	Howard	Pattison
Clay	Hughes	Pease
Cohen	Jacobs	Perkins
Collins, Ill.	Jeffords	Pike
Conte	Jenrette	Pressler
Conyers	Johnson, Calif.	Preyer
Corman	Kastenmeier	Price
Cornell	Keys	Pursell
Cotter	Kildee	Rahall
D'Amours	Kostmayer	Rangel
Danielson	Krebs	Reuss
Delaney	LaFalce	Richmond
Dellums	Le Fante	Rinaldo
Derrick	Lederer	Roe
Dicks	Leggett	Rogers
Diggs	Lehman	Rooney
Dingell	Lent	Rose
Dodd	Levitas	Rosenthal
Downey	Lloyd, Calif.	Rostenkowski
Drinan	McCloskey	Roybal
Duncan, Oreg.	McCormack	Russo
Early	McFall	Scheuer
Eckhardt	McHugh	Seiberling
Edgar	Maguire	Sharp
Edwards, Calif.	Markey	Shipley
Eilberg	Marks	Simon
Emery	Mazzoli	Skubitz
Ertel	Meeds	Smith, Iowa
Evans, Colo.	Metcalfe	Solarz
Evans, Ga.	Meyner	Spellman
Evans, Ind.	Mikulski	St Germain
Fary	Miller, Calif.	Staggers
Fascell	Mineta	Stark
Fenwick	Minish	Steers
Fisher	Mitchell, Md.	Stokes
Fithian	Moakley	Stratton
Flood	Moffett	Studds
Florio	Moorhead, Pa.	Traxler
Foley	Moss	Tsongas
Ford, Mich.	Mottl	Udall
Ford, Tenn.	Murphy, Ill.	Ullman
Fowler	Murphy, N.Y.	Van Deerlin
Fraser	Murphy, Pa.	Vanik
Gaydos	Murtha	Vento
Gephardt	Myers, Michael	Walgren
Gilman	Natcher	Waxman
Ginn	Neal	Weaver
Gore	Nedzi	Weiss
Hamilton	Nix	Whalen
Hanley	Nolan	Wirth
Harkin	Nowak	Wolff
Harrington	Oakar	Wydler
Harris	Oberstar	Yates
Hawkins	Obey	Yatron
Heckler	Ottinger	Zablocki
Hefner	Panetta	Zeferetti
Hollenbeck	Patten	

NOT VOTING—34

Armstrong	Hillis	Symms
Ashbrook	Ireland	Teague
Bonker	Kasten	Thompson
Brooks	Mikva	Thornton
Broomfield	Nichols	Tucker
Burke, Calif.	Pepper	Walsh
de la Garza	Pettis	Wampler
Dent	Rodino	Watkins
Findley	Ruppe	Wilson, Bob
Giaimo	Ryan	Wilson, C. H.
Gibbons	Sebelius	
Guyer	Sikes	

The Clerk announced the following pairs:

On this vote:

Mr. Brooks for, with Mr. Thompson against.
Mr. Nichols for, with Mr. Dent against.
Mr. Ireland for, with Mr. Rodino against.
Mr. Sikes for, with Mr. Bonker against.
Mr. Teague for, with Ms. Burke of California against.
Mr. Sebelius for, with Mr. Charles H. Wilson of California against.
Mr. Guyer for, with Mr. Mikva against.
Mr. Ashbrook for, with Mr. Pepper against.
Mr. Broomfield for, with Mr. Ryan against.

Mr. HORTON changed his vote from "no" to "aye."

So the amendment in the nature of a substitute, as amended, was rejected.

The result of the vote was announced as above recorded.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. FISH

Mr. FISH. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. FISH: Strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Outer Continental Shelf Lands Act Amendments of 1978".

TABLE OF CONTENTS

TITLE I—FINDINGS AND PURPOSES WITH RESPECT TO MANAGING THE RESOURCES OF THE OUTER CONTINENTAL SHELF

FINDINGS

SEC. 101. The Congress finds and declares that—

(1) the demand for energy in the United States is increasing and will continue to increase for the foreseeable future;

(2) domestic production of oil and gas has declined in recent years;

(3) the United States has become increasingly dependent upon imports of oil from foreign nations to meet domestic energy demand;

(4) increasing reliance on imported oil is not inevitable, but is rather subject to significant reduction by increasing the development of domestic sources of energy supply;

(5) consumption of natural gas in the United States has greatly exceeded additions to domestic reserves in recent years;

(6) technology is or can be made available which will allow significantly increased domestic production of oil and gas without undue harm or damage to the environment;

(7) the lands and resources of the Outer Continental Shelf are public property which the Government of the United States holds in trust for the people of the United States;

(8) the Outer Continental Shelf contains significant quantities of oil and natural gas and is a vital national resource reserve which must be carefully managed so as to realize fair value, to preserve and maintain competition, and to reflect the public interest;

(9) there presently exists a variety of technological, economic, environmental, administrative, and legal problems which tend to retard the development of the oil and natural gas reserves of the Outer Continental Shelf;

(10) environmental and safety regulations relating to activities on the Outer Continental Shelf should be reviewed in light of current technology and information;

(11) the development, processing, and distribution of the oil and gas resources of the Outer Continental Shelf, and the siting of related energy facilities, may cause adverse impacts on various States and local governments;

(12) policies, plans, and programs developed by States and local governmnets in response to activities on the Outer Continental Shelf cannot anticipate and ameliorate such adverse impacts unless such States and local governments are provided with timely access to information regarding activities on the Outer Continental Shelf and an opportunity to review and comment on decisions relating to such activities; and

(13) because of the possible conflicts between exploitation of the oil and gas resources in the Outer Continental Shelf and other uses of the marine environment, including fish and shellfish growth and recovery, and recreational activity, the Federal Government must assume responsibility for the minimization or elimination of any conflict associated with such exploitation.

PURPOSES

SEC. 102. The purposes of this Act are to—

(1) establish policies and procedures for managing the oil and natural gas resources of the Outer Continetal Shelf in order to achieve national economic and energy policy goals, assure national security, reduce dependence on foreign sources, and maintain a favorable balance of payments in world trade;

(2) preserve, protect, and develop oil and natural gas resources in the Outer Continental Shelf in a manner which is consistent with the need (A) to make such resources available to meet the Nation's energy needs as rapidly as possible, (B) to balance orderly energy resource development with protection of the human, marine, and coastal environments, (C) to insure the public a fair and equitable return on the resources of the Outer Continental Shelf, and (D) to preserve and maintain free enterprise competition;

(3) provide States, and through States, local governments, which are impacted by Outer Continental Shelf oil and gas exploration, development, and production with comprehensive assistance in order to anticipate and plan for such impact, and thereby to assure adequate protection of the human environment;

(4) assure that States, and through States, local governments, have timely access to information regarding activties on the Outer Continental Shelf, and opportunity to review and comment on decisions relating to such activities, in order to anticipate, ameliorate, and plan for the impacts of such activities;

(5) assure that States, and through States, local governments, which are directly affected by exploration, development, and production of oil and natural gas are provided an opportunity to participate in policy and planning decisions relating to management of the resources of the Outer Continental Shelf;

(6) minimize or eliminate conflicts between the exploration, development, and production of oil and natural gas, and the recovery of other resources such as fish and shellfish; and

(7) insure that the extent of oil and natural gas resources of the Outer Con-

tinental Shelf is assessed at the earliest practicable time.

TITLE II—AMENDMENTS TO THE OUTER CONTINENTAL SHELF LANDS ACT

DEFINITIONS

SEC. 201. (a) Paragraph (c) of section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(c)) is amended to read as follows:

"(c) The term 'lease' means any form of authorization which is issued under section 8 or maintained under section 6 of this Act and which authorizes exploration, development, or production of (1) deposits of oil, gas, or other minerals, or (2) geothermal steam;".

(b) Such section is further amended—

(1) in subsection (d), by striking out the period and inserting in lieu thereof a semicolon; and

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

"(e) The term 'coastal zone' means the coastal water (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal States, and includes islands, transition and intertidal areas, salt marshes, wetlands, and beaches, which zone extends seaward to the outer limit of the United States territorial sea and extends inland from the shorelines to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters, and the inward boundaries of which may be identified by the several coastal States, pursuant to the authority of section 305(b)(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1454(b)(1));

"(f) The term 'affected State' means, with respect to any program, plan, lease sale, or other activity proposed, conducted, or approved pursuant to the provisions of this Act, any State—

"(1) the laws of which are declared, pursuant to section 4(a)(2) of this Act, to be the law of the United States for the portion of the outer Continental Shelf on which such activity is, or is proposed to be, conducted;

"(2) which is or is proposed to be directly connected by transportation facilities to any artificial island, installation, or other device referred to in section 4(a)(1) of this Act;

"(3) which is receiving, or in accordance with the proposed activity will receive, oil for processing, refining, or transshipment which was extracted from the outer Continental Shelf and transported directly to such State by means of vessels or by a combination of means including vessels;

"(4) which is designated by the Secretary as a State in which there is a substantial probability of significant impact on or damage to the coastal, marine, or human environment, or a State in which there will be significant changes in the social, governmental, or economic infrastructure, resulting from the exploration, development, and production of oil and gas anywhere on the outer Continental Shelf; or

"(5) in which the Secretary finds that because of such activity there is, or will be, a significant risk of serious damage, due to factors such as prevailing winds and currents, to the marine or coastal environment in the event of any oilspill, blowout, or release of oil or gas from vessels, pipelines, or other transshipment facilities;

"(g) The term 'marine environment' means the physical, atmospheric, and biological components, conditions, and factors which interactively determine the productivity, state, condition, and quality of the marine ecosystem, including the waters of the high seas, the contiguous zone, transitional and intertidal areas, salt marshes, and wetlands within the coastal zone and on the outer Continental Shelf;

"(h) The term 'coastal environment' means the physical, atmospheric, and biological components, conditions, and factors which interactively determine the productivity, state, condition, and quality of the terrestrial ecosystem from the shoreline inward to the boundaries of the coastal zone;

"(i) The term 'human environment' means the physical, esthetic, social, and economic components, conditions, and factors which interactively determine the state, condition, and quality of living conditions, recreation, air and water, employment, and health of those affected, directly or indirectly by activities occurring on the outer Continental Shelf;

"(j) The term 'Governor' means the Governor of a State, or the person or entity designated by, or pursuant to, State law to exercise the powers granted to such Governor pursuant to this Act;

"(k) The term 'exploration' means the process of searching for oil, natural gas, or other minerals, or geothermal steam, including (1) geophysical surveys where magnetic, gravity, seismic, or other systems are used to detect or imply the presence of such resources, and (2) any drilling, including the drilling of a well in which a discovery of oil or natural gas in paying quantities is made, the drilling of any additional delineation well after such discovery which is needed to delineate any reservoir and to enable the lessee to determine whether to proceed with development and production;

"(l) The term 'development' means those activities which take place following discovery of oil, natural gas, or other minerals, or geothermal steam, in paying quantities, including geophysical activity, drilling, platform construction, pipeline routing, and operation of all on-shore support facilities, and which are for the purpose of ultimately producing the resources discovered;

"(m) The term 'production' means those activities which take place after the successful completion of any means for the removal of resources, including such removal, field operations, transfer of oil, natural gas, or other minerals, or geothermal steam, to shore, operation monitoring, maintenance, and work-over drilling;

"(n) The term 'antitrust law' means—

"(1) the Sherman Act (15 U.S.C. 1 et seq.);

"(2) the Clayton Act (15 U.S.C. 12 et seq.);

"(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.);

"(4) the Wilson Tariff Act (15 U.S.C. 8 et seq.); or

"(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a);

"(o) The term 'fair market value' means the value of any oil, gas, or other mineral, or geothermal steam (1) computed at a unit price equivalent to the average unit price at which such mineral or geothermal steam was sold pursuant to a lease during the period for which any royalty or net profit share is accrued or reserved to the United States pursuant to such lease, or (2) if there were no such sales, or if the Secretary finds that there were an insufficient number of such sales to equitably determine such value, computed at the average unit price at which such mineral or geothermal steam was sold pursuant to other leases in the same region of the outer Continental Shelf during such period, or (3) if there were no sales of such mineral or geothermal steam from such region during such period, or if the Secretary finds that there are an insufficient number of such sales to equitably determine such value, at an appropriate price determined by the Secretary; and

"(p) The term 'frontier area' means any area where there has been no development of oil and gas prior to October 1, 1975, and includes the outer Continental Shelf off Southern California.".

NATIONAL POLICY FOR THE OUTER CONTINENTAL SHELF

SEC. 202. Section 3 of the Outer Continental Shelf Lands Act (43 U.S.C. 1332) is amended to read as follows:

"SEC. 3. NATIONAL POLICY FOR THE OUTER CONTINENTAL SHELF.—It is hereby declared to be the policy of the United States that—

"(1) the subsoil and seabed of the outer Continental Shelf appertain to the United States and are subject to its jurisdiction, control, and power of disposition as provided in this Act;

"(2) this Act shall be construed in such a manner that the character of the waters above the outer Continental Shelf as high seas and the right to navigation and fishing therein shall not be affected;

"(3) the outer Continental Shelf is a vital national resource reserve held by the Federal Government for the public, which should be made available for orderly development, subject to environmental safeguards, in a manner which is consistent with the maintenance of competition and other national needs;

"(4) since exploration, development, and production of the mineral resources and geothermal steam of the outer Continental Shelf will have significant impacts on coastal and noncoastal areas of the coastal States, and on other affected States, and, in recognition of the national interest in the effective management of the marine, coastal, and human environments—

"(A) such States and their affected local governments may require assistance in protecting their coastal zones and other affected areas from any temporary or permanent adverse effects of such impacts; and

"(B) such States, and through such States, affected local governments, are entitled to an opportunity to participate, to the extent consistent with the national interest, in the policy and planning decisions made by the Federal Government relating to exploration for, and development and production of, mineral resources and geothermal steam of the outer Continental Shelf;

"(5) the rights and responsibilities of all States and, where appropriate, local governments to preserve and protect their marine, human, and coastal environments through such means as regulation of land, air, and water uses, of safety, and of related development and activity should be considered and recognized; and

"(6) operations on the outer Continental Shelf should be conducted in a safe manner by well-trained personnel using technology, precautions, and techniques sufficient to prevent or minimize the likelihood of blowouts, loss of well control, fires, spillages, physical obstruction to other users of the waters or subsoil and seabed, or other occurrences which may cause damage to the environment or to property, or endanger life or health.".

LAWS APPLICABLE TO THE OUTER CONTINENTAL SHELF

SEC. 203. (a)(1) Section 4(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1333(a)) is amended—

(A) in paragraph (1), by striking out "and fixed structures" and inserting in lieu thereof ", and all installations and other devices permanently or temporarily attached to the seabed,";

(B) in paragraph (1), by striking out "removing, and transporting resources therefrom" and inserting in lieu thereof "or producing resources therefrom, or any such installation or other device (other than a ship or vessel) for the purpose of transporting such resources"; and

(C) in paragraph (2), by striking out "artificial islands and fixed structures erected thereon" and inserting in lieu thereof "those artificial islands, installations, and other devices referred to in paragraph (1) of this subsection".

(2) Section 4(b) of such Act is amended by striking out "removing or transporting by pipeline the natural resources" and inserting in lieu thereof "or producing the natural resources".

(b) Section 4(d) of such Act is amended to read as follows:

"(d) For the purposes of the National Labor Relations Act, as amended, any unfair labor practice, as defined in such Act, occurring upon any artificial island, installation, or other device referred to in subsection (a) of this section shall be deemed to have occurred within the judicial district of the State, the laws of which apply to such artificial island, installation, or other device pursuant to such subsection, except that until the President determines the areas within which such State laws are applicable, the judicial district shall be that of the State nearest the place of location of such artificial island, installation, or other device.".

(c) Section 4 of such Act is amended—

(1) in paragraph (1) of subsection (e), by striking out "the islands and structures referred to in subsection (a)", and inserting in lieu thereof "the artificial islands, installations, and other devices referred to in subsection (a)";

(2) in subsection (f), by striking out "artificial islands and fixed structures located on the outer Continental Shelf" and inserting in lieu thereof "the artificial islands, installations, and other devices referred to in subsection (a)"; and

(3) in subsection (g), by striking out "the artificial islands and fixed structures referred to in subection (a)" and inserting in lieu thereof "the artificial islands, installations, and other devices referred to in subsection (a)".

(d) Section 4(e)(1) of such Act is amended by striking out "head" and inserting in lieu thereof "Secretary".

(e) Section 4(e)(2) of such Act is amended to read as follows:

"(2) The Secretary of the Department in which the Coast Guard is operating may mark for the protection of navigation any artificial island, installation, or other device referred to in subsection (a) whenever the owner has failed suitably to mark such island, installation, or other device in accordance with regulations issued under this Act, and the owner shall pay the cost of such marking.".

(f) Section 4(e) of such Act is amended by adding at the end thereof the following new paragraph:

"(3)(A) Any owner or operator of a vessel which is not a vessel of the United States shall, prior to conducting any activity pursuant to this Act or in support of any activity pursuant to this Act within the fishery conservation zone or within fifty miles of any artificial island, installation, or other device referred to in subsection (a) of this section, enter into an agreement pursuant to this paragraph with the Secretary of the Department in which the Coast Guard is operating. Subject to the provisions of subparagraph (B) of this paragraph, such agreement shall provide that such vessel, while engaged in the conduct or support of such activities, shall be subject, in the same manner and to the same extent as a vessel of the United States, to the jurisdiction of such Secretary with respect to the laws of the United States relating to the operation, design, construction, and equipment of vessels, the tranling of the crews of vessels, and the control of discharges from vessels.

"(B) An agreement entered into between the owner or operator of a vessel and the Secretary of the Deparment in which the Coast Guard is operating pursuant to subparagraph (A) of this paragraph shall provide that such vessel shall not be subject to the jurisdiction of such Secretary with respect to laws relating to vessel design, construction, equipment, and similar matters—

"(i) if such vessel is engaged in making an emergency call (as defined by such Secretary) at any artificial island, installation, or other device referred to in subsection (a) of this section; or

"(ii) if such vessel is in compliance with standards relating to vessel design, construction, equipment, and similar matters imposed by the country in which such vessel is registered, and such standards are substantially comparable to the standards imposed by such Secretary.

"(C) As used in this paragraph—

"(i) the term 'vessel of the United States' means any vessel, whether or not self-propelled, which is documented under the laws of the United States or registered under the laws of any State;

"(ii) the term 'support of any activity' includes the transportation of resources from any artificial island, installation, or other device referred to in subsection (a) of this section; and

"(iii) the term 'fishery conservation zone' means the zone described in section 101 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1811).".

OUTER CONTINENTAL SHELF EXPLORATION AND DEVELOPMENT ADMINISTRATION

SEC. 204. Sction 5 of the Outer Continental Shelf Lands Act (43 U.S.C. 1334) is amended to read as follows:

"SEC. 5. ADMINISTRATION OF LEASING OF THE OUTER CONTINENTAL SHELF.—(a) The Secretary shall administer the provisions of this Act relating to the leasing in the outer Continental Shelf and shall prescribe or retain such regulations as necessary to carry out such provisions. The Secretary may at any time prescribe and amend such rules and regulations as he determines to be necessary and proper in order to provide for the prevention of waste and conservation of the natural resurces of the outer Continental Shelf, and the protection of correlative rights therein. Except as provided in this subsection, such regulations shall, as of the date of their promulgation, apply to all operations conducted under any lease issued or maintained under the provisions of this Act and shall be in furtherance of the policies of this Act. No regulation promulgated under this Act affecting operations commenced on an existing lease before the effective date of such regulation shall impose any additional requirements which would result in undue delays in the exploration, development, or production of resources unless the Secretary makes a finding that such regulation is necessary to prevent serious or irreparable harm or damage to health, life, property, any mineral deposits or geothermal steam resources, or to the marine, coastal, or human environment. The finding shall be final and shall not be reviewable unless arbitrary or capricious. In the enforcement of safety, environmental, and conservation laws and regulations, the Secretary shall cooperate with the relevant departments and agencies of the Federal Government and of the affected States. In the formulation and promulgation of regulations, the Secretary shall request and give due consideration to the views of the Attorney General and the Federal Trade Commission with respect to matters which may affect competition. The regulations prescribed by the Secretary under this subsection shall include, but not be limited to, provisions—

"(1) for the suspension or temporary prohibition of any operation or activity, including production, pursuant to any lease or permit (A) at the request of a lessee, in the national interest, to facilitate proper development of a lease, or to allow for the unavailability of transportation facilities, or (B) if there is a threat of serious, irreparable, or immediate harm or damage to life (including fish and other aquatic life), to property, to any mineral deposits or geothermal steam resources (in areas leased or not leased), or to the marine, coastal, or human environment, and for the extension of any permit or lease affected by such suspension or prohibition by a period equivalent to the period of such suspension or prohibition. except that no permit or lease shall be so extended when such suspension or prohibition is the result of gross negligence or willful violation of such lease or permit, or of regulations issued concerning such lease or permit;

"(2) with respect to cancellation of any lease or permit—

"(A) that such cancellation may occur at any time, if the Secretary determines, after a hearing, that—

"(i) continued activity pursuant to such lease or permit would probably cause serious harm or damage to life (including fish and other aquatic life), to property, to any mineral deposits or geothermal steam resources (in areas leased or not leased), to the national security or defense, or to the marine, coastal, or human environments;

"(ii) the threat of harm or damage will not disappear or decrease to an acceptable extent within a reasonable period of time; and

"(iii) the advantages of cancellation outweigh the advantages of continuing such lease or permit in force; and

"(B) that such cancellation shall—

"(i) not occur unless and until operations under such lease or permit have been under suspension or temporary prohibition by the Secretary (with due extension of any lease or permit term) for a total period of five years or for a lesser period, in the Secretary's discretion, upon request of the lessee or permittee; and

"(ii) entitle the lessee to receive such compensation as he shows to the Secretary as being equal to the fair value of the canceled rights as of the date of cancellation, taking account of both anticipated revenues from the lease and anticipated costs, including costs of compliance with all applicable regulations and operating orders, liability for cleanup costs or damages, or both, in the case of an oil spill, and all other costs reasonably anticipated on such lease;

"(3) for the subsurface storage of oil and gas other than by the Federal Government; and

"(4) for the establishment of air quality standards for operations on the outer Continental Shelf under this Act.

"(b) The issuance and continuance in effect of any lease, or of any extension, renewal, or replacement of any lease, under the provisions of this Act shall be conditioned upon compliance with the regulations issued under this Act if the lease is issued under the provisions of section 8 hereof, or with the regulations issued under the provisions of section 6(b), clause (2), hereof, if the lease is maintained under the provisions of section 6 hereof.

"(c) Whenever the owner of a nonproducing lease fails to comply with any of the provisions of this Act, or of the lease, or of the regulations issued under this Act if the lease is issued under the provisions of section 8 hereof, or of the regulations issued under the provisions of section 6(b), clause (2), hereof, if the lease is maintained under the provisions of section 6 hereof, such lease may be canceled by the Secretary, subject to the right of judicial review as provided in this Act, if such default continues for the period of thirty days after mailing of notice by registered letter to the lease owner at his record post office address.

"(d) Whenever the owner of any producing lease fails to comply with any of the provisions of this Act, or of the lease, or of the regulations issued under this Act if the lease is issued under the provisions of section 8 hereof, or of the regulations issued under the provisions of section 6(b), clause (2), hereof, if the lease is maintained under

the provisions of section 6 hereof, such lease may be forfeited and canceled by an appropriate proceeding in any United States district court having jurisdiction under the provisions of this Act.

"(e) Rights-of-way through the submerged lands of the outer Continental Shelf, whether or not such lands are included in a lease maintained or issued pursuant to this Act, may be granted by the Secretary for pipeline purposes for the transportation of oil, natural gas, sulfur, or other mineral, or geothermal steam, under such regulations and upon such conditions as may be prescribed by the Secretary, or where appropriate the Secretary of Transportation, and upon the express condition that such oil or gas pipelines shall transport or purchase without discrimination, oil or natural gas produced from such lands in the vicinity of the pipeline in such proportionate amounts as the Federal Power Commission, in the case of gas, and the Interstate Commerce Commission, in consultation with the Administrator of the Federal Energy Administration, in the case of oil, may, after a full hearing with due notice thereof to the interested parties, determine to be reasonable, taking into account, among other things, conservation and the prevention of waste. Failure to comply with the provisions of this section or the regulations and conditions prescribed under this section shall be grounds for forfeiture of the grant in an appropriate judicial proceeding instituted by the United States in any district court of the United States having jurisdiction under the provisions of this Act.

"(f)(1) In administering the provisions of this Act, the Secretary shall coordinate the activities of any Federal department or agency having authority to issue any license, lease, or permit to engage in any activity related to the exploration, development, or production of oil or gas from the outer Continental Shelf for purposes of assuring that, to the maximum extent practicable, inconsistent or duplicative requirements are not imposed upon any applicant for, or holder of, any such license, lease, or permit.

"(2) The head of any Federal department or agency who takes any action which has a direct and significant effect on the outer Continental Shelf or its development shall promptly notify the Secretary of such action. The Secretary shall thereafter notify and consult with the Governor of any affected State and may thereafter recommend such change or changes in such action as are considered appropriate.

"(g) After the date of enactment of this section, no holder of any oil and gas lease issued or maintained pursuant to this Act shall be permitted to flare natural gas from any well unless the Secretary finds that there is no practicable way to complete production of such gas, or that such flaring is necessary to alleviate a temporary emergency situation or to conduct testing or work-over operations.".

REVISION OF BIDDING AND LEASE ADMINISTRATION

SEC. 205. (a) Subsections (a) and (b) of section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337 (a) and (b)) are amended to read as follows:

"(a)(1) The Secretary is authorized to grant to the highest responsible qualified bidder or bidders by competitive bidding, under regulations promulgated in advance, an oil and gas lease on submerged lands of the outer Continental Shelf which are not covered by leases meeting the requirements of subsection (a) of section 6 of this Act. The bidding shall be by sealed bid and, at the discretion of the Secretary, on the basis of—

"(A) cash bonus bid with a royalty at not less than 12½ per centum fixed by the Secretary in amount or value of the production saved, removed, or sold;

"(B) variable royalty bid based on a per centum of the production saved, removed, or sold, with a cash bonus as determined by the Secretary;

"(C) cash bonus bid with diminishing or sliding royalty based on such formulae as the Secretary shall determine as equitable to encourage continued production from the lease area as resources diminish, but not less than 12½ per centum at the beginning of the lease period in amount or value of the production saved, removed, or sold;

"(D) cash bonus bid with a fixed share of the net profits of not less than 30 per centum to be derived from the production of oil and gas from the lease area;

"(E) fixed cash bonus with the net profit share reserved as the bid variable;

"(F) cash bonus bid with a royalty at not less than 12½ per centum fixed by the Secretary in amount or value of the production saved, removed, or sold and a per centum share of net profits of not less than 30 per centum to be derived from the production of oil and gas from the lease area;

"(G) fixed cash bonus of not less than sixty-two dollars per hectare with a work commitment stated in a dollar amount as the bid variable;

"(H) a fixed royalty at not less than 12½ per centum in amount or value of the production saved, removed, or sold, or a fixed per centum share of net profits of not less than 30 per centum to be derived from the production of oil and gas from the lease area, with a work commitment stated in a dollar amount as the bid variable;

"(I) a fixed cash bonus of not less than sixty-two dollars per hectare, with a fixed royalty of not less than 12½ per centum in amount or value of the production saved, removed, or sold, or a fixed per centum share of net profits of not less than 30 per centum to be derived from the production of oil and gas from the lease area with a work commitment stated in dollar amounts as the bid variable; or

"(J) any modification of bidding systems authorized in subparagraphs (A) through (I) of this paragraph and any other systems of bid variables, terms, and conditions which the Secretary determines to be useful to accomplish the purposes and policies of this section, including leasing systems in which exploration lessees share in the costs of exploration and the consideration received from sale of subsequent leases for development and production, notwithstanding any inconsistent provisions of sections 8(b)(4), 8(k), and 9 of this Act, except that any payment in connection with any bidding system authorized pursuant to this subparagraph shall not exceed amounts appropriated for that purpose by Congress.

"(2) The Secretary may, in his discretion, defer any part of the payment of the cash bonus, as authorized in paragraph (1) of this subsection, according to a schedule announced at the time of the announcement of the lease sale, but such payment shall be made in total no later than five years from the date of the lease sale.

"(3) The Secretary may, in order to promote increased production on the lease area, through direct, secondary, or tertiary recovery means, reduce or eliminate any royalty or net profit share set forth in the lease for such area.

"(4)(A) Before utilizing any bidding system authorized in subparagraphs (C) through (J) of paragraph (1), the Secretary shall establish such system by rule.

"(B) Not later than thirty days before the effective date of any rate prescribed under subparagraph (A) or (B) of this paragraph, the Secretary shall transmit such rule to Congress.

"(5)(A) The Secretary shall utilize the bidding alternatives from among those authorized by this subsection, in accordance with subparagraph (B) of this paragraph, so as to accomplish the purposes and policies of this Act, including (i) providing a fair return to the Federal Government, (ii) increasing competition, (iii) assuring competent and safe operations, (iv) avoiding undue speculation, (v) avoiding unnecessary delays in exploration, development, and production, (vi) discovering and recovering oil and gas, (vii) developing new oil and gas resources in an efficient and timely manner, and (viii) limiting administrative burdens on government and industry. In order to select a bid to accomplish these purposes and policies, the Secretary may, in his discretion, require each bidder to submit bids for any area of the Outer Continental Shelf in accordance with more than one of the bidding alternatives set forth in paragraph (1) of this subsection.

"(B) During the five-year period commencing on the date of enactment of this subsection, the Secretary may, in order to obtain statistical information to determine which bidding alternatives will best accomplish the purposes and policies of this Act, require each bidder to submit bids for any area of the Outer Continental Shelf in accordance with more than one of the bidding systems set forth in paragraph (1) of this subsection. For such statistical purposes, leases may be awarded using a bidding alternative selected at random or determined by the Secretary to be desirable for the acquisition of valid statistical data and otherwise consistent with the provisions of this Act.

"(C) The bidding systems authorized by subparagraphs (C) through (I) of paragraph (1) of this subsection shall be applied to not less than 10 per centum and not more than 30 per centum of the total area offered for lease each year during the five-year period beginning on the date of enactment of this subsection, unless the Secretary determines that the requirement set forth in this subparagraph is inconsistent with subparagraph (A) of this paragraph.

"(D) Within six months after the end of each fiscal year, the Secretary shall report to the Congress with respect to the use of the various bidding options provided for in this subsection. Such report shall include—

"(i) the schedule of all lease sales held during such year and the bidding system or systems utilized;

"(ii) the schedule of all lease sales to be held the following year and the bidding system or systems to be utilized;

"(iii) the benefits and costs associated with conducting lease sales using the various bidding systems;

"(iv) if applicable, the reasons why a particular bidding system has not been or will not be utlized; and

"(v) an analysis of the capability of each bidding system to accomplish the purposes and policies stated in subparagraph (A) of this paragraph.

"(6)(A) In any lease sale where the bidding system authorized by subparagraph (A) of paragraph (1) of this subsection and any one or more of the bidding systems authorized by subparagraphs (B) through (J) of paragraph (1) of this subsection are to be used, the Secretary may publicly choose, by a random selection method, those tracts which are to be offered under the bidding system authorized by such subparagraph (A) and those which are to be offered under one or more of the bidding systems authorized by such subparagraphs (B) through (J).

"(B) The selection of tracts under this paragraph shall occur after receipt by the Secretary of public nominations of lease tracts to be included in a proposed lease sale, but before the initial announcement of the tracts selected for inclusion in such proposed lease sale.

"(C) Before selection of tracts under this paragraph for inclusion in the proposed lease

sale, the Secretary shall publish a notice in the Federal Register describing the random selection method to be used.

(7) Not later than thirty days before any lease sale, the Secretary shall submit to the Congress and publish in the Federal Register a notice—

(A) identifying any bidding system which will be utilized for such lease sale and the reasons for the utilization of such bidding system; and

(B) designating the lease tracts selected which are to be offered in such sale under the bidding system authorized by subparagraph (A) of paragraph (1) and the lease tracts selected which are to be offered under any one or more of the bidding systems authorized by subparagraphs (B) and through (J) of paragraph (1), and the reasons such lease tracts are to be offered under a particular bidding system.

"(b) An oil and gas lease issued pursuant to this section shall—

"(1) be for a tract consisting of a compact area not exceeding five housand seven hundred and sixty acres, as the Secretary may determine, unless the Secretary finds that a larger area is necessary to comprise a reasonable economic production unit;

"(2) be for an initial period of—

"(A) five years; or

(B) not to exceed ten years where the Secretary finds that such longer period is necessary to encourage exploration and development in areas of unusually deep water or unusually adverse weather conditions,

and as long after such initial period as oil or gas may be produced from the area in paying quantities, or drilling or well reworking operations as approved by the Secretary are conducted thereon;

"(3) require the payment of amount or value as determined by one of the bidding systems set forth in subsection (a) of this section;

"(4) entitle the lessee to explore, develop, and produce oil and gas resources contained within the lease area, conditioned upon due diligent requirements and the approval of the development and production plan required by this Act;

"(5) provide for suspension or cancellation of the lease during the initial lease term or thereafter pursuant to section 5 of this Act; and

"(6) contain such rental and other provisions as the Secretary may prescribe at the time of offering the area for lease.".

(b) Section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) is further amended by relettering subsections (c) through (j), and all references thereto, as subsections (h) through (o), respectively, and by inserting immediately after subsection (b) the following new subsections:

"(c) No lease issued under this Act may be sold, exchanged, assigned, or otherwise transferred except with the approval of, and subject to renegotiation by, the Secretary. Prior to any such approval, the Secretary shall consult with and give due consideration to the views of the Attorney General and the Federal Trade Commission.

"(d) Nothing in this Act shall be deemed to convey to any person, association, corporation, or other business organization immunity from civil or criminal liability, or to create defenses to actions, under any antitrust law.

"(e) (1) Prior to the sale of any lease under this Act after the date of enactment of this section with respect to which production may, in the judgment of the Secretary or in the judgment of the Governor of any affected State, result in the drainage of oil or gas from lands of such State, the Secretary shall—

"(A) if the lands of such State have been or are about to be leased or otherwise utilized for exploration, development, or production by such State, offer the Governor of such State an opportunity to enter into an agreement for unitary exploration, development, and production of the Federal and State lands; or

"(B) if such State has not or is not about to so lease or utilize such lands, offer the Governor of such State the opportunity to enter into an agreement for the disposition of bonuses, royalties, and other revenues which may be generated by such lease in order to insure a fair and equitable distribution of such bonuses, royalties, and other revenues between such State and the Federal Government.

"(2) (A) If an agreement described in paragraph (1) (A) or (1) (B) of this subsection is not entered into within 60 days after the date on which the Secretary first offers the appropriate Governor an opportunity to enter into such agreement, or within such longer period as the Secretary may in his discretion allow, the Secretary may proceed with the sale of the lease. Thereafter, upon an allegation by the Governor of the State or a determination by the Secretary that drainage from State lands is occurring due to activities pursuant to the lease, the Secretary shall institute negotiations with the Governor of the State for the equitable division of the bonuses, royalties, and other revenues from such lease.

"(B) If, within six months after the date on which negotiations are commenced pursuant to subparagraph (A) of this paragraph, an equitable division is not agreed to by the Secretary and the Governor of the State, either party may initiate a suit in the appropriate district court of the United States for an equitable division of the bonuses, royalties, and other revenues from the lease.

"(C) Notwithstanding any other provision of this paragraph, the Secretary shall not be required to institute negotiations pursuant to subparagraph (A) of this paragraph unless the Governor of the State agrees to institute similar negotiations in any case in which operations on lands of such State may result in the drainage of oil or gas from Federal lands.

"(3) Notwithstanding any other provision of this Act, the Secretary shall deposit in a separate account in the Treasury of the United States 50 per centum of all bonuses, royalties, and other revenues attributable to oil and gas pools underlying both the outer Continental Shelf and submerged lands subject to the jurisdiction of any coastal State until such time as the Secretary and the Governor of such coastal State agree on, or if the Secretary and the Governor of such coastal State cannot agree, as a district court of the United States determines, the fair and equitable disposition of such bonuses, royalties, and other revenues and any interest which has accrued and the proper rate of payments to be deposited in the treasuries of the Federal Government and such coastal State.

"(f) Nothing contained in this section shall be construed to alter, limit, or modify any claim of any State to any jurisdiction over, or any right, title, or interest in, any submerged lands.".

(c) Section 8(j) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(j)), as relettered by subsection (b) of this section, is amended—

(1) by inserting "and leases of geothermal steam" immediately after "sulphur"; and

(2) by inserting "or geothermal steam" immediately after "such mineral".

GEOLOGICAL AND GEOPHYSICAL EXPLORATIONS

SEC. 206. Section 11 of the Outer Continental Shelf Lands Act (43 U.S.C. 1340) is amended by inserting "(a)" immediately before "Any" and by adding at the end thereof the following new subsections:

"(b) Except as provided in subsection (e) of this section, beginning ninety days after the date of enactment of this subsection, no exploration pursuant to any oil and gas lease issued or maintained under this Act may be undertaken by the holder of such lease, except in accordance with the provisions of this section.

"(c) (1) Except as otherwise provided in this Act, prior to commencing exploration pursuant to any oil and gas lease issued or maintained under this Act, the holder thereof shall submit an exploration plan to the Secretary for approval. Such plan may apply to more than one lease held by a lessee in any one region of the outer Continental Shelf, or by a group of lessees acting under a unitization, pooling, or drilling agreement, and shall be approved by the Secretary if he finds that such plan is consistent with the provisions of this Act, regulations prescribed under this Act, and the provisions of such lease or leases. The Secretary shall require such modifications or remodifications of such plan as are necessary to achieve such consistency. The Secretary shall approve such plan, as submitted or modified, within thirty days of its submission or resubmission, except that the Secretary shall disapprove such plan if he determines that (A) any proposed activity under such plan would result in any condition described in section 5(a) (2) (A) (i) of this Act, and (B) such propose activity cannot be modified to avoid such condition. If the Secretary disapproves a plan under the preceding sentence, he shall cancel such lease and the lessee shall be entitled to compensation in accordance with the regulations prescribed under section 5(a) (2) (B) (ii) of this Act.

"(2) An exploration plan submitted under this subsection shall include, in the degree of detail which the Secretary may by regulation require—

"(A) a schedule of anticipated exploration activities to be undertaken;

"(B) a description of equipment to be used for such activities;

"(C) the general location of each well to be drilled; and

"(D) such other information deemed pertinent by the Secretary.

"(d) (1) If a revision of an exploration plan approved under this subsection is submitted to the Secretary, the process to be used for the approval of such revision shall be the same as set forth in subsection (c) of this section.

"(2) Except as otherwise provided in this Act, all exploration activities pursuant to any lease shall be conducted in accordance with an approved exploration plan or an approved revision of such plan.

"(e) (1) Exploration activities pursuant to any lease on which a drilling permit had been issued prior to the date of enactment of this subsection shall be considered in compliance with his section, but the Secretary may require such activities to be described in an exploration plan or require a revised exploration plan.

"(2) In accordance with section 5(a) of this Act, the Secretary may require the submission of additional information or establish additional requirements on lessees conducting exploration activities pursuant to any lease issued prior to the date of enactment of this subsection.

"(f) No geological exploration shall be authorized by the Secretary under this section unless he determines that such exploration will not be unduly harmful to aquatic life in the area, result in pollution, create hazardous or unsafe conditions, unreasonably interfere with other uses of the area, or disturb any site, structure, or object of historical or archeological significance.".

ANNUAL REPORT

SEC. 207. (a) Section 15 of the Outer Continental Shelf Lands Act (43 U.S.C. 1344) is amended to read as follows:

"SEC. 1b.—ANNUAL REPORT BY SECRETARY TO CONGRESS.—Within six months after the end of each fiscal year, the Secretary shall submit to the President of the Senate and the Speaker of the House of Representatives the following reports:

"(1) A report on the leasing and production program in the outer Continental Shelf during such fiscal year, which shall include—

"(A) a detailed accounting of all moneys received and expended;

"(B) a detailed accounting of all exploration, exploratory drilling, leasing, development, and production activities;

"(C) a summary of management, supervision, and enforcement activities;

"(D) a list of all shut-in and flaring wells; and

"(E) recommendations to the Congress (i) for improvements in management, safety, and amount of production from leasing and operations in the outer Continental Shelf, and (ii) for resolution of jurisdictional conflicts or ambiguities.

"(2) A report, prepared after consultation with the Attorney General, with recommendations for promoting competition in the leasing of outer Continental Shelf lands, which shall include any recommendations or findings by the Attorney General, any plans for implementing recommended administrative changes, and drafts of any proposed legislation, and which shall contain—

"(A) an evaluation of the competitive bidding systems permitted under the provisions of section 8 of this Act, and, if applicable, the reasons why a particular bidding system has not been utilized;

"(B) an evaluation of alternative bidding systems not permitted under section 8 of this Act, and why such system or systems should or should not be utilized;

"(C) an evaluation of present measures and a description of any additional measures to encourage entry of new competitors; and

"(D) an evaluation of present measures and a description of additional measures to insure an adequate supply of oil and gas to independent refiners and distributors.".

NEW SECTIONS OF THE OUTER CONTINENTAL SHELF LANDS ACT

SEC. 208. The Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) is amended by adding at the end thereof the following new sections:

"SEC. 18. COORDINATION AND CONSULTATION WITH AFFECTED STATES AND LOCAL GOVERNMENTS.—(a) Any Governor of any affected State or the executive of any affected local government in such State may submit recommendations to the Secretary regarding the size, timing, or location of a proposed lease sale or with respect to a proposed development and production plan.

"(b) Such recommendations shall be submitted within sixty days after notice of such proposed lease sale or ninety days after receipt of such development and production plan.

"(c) The Secretary shall accept recommendations of the Governor and may accept recommendations of the executive of any affected local government if he determines, after having provided the opportunity for consultation, that they provide for a reasonable balance between the national interest and the well-being of the citizens of the affected State. For the purposes of this subsection, a determination of the national interest shall be based on the desirability of obtaining oil and gas supplies in a balanced manner and on the findings, purposes, and policies of this Act. The Secretary shall communicate to the Governor, in writing, the reasons for his determination to accept or reject such Governor's recommendations, or to implement any alternative means identified in consultation with the Governor to provide for a reasonable balance between the national interest and the well-being of the citizens of the affected State.

"(d) The Secretary's determination that recommendations are not consistent with the national interest shall be final and shall not, alone, be a basis for invalidation of a proposed lease sale or a proposed development and production plan in any suit or judicial review pursuant to this Act, unless found to be arbitrary or capricious.

"(e) The Secretary is authorized to enter into cooperative agreements with affected States for purposes which are consistent with this Act and other applicable Federal law. Such agreements may include, but not be limited to, the sharing of information, the joint utilization of available expertise, the facilitating of permitting procedures, joint planning and review, and the formation of joint surveillance and monitoring arrangements to carry out applicable Federal and State laws, regulations, and stipulations relevant to outer Continental Shelf operations both onshore and offshore.

"SEC. 19. SAFETY REGULATIONS.—(a) Upon the date of enactment of this section, the Secretary and the Secretary of the Department in which the Coast Guard is operating shall, in consultation with each other and, as appropriate, with the heads of other Federal departments and agencies promptly commence a joint study of the adequacy of existing safety regulations, and of the technology, equipment, and techniques available for the exploration, development, and production of the natural resources of the outer Continental Shelf. The results of this study shall be submitted to the President who shall submit a plan to Congress of his proposals to promote safety and health in the exploration, development, and production of the natural resources of the outer Continental Shelf.

"(b) In exercising their respective responsibilities for the artificial islands, installations, and other devices referred to in section 4(a)(1) of this Act, the Secretary, and the Secretary of the Department in which the Coast Guard is operating, shall require, on all new drilling and production operations and, wherever practicable, on existing operations, the use of the best available and safest technology which the Secretary determines to be economically feasible, wherever failure of equipment would have a significant effect on safety, health, or the environment, except where the Secretary determines that the incremental benefits are clearly insufficient to justify the incremental costs of utilizing such technology.

"(c) Within sixty days after the date of enactment of this section, the Secretary of the Department in which the Coast Guard is operating shall promulgate regulations or standards applying to diving activities in the waters above the outer Continental Shelf, and to other unregulated hazardous working conditions for which he determines such regulations or standards are necessary. Such regulations or standards may be modified from time to time as necessary, and shall remain in effect until final regulations or standards are promulgated.

"(d) Nothing in this section shall affect or duplicate any authority provided by law to the Secretary of Transportation to establish and enforce pipeline safety standards and regulations.

"(e)(1) In administering the provisions of this section, the Secretary shall consult and coordinate with the heads of other appropriate Federal departments and agencies for purposes of assuring that, to the maximum extent practicable, inconsistent or duplicative requirements are not imposed.

"(2) The Secretary shall make available to any interested person a compilation of all safety and other regulations which are prepared and promulgated by any Federal department or agency and applicable to activities on the outer Continental Shelf. Such compilation shall be revised and updated annually.

"SEC. 20. REMEDIES AND PENALTIES.—(a) At the request of the Secretary, the Attorney General or a United States attorney shall institute a civil action in the district court of the United States for the district in which the affected operation is located for a temporary restraining order, injunction, or other appropriate remedy to enforce any provision of this Act, any regulation or order issued under this Act, or any term of a lease, license, or permit issued pursuant to this Act.

"(b) If any person fails to comply with any provision of this Act, or any term of a lease, license, or permit issued pursuant to this Act, or any regulation or order issued under this Act, after notice of such failure and expiration of any reasonable period allowed for corrective action, such person shall be liable for a civil penalty of not more than $10,000 for each day of the continuance of such failure. The Secretary may assess, collect, and compromise any such penalty. No penalty shall be assessed until the person charged with a violation has been given an opportunity for a hearing.

"(c) Any person who knowingly and willfully (1) violates any provision of this Act, any terms of a lease, license, or permit issued pursuant to this Act, or any regulation or order issued under the authority of this Act designed to protect health, safety, or the environment or conserve natural resources, (2) makes any false statement, representation, or certification in any application, record, report, or other document filed or required to be maintained under this Act, (3) falsifies, tampers with, or renders inaccurate any monitoring device or method of record required to be maintained under this Act, or (4) reveals any data or information required to be kept confidential by this Act shall, upon conviction, be punished by a fine of not more than $100,000, or by imprisonment for not more than ten years, or both. Each day that a violation under clause (1) of this subsection continues, or each day that any monitoring device or data recorder remains inoperative or inaccurate because of any activity described in clause (3) of this subsection, shall constitute a separate violation.

"(d) Whenever a corporation or other entity is subject to prosecution under subsection (c) of this section, any officer or agent of such corporation or entity who knowingly and willfully authorized, ordered, or carried out the proscribed activity shall be subject to the same fines or imprisonment, or both, as provided for under subsection (c) of this section.

"(e) The remedies and penalties prescribed in this section shall be concurrent and cumulative and the exercise of one shall not preclude the exercise of the others. Further, the remedies and penalties prescribed in this section shall be in addition to any other remedies and penalties afforded by any other law or regulation.

"(f) There shall be available as a defense to any action brought against any person for violation of any Federal statute or any Federal rule, regulation, or order (other than an action for injunctive relief) that the act or omission complained of was taken or occurred as a result of compliance with the provisions of this Act or any rule, regulation, or order issued under this Act.

"SEC. 21. OIL AND GAS DEVELOPMENT AND PRODUCTION PLANS.—(a) Prior to development and production pursuant to an oil and gas lease issued after the date of enactment of this section in a frontier area, or issued or maintained prior to such date of enactment with respect to which no oil or gas have been discovered in commercial quantities prior to such date of enactment, the lessee shall submit a development and production plan (hereinafter in this section

referred to as a 'plan') to the Secretary in such form and containing such information as the Secretary by regulation prescribes.

"(b) After the date of enactment of this section, no oil and gas lease may be issued pursuant to this Act in any frontier area, unless such lease requires that development and production of reserves be carried out in accordance with a plan which complies with regulations prescribed by the Secretary under this section.

"(c)(1) As promptly as possible after the receipt of a plan submitted pursuant to this section, the Secretary shall approve, disapprove, or require modifications of such plan. The Secretary shall disapprove a plan—

"(A) if the leasee fails to demonstrate that he can comply with the requirements of this Act or other applicable Federal law, including the regulations prescribed by the Secretary pursuant to paragraph (4) of section 5(a) of this Act;

"(B) if those activities described in the plan which affect land use and water use of the coastal zone of a State with a coastal zone management program approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455) are not concurred with by such State pursuant to section 307(c) of such Act, and the Secretary of Commerce does not make the finding authorized by section 307(c)(3)(B)(iii) of such Act;

"(C) if operations threaten national security or national defense; or

"(D) if the Secretary determines, because of exceptional geological conditions in the lease area, exceptional resource values in the marine or coastal environment, or other exceptional circumstances, that (i) implementation of the plan would probably cause serious harm or damage to life (including fish and other aquatic life), to property, to any mineral deposits (in areas leased or not leased), to the national security or defense, or to the marine, coastal, or human environments, (ii) the threat of harm or damage will not disapprove or decrease to an acceptable extent within a reasonable period of time, and (iii) the advantages of disapproving the plan outweigh the advantages of development and production.

"(2)(A) If a plan is disapproved—

"(i) under subparagraph (A) of paragraph (1); or

"(ii) under subparagraph (B) of paragraph (1) with respect to a lease issued after approval of a coastal zone management program pursuant to the Coastal Zone Management Act of 1972 (16 U.S.C. 1455),

the lessee shall not be entitled to compensation because of such disapproval.

"(B) If a plan is disapproved—

"(i) under subparagraph (C) or (D) of paragraph (1); or

"(ii) under subparagraph (B) of paragraph (1) with respect to a lease issued before approval of a coastal zone management program pursuant to the Coastal Zone Management Act of 1972,

the term of the lease shall be duly extended, and at any time within five years after such disapproval, the lessee may reapply for approval of the same or a modified plan, and the Secretary shall approve, disapprove, or require modifications of a plan in accordance with this subsection.

"(C) Upon the expiration of the five-year period described in subparagraph (B) of this paragraph, or, in the Secretary's discretion, at an earlier time upon request of a lessee, if the Secretary has not approved a plan, the Secretary shall cancel the lease. In the case of any lease canceled after disapproval of a plan under such subparagraph (B), the lessee shall be entitled to receive such compensation as he shows to the Secretary is equal to the fair value of the canceled rights as of the date of cancellation taking account of both anticipated revenues from the lease and anticipated costs, including cost of compliance with all applicable regulations and operating orders, liability for cleanup costs or damages, or both, in the case of an oil spill, and all other costs reasonably anticipated with respect to the lease. The Secretary may, at any time within the five-year period described in such subparagraph (B), require the lessee to submit a plan of development and production for approval, disapproval, or modification. If the lessee fails to submit a required plan expeditiously and in good faith, the Secretary shall find that the lessee has not been duly diligent in pursuing his obligations under the lease, and shall immediately cancel such lease, without compensation, under the provisions of section 5(e) of this Act.

"(3) The Secretary shall, from time to time, review each plan approved under this section. Such review shall be based upon changes in available information and other onshore or offshore conditions affecting or impacted by development and production pursuant to such plan. If the review indicates that the plan should be revised to meet the requirements of this subsection, the Secretary shall require such revision.

"(d) Whenever the owner of any lease fails to submit a plan in accordance with regulations issued under this section, or fails to comply with an approved plan, the lease may, after notice to such owner of such failure and expiration of any reasonable period allowed for corrective action, and after an opportunity for a hearing, be forfeited, canceled, or terminated, subjected to the right of judicial review, in accordance with the provisions of this Act. Termination of a lease because of failure to comply with an approved plan, including required modifications or revisions, shall not entitle a lessee to any compensation.

"(e) If any development and production plan submitted to the Secretary pursuant to this section provides for the production and transportatfon of natural gas, the lessee shall contemporaneously submit to the Federal Power Commission that portion of such plan which relates to production of natural gas and the facilities for transportation of natural gas. The Secretary and the Federal Power Commission shall agree as to which of them shall prepare any environmental impact statement which may be required pursuant to the National Environmental Policy Act of 1969 applicable to such portion of such plan, or conduct studies as to the effect on the environment of implementing it. Thereafter, the findings and recommendations by the agency preparing such environmental impact statement or conducting any studies which they may deem desirable pursuant to that agreement shall be adopted by the other agency, and such other agency shall not independently prepare another environmental impact statement or duplicate such studies with respect to such portion of such plan, but the Federal Power Commission, in connection with its review of an application for a certificate of public convenience and necessity applicable to such transportation facilities pursuant to section 7 of the Natural Gas Act (15 U.S.C. 717), may prepare such environmental studies or statement relevant to certification of such transportation facilities as have not been covered by an environmental impact statement or studies prepared by the Secretary. The Secretary, in consultation with the Federal Power Commission, shall promulgate rules to implement this subsection, but the Federal Power Commission shall retain sole authority with respect to rules and procedure applicable to the filing of any application with the Commission and to all aspects of the Commission's review of, and action on, any such application.

"(f) An oil and gas lease issued or maintained under this Act which is located in any area which is not a frontier area shall be subject to the provisions of this section if the Secretary determines, pursuant to regulations prescribed by the Secretary, that the likely environmental or onshore impacts of the development and production of such lease make the application of the provisions of this section in the public interest.

"SEC. 22. PROHIBITION ON EXPORTS.—(a)(1) No oil produced from the Outer Continental Shelf may be exported from the United States or its territories or possessions unless such oil is—

"(A) exchanged in similar quantity for convenience of transportation or increased efficiency of transportation with persons or the government of an adjacent foreign state;

"(B) temporarily exported for convenience of transportation or increased efficiency of transportation across parts of an adjacent foreign state and reenters the United States; or

"(C) temporarily exported for the purposes of refining and reenters the United States,

unless the requirements of subsection (b) of this section are met.

"(2) No gas produced from the outer Continental Shelf may be exported from the United States or its territories or possessions unless such gas is—

"(A) exchanged in similar quantity for convenience of transportation or increased efficiency of transportation with persons of the government of an adjacent foreign state; or

"(B) temporarily exported for convenience of transportation or increased efficiency of transportation across parts of an adjacent foreign state and reenters the United States,

unless the requirements of subsection (b) of this section are met.

"(b) Oil or gas subject to the prohibition contained in subsection (a) of this section may be exported only if—

"(1) the President makes and publishes an express finding that exports of such oil or gas, as the case may be—

"(A) will not diminish the total quantity or quality of oil or gas available to the United States;

"(B) will have a positive effect on consumer oil or gas prices by decreasing the average oil acquisition costs of refiners or the average gas acquisition price of distributors;

"(C) will be made only pursuant to contracts which may be terminated if the oil or gas supplies of the United States are interrupted or seriously threatened; and

"(D) are in the national interest; and

"(2) the President reports such finding to the Congress as an energy action (as defined in section 551 of the Energy Policy and Conservation Act).

The congressional review provisions of such section 551 shall apply to an energy action reported in accordance with this paragraph, except that for purposes of this paragraph, any reference in such section to a period of fifteen calendar days of continuous session of Congress shall be deemed to be a reference to a period of sixty calendar days of continuous session of Congress and the period specified in subsection (f)(4)(A) of such section for committee action on a resolution shall be deemed to be forty calendar days.

"SEC. 23. CONFLICTS OF INTEREST.—Any full-time officer or employee of the Department of the Interior who discharged duties or responsibilities under this Act and who was at any time during the twelve months preceding the termination of his employment with the Department compensated under the Executive Schedule or compensated at or above the annual rate of basic

pay in effect for grade GS–16 of the General Schedule—

"(1) may not, at any time after the date of termination of employment with the Department, knowingly act as agent or attorney for anyone other than the United States in connection with any proceeding, regulation, order, lease, permit, or other particular matter (A) in which the United States is a party or has a direct and substantial interest, and (B) in which such officer or employee participated personally and substantially, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise while employed by the Department;

"(2) may not, during the one-year period beginning on the date of termination of employment with the Department, appear personally before any Federal court or any Federal department or agency as agent or attorney for anyone other than the United States in connection with any proceeding, regulation, order, lease, permit, or other particular matter (A) in which the United States is a party or has a direct and substantial interest, and (B) which was under the official responsibility of such officer or employee at any time during the one-year period prior to his termination of employment with the Department.".

TITLE III—AMENDMENTS TO THE COASTAL ZONE MANAGEMENT ACT OF 1972

AMENDMENTS TO THE COASTAL ZONE MANAGEMENT ACT OF 1972

SEC. 301. (a) Paragraph (1) of section 308 (b) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456a(b)(1)) is amended to read as follows:

(b)(1) There is hereby established the Outer Continental Shelf energy impact fund in the Treasury of the United States. In fiscal year 1979 and in each subsequent fiscal year, there shall be credited to the Outer Continental Shelf energy impact fund twenty per centum of the revenues due and payable to the United States for deposit in the Treasury as miscellaneous receipts under section 9 of the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1338). Amounts credited to the fund under this paragraph shall be available, as provided by appropriations Acts, to the Secretary for the purpose of making anual grants to coastal States in the fiscal year following the year of deposit in accordance with the provisions of this subsection. Such appropriations may be made without fiscal year limitation. Money credited to the fund, not subsequently appropriated by the Congress for expenditure within two fiscal years following the fiscal year in which such moneys have been credited to the fund, shall be transferred to miscellaneous receipts of the Treasury.

(b)(1) Paragraph (2) of section 308 of such Act is amended by striking out "The amounts" and inserting in lieu thereof "Subject to paragraph (3) of this subsection, the amounts".

(2) Paragraph (2)(A) of section 308(b) of such Act is amended by striking out "one-third of the amount appropriated" and inserting in lieu thereof "two-fifths of the amount available".

(3) Paragraph (2)(B) of section 308(b) of such Act is amended by striking out "one-sixth of the amount appropriated" and inserting in lieu thereof "one-fifth of the amount available".

(4) Paragraph (2)(C) of section 308(b) of such Act is amended by striking out "one-sixth of the amount appropriated" and inserting in lieu thereof "one-fifth of the amount available".

(5) Paragraph (2)(D) of section 308(b) of such Act is amended by striking out "one-third of the amount appropriated" and inserting in lieu thereof "one-fifth of the amount available".

(c) Section 308(b) of such Act is amended—

(1) by renumbering paragraphs (3) through (5), and any references thereto, as paragraphs (4) through (6), respectively; and

(2) by inserting after paragraph (2) the following new paragraph:

"(3)(A) The Secretary shall not make grants under this subsection to any state in any fiscal year the total of which exceeds 30 per centum of the total amount available to the Secretary for payment to all states in such fiscal year.

"(B) If, in any fiscal year, the total amount of funds available for making grants to coastal states pursuant to this subsection is greater than the total amount of grants payable to such states pursuant to this subsection, the difference between such two amounts shall remain in the Treasury of the United States and be credited to miscellaneous receipts.".

(d) Paragraph (5)(B)(i) of section 308(b) of such Act (as renumbered by section (c) of this section) is amended—

(1) by striking out "necessary, because of the unavailability of adequate financing under any other subsection," and inserting in lieu thereof "necessary"; and

(2) by striking out "new or expanded".

(e) Paragraph (6) of section 308(b) of such Act (as renumbered by subsection (c) of this section) is amended to read as follows:

"(6) After making the calculations provided in paragraphs (2) and (3) of this subsection, the Secretary shall require each coastal state which is to receive grants under this subsection to provide adequate assurances of being able to return to the United States any funds to which paragraph (8) of this subsection may apply. After obtaining such assurances, the Secretary shall disburse the proceeds of such grants to such coastal state.

"(7) Any coastal state which receives proceeds of any grant under this subsection only may expend or commit such proceeds—

"(A) after a determination by the Secretary that such proceeds will be expended or committed by such state in accordance with the purposes set forth in paragraph (5) of this subsection; and

"(B) before the close of the fiscal year immediately following the fiscal year in which the proceeds were received.

"(8) The United States shall be entitled to recover from any coastal state an amount equal to all or any portion of a grant made to such state under this subsection which is not expended or committed in compliance with paragraph (7) of this subsection.".

(f) Paragraph (3) of section 318(a) of such Act is amended—

(1) by striking out "8 fiscal years" and inserting in lieu thereof "3 fiscal years"; and

(2) by striking out "1984" and inserting in lieu thereof "1979".

TITLE IV—MISCELLANEOUS PROVISIONS

REVIEW OF SHUT-IN OR FLARING WELLS

SEC. 401. (a) In a report submitted within six months after the date of enactment of this Act, and in his annual report thereafter, the Secretary shall list all shut-in oil and gas wells and wells flaring natural gas on leases issued under the Outer Continental Shelf Lands Act. Each such report shall be submitted to the Comptroller General and shall indicate why each well is shut-in or flaring natural gas, and whether the Secretary intends to require production on such a shut-in well or order cessation flaring.

(b) Within six months after receipt of the Secretary's report, the Comptroller General shall review and evaluate the methodology used by the Secretary in allowing the wells to be shut-in or to flare natural gas and submit his findings and recommendations to the Congress.

REVIEW AND REVISION OF ROYALTY PAYMENTS

SEC. 402. As soon as feasible but no later than ninety days after the date of enactment of this Act, and annually thereafter, the Secretary of the Interior shall submit a report or reports to the Congress describing the extent, during the two-year period preceding such report, of delinquent royalty accounts under leases issued under any Act which regulates the development of oil and gas on Federal lands, and what new auditing, post-auditing, and accounting procedures have been adopted to assure accurate and timely payment of royalties and net profit shares. Such report or reports shall include any recommendations for corrective action which the Secretary of the Interior determines to be appropriate.

NATURAL GAS DISTRIBUTION

SEC. 403. The Federal Power Commission shall, pursuant to its authority under section 7 of the Natural Gas Act, permit any natural gas distributing company which engages, directly or indirectly, in development and production of natural gas from the Outer Continental Shelf to transport to its service area for distribution any natural gas obtained by such natural gas distributing company from such development and production. For purposes of this section, the term "natural gas distributing company" means any person (1) engaged in the distribution of natural gas at retail, and (2) regulated or operated as a public utility by a State or local government.

ANTIDISCRIMINATION PROVISIONS

SEC. 404. Each Federal agency or department given responsibility for the promulgation or enforcement of regulations under this Act or the Outer Continental Shelf Lands Act shall take such affirmative action as deemed necessary to assure that no person shall, on the grounds of race, creed, color, national origin, or sex, be excluded from receiving or participating in any activity, sale, or employment conducted pursuant to the provisions of this Act or the Outer Continental Shelf Lands Act. The agency or department shall promulgate such rules as it deems necessary to carry out the purposes of this section, and any rules promulgated under this section, through agency and department provisions and rules which shall be similar to those established and in effect under title VI of the Civil Rights Act of 1964.

SUNSHINE IN GOVERNMENT

SEC. 405. (a) Each officer or employee of the Department of the Interior who—

(1) performs any function or duty under this Act or the Outer Continental Shelf Lands Act, as amended by this Act; and

(2) has any known financial interest in any person who (A) applies for or receives any permit or lease under, or (B) is otherwise subject to, the provisions of this Act or the Outer Continental Shelf Lands Act,

shall, beginning on February 1, 1978, annually file with the Secretary of the Interior a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

(b) The Secretary of the Interior shall—

(1) within ninety days after the date of enactment of this Act—

(A) define the term "known financial interest" for purposes of subsection (a) of this section; and

(B) establish the methods by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including ap-

propriate provisions for the filing by such officers and employees of such statements and the review by the Secretary of such statements; and

(2) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

(c) In the rules prescribed in subsection (b) of this section, the Secretary may identify specific positions within the Department of the Interior which are of a nonregulatory or nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

(d) Any officer or employee who is subject to, and knowingly violates, this section shall be fined not more than $2,500 or imprisoned not more than one year, or both.

STATE MANAGEMENT PROGRAM

SEC. 406. Section 307(c)(3)(B)(ii) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456(c)(3)(B)(ii)) is amended to read as follows:

"(ii) concurrence by such state with such certification is conclusively presumed as provided for in subparagraph (A), except that the time period after which such concurrence shall be presumed shall be three months; or".

RELATIONSHIP TO EXISTING LAW

SEC. 407. Except as otherwise expressly provided in this Act, nothing in this Act shall be construed to amend, modify, or repeal any provision of the Coastal Zone Management Act of 1972, the National Environmental Policy Act of 1969, the Mining and Mineral Policy Act of 1970, or any other Act.

Mr. FISH (during the reading). Mr. Chairman, I ask unanimous consent that the further reading of the amendment in the nature of a substitute be dispensed with, that it be printed in the RECORD, and that it be open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

(By unanimous consent, Mr. FISH was allowed to proceed for 5 additional minutes.)

Mr. FISH. Mr. Chairman, I have asked unanimous consent to revise and extend my remarks on the substitute I am offering, which is the result of 2½ years of hearings and is based on provisions of H.R. 1614—I emphasize that we have worked off H.R. 1614—and has taken over 3 months to draft. As a matter of fact, we did not get the bill back from the printer until noon on Tuesday due to having to send it back for reprinting to correct the technical errors in provisions taken wholesale from H.R. 1614. I must apologize to my colleagues that with the rush to bring this bill to the floor, there has not been adequate time to fully inform them as to the contents of my substitute bill. I will attempt to do so now.

Mr. Chairman, the bill as reported out of the ad hoc select committee on the Outer Continental Shelf is basically the same as the House had before it 2 years ago—and which the House recommitted with instructions to conference, where it ultimately died. These instructions have never, to this date, been followed. H.R. 1614 not only contains the objectionable provisions which caused the House to reject the 1976 bill; but additional objectionable provisions have been added and must be altered.

I seriously doubt that the defects in H.R. 1614 can be perfected on the floor today or in several days of consideration.

After its recommittal in 1976, hearings were held in 1977, in markup in 1977 an addition of around 76 amendments were added.

On January 24, 1978, the Secretary of the Interior demonstrated his disposition by forwarding 50 additional proposed language changes.

Today, it is my understanding that about 80 amendments are pending at the desk.

Mr. Chairman, time has overtaken the work of the ad hoc committee. Last year, the Congress created the Department of Energy, granting it responsibility for leasing. Members respected for their expertise—like the gentleman from Ohio—in energy policy will be perusing this as my substitute is considered.

Mr. Chairman, we are told that the need for haste in the passage of this inperfect legislation is that a law suit in Massachusetts will hold up lease sales in the North Atlantic. Mr. Chairman, there is no objection to a fishermen's gear compensation fund which will unlock this problem. This can be acted on separately and with dispatch.

The opportunity now is ours to accept a substitute that will permit the House to work its will in a responsible fashion.

The substitute amends the Outer Continental Shelf Lands Act of 1953, and the Coastal Zone Management Act to provide new authority for the management of oil, gas, geothermal steam and other resources on the public lands of the OCS in order to expedite a systematic and, judicial development of these energy resources, provide the maximum practicable protection for the marine and coastal environment, and to provide for the greatest possible financial return to the public for the leasing of their energy resources on the OCS.

The need for maximum and expeditious development of all of our domestic resources cannot be questioned by anyone who has watched our decline in domestic energy production, and our increased dependence on imported oil.

In our substitute, we have made every effort to clear away matters which will cost the taxpayer money in lost revenues, which will delay exploration and development of the OCS. The substitute is only 40 percent as long as H.R. 1614. We have eliminated, for example, all of the parts of the bill which simply codify regulations which have been promulgated under Secretaries of the Interior in recent years. We should not limit the flexibility of future Secretaries to solve as yet unperceived problems. By freezing regulations into statutory law, we in the Congress will put ourselves in the position of having to revise the law when, under the present law, the Secretary can do this himself by regulation.

We think it is by far the wiser course to allow the Secretary flexibility to react to continued growth and operational change as OCS operations move into the presently untouched frontier areas off Alaska and the east coast.

Mr. Chairman, the purpose of the Ad Hoc Select Committee on the OCS was to update the OCS Lands Act of 1953, in order to expedite a systematic and judicial development of our energy resources on the OCS; provide the maximum possible protection to the human, marine and coastal environment; provide for cooperation between the State and Federal Governments; and provide for the greatest possible financial return to the public for the leasing of their energy resources on the OCS. It was not created to draft legislation which would create a morass of Government redtape; create as many as 40 new, and in many cases, unneeded sets of regulations; duplicate legal authority already existing in regulation; or create an immediate and potentially long-term loss of revenues to the Federal Government by leaving money now paid into the Treasury in the coffers of big oil. However, this is exactly what the majority has done in drafting H.R. 1614.

Not only will H.R. 1614 create the above situations, but it is filled with technical errors, and provisions that are inoperative due to incorrect references—many of which were not found until our substitute was drafted. Such errors will undoubtedly give rise to delay-causing lawsuits where none could now be filed. In preparing our substitutes we attempted to correct these errors. Many of these corrections, as well as some of the substantive changes made in the substitute, are either identical or similar to the administration amendments recently received from the Department of the Interior. For instance, the Fish substitute would delete section 31 in H.R. 1614, and would guarantee consistency of title III and H.R. 6803, the omnibus oil spill bill which has already passed the House. The substitute deletes this from H.R. 1614, and allows this major piece of legislation to proceed on its own.

The technical errors and inoperative provisions, which are the subject of 50 administration amendments, have been corrected in the substitute, and the duplication of authority as well as the inclusion of regulations as major provisions of the bill has been eliminated.

More important are the substantive changes my substitute makes in H.R. 1614, which will be expanded upon during consideration of my substitute.

A major change that the substitute makes in H.R. 1614, and is the center of a great deal of controversy and apparently misunderstanding, is section 205, and the alternative bidding systems it contains. This will be dealt with by Mr. FORSYTHE.

Another provision in section 205 of H.R. 1614 that is changed by my substitute concerns suspension, cancellation, and compensation. The reasons for which

suspension and cancellation of a lease can occur remain the same as those in H.R. 1614, except that my bill eliminates the provision that would allow the Secretary to pay less than fair value for property taken.

One of the major objections to H.R. 1614 is its encouragement of Government exploration for oil and gas, including giving the Secretary specific authority to conduct core and test drilling. My substitute retains the language of the original law, under which no Secretary of the Interior has conducted Federal exploration.

I want to take this time to remind the Members of the House of one of the provisions in the Senate-passed OCS bill, the so-called Durkin amendment, which calls for an actual inventory of OCS energy resources. This is Federal exploration no matter how you look at it.

H.R. 1614 contains a watered-down version of this Durkin amendment, which clearly points the way for the Government to get into the oil business. It appears clear to me that going to conference with this provision in H.R. 1614, can only result in the inclusion of specific authority for extensive Federal exploration in the final work product of the conference committee.

The need for Federal exploration has never been demonstrated and would clearly be unwise, particularly since it would then cost the taxpayers to get information that it now gets free from private industry permittees. Bureaucrats would prove themselves even less capable of finding oil than they already have shown themselves to be at delivering the mail.

I would also remind my colleagues that this was one of the points that caused the House to kill this bill in 1976. I know of nothing that has occurred that should alter any viewpoints on this subject.

Another major provision that caused the bill to be recommitted to conference in the last Congress was the provision expanding the scope of OSHA.

H.R. 1614 still contains a significant expansion of OSHA and the arguments to include it in this year's bill are even weaker than they were in 1976. This defeat will be expanded on by the gentleman from Louisiana (Mr. TREEN).

Another change my substitute makes strikes the detailed requirements of establishing development and production plans, since such requirements already exist in regulation under the present law.

My substitute also provides for disapproval of exploration plans under certain extreme circumstances, and then makes the lessee eligible for cancellation and compensation where a development and production plan is disapproved. This is the direct subject of one of the administration's amendments. As drafted, H.R. 1614's provision is unworkable since it does not provide for any final action if an exploration plan is not approved within 30 days. The plan should be either approved or disapproved so that work can go forward or the lease can be canceled.

Another major point of debate has been the subject of dual leasing. The inclusion of this system in the particular form found in H.R. 1614 makes no sense. Testimony before our committee made it clear that nobody thinks that it could ever work in that form.

Under current law, an area is offered for lease, and the winning bidder explores, develops, and produces any oil or gas he finds. Under the proposed dual leasing provision, the Government would first offer an area for lease for exploration, and at some undefinable point when he determines that exploration is completed, the area will be offered for sale yet another time for development and production. Doubling the number of sales will lengthen the time before production can be expected to come ashore doubling the administrative steps that are now taken. It may also double the number of law suits which will arise.

In closing, Mr. Chairman, I wish to point out that in contrast to the sheer bulk of H.R. 1614, my substitute is a concise, simplified, clean bill that will accomplish the purposes for which the ad hoc select committee was created. It will provide for an orderly and systematic development and production of our energy resources on the OCS. It allows States to have their proper role in assuring the protection of their vested interests, guarantees ample financial returns to the Treasury and protects the human, marine, and coastal environment. I ask the Members of this body to join with me in protecting the Treasury and in rejecting the empty rhetoric of those who struggle to maintain outdated positions as expressed in H.R. 1614.

Mr. FORSYTHE. Mr. Chairman, I rise in support of the Fish substitute amendment.

Mr. Chairman, section 205 of H.R. 1614 not only contains the traditional and proven bonus bids with a minimum royalty of 12½ percent, and the variable bonus with sliding royalty, but has specified seven new systems, as well as granting an additional authority for the Secretary to establish systems of his own. These systems are untried and unknown, yet must be used in at least 50 percent of the areas offered for lease. If the Secretary determines that use of these systems would be detrimental to the public by decreasing revenues to the Treasury, he must still use them until he reports to Congress and either House approves his finding.

In addition, before he can use any of these systems, he must do so through the administrative procedure of "by rule, on the record", which is legal lingo for a full blown agency hearing, calling for an advisary proceeding. This is time consuming and expensive, and little more than can be done simply "by rule", which can be either a full agency hearing, or simply "notice and comment" at the discretion of the Secretary. In addition, H.R. 1614 requires that for the sake of experimentation, the Secretary must use a random selection method for the purpose of selecting the tracts.

Mr. Chairman, not only are these provisions extremely time consuming, thereby causing unneeded delays, but they will tie the hands of the Secretary, tie the administration's hands, and will cost untold dollars in lost revenues.

The Fish substitute has revised this section to assure fullest possible competition, return fair revenues to the Treasury, provide flexibility in the management of our lease sales, and open the processes of the administrative branch to public scrutiny and congressional review.

The Fish substitute retains all of the bidding systems that exist in H.R. 1614, unchanged. It mandates the use of these systems, but to a maximum of 30 percent, with a minimum of 10 percent. While the older bonus bid system may still be the most profitable way of offering the energy resources of lease, we give the administration the opportunity to determine if, indeed, these new systems do offer greater potential in some situations. We have also given the administration the flexibility it seeks in one of its recently submitted amendments by deleting the provision calling for congressional approval before any departure from the mandated use of the alternative systems. Instead, the substitute gives the Secretary the authority not to use a system if he finds that the use of the system will be contrary to the purposes for which they were created. These purposes are outlined on pages 159 and 160 of H.R. 1614.

The Fish substitute and H.R. 1614 both call for an annual report on the use of bidding systems. However, since the Secretary is not bound by this report in H.R. 1614, the substitute requires that the Secretary, 30 days before any lease sale, publish in the Federal Register and report to Congress explaining his choice of tracts and bidding systems. In this way, the activities of the administrative branch are more open to public and congressional scrutiny.

We feel these are very important points, primarily because the alternative experimental systems are just that—experimental and unknown. Perhaps, as some claim, they do indeed offer greater potential than does the older, more proven, bonus bid system. But let me put it to you clearly and succinctly—these are indeed unknown systems, as pointed out by the Congressional Budget Office, which stated that they could not even estimate what the return from their use would be. Before we start the irreversible use of these systems, which could easily result in the wholesale giveaway of our energy resources, we should sample them. Once it is let, we cannot undo the leasc.

Another aspect of the use of bidding systems which has become the subject of concern is the effect on revenues generated by our OCS leasing program. It was not discovered until after the bill was reported what the true cost of H.R. 1614's large-scale curtailment of the use of the bonus bid would be.

In the House report on H.R. 1614, the congressional budget stated that during the first 5 years of the program, we would lose $1.2 billion in revenues, with a total

loss including most implementation costs of $1.697. After the report was published, Coast Guard implementation costs were determined and the Budget Office said the total cost would be just over $2 billion. They could not even estimate what the return might be as there is no track record to draw on and no way of knowing how often if at all any new system will be used. Although it is said that these new systems are supposed to pay off in the long run, they should not be mandated to at least a 50-percent usage unless and until it is known for certain that they will indeed pay off.

We have no objection to the new system, nor do we have any objections to mandating their limited, experimental use. However, I do object to rushing out and applying these systems wholesale, without experimentation.

We have heard nothing of an estimate as to the potential revenues that can be derived from these systems. We believe this is because no one has any idea of what they may be. It is inconceivable to me that anyone could argue for the mandated use of these systems simply on the basis of hope of substantial return which might begin to flow in in 1986–89. The OTA study done for the committee estimated that it would take between 8 to 11 years between a lease sale under the present OCSLA and the first production from these tracts.

Mr. Chairman, I urge the Members to support the Fish substitute. I think it is the best alternative available to us.

Mr. MURPHY of New York. Mr. Chairman, I rise in opposition to the amendment in the nature of a substitute offered by the gentleman from New York (Mr. FISH).

Mr. Chairman, the opposition that I express to the Fish substitute has been expressed for 3 years, and I will try not to replow the ground that was constantly plowed through the years of 1976 and 1977.

This substitute clearly eliminates the authority to require compliance with State standards for the Clean Air Act. We are right back to the substitute that was just defeated in that regard.

The substitute would eliminate the 50-percent floor in the use of new bidding systems by reducing that floor to 10 percent.

As I pointed out in the earlier debate, this substitute is clearly anticompetitive. It takes the provisions providing for competition out of H.R. 1614 as it now exists. It is anti-small business. It eliminates the 20-percent set-asides for small businesses. It also eliminates the requirement that no lease be issued to parties which are failing to meet "due diligence" requirements on other leases.

The substitute deletes the section on baseline and monitoring studies. It deletes the citizen suit provisions which would expedite OCS-related litigation. This is an area where we feel we have eliminated delays, and those delays would be put right back in by this substitute.

Mr. Chairman, I would like to defer to my colleague, the gentleman from Massachusetts (Mr. STUDDS), in this instance, because his Governor has instituted a suit having to do with conditions that we would correct.

Mr. STUDDS. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from Massachusetts.

Mr. STUDDS. Mr. Chairman, is it not also true that the minority eliminates in its entirety title III of the bill, the offshore oil spill pollution fund?

Mr. MURPHY of New York. Yes. That is, of course, of utmost concern to the areas that have billion-dollar fisheries such as New England and such as Alaska. Of course, we have the oil spill pollution fund in the committee bill, and this would eliminate that concern.

Mr. STUDDS. Mr. Chairman, will the gentleman yield again to me?

Mr. MURPHY of New York. I yield to the gentleman from Massachusetts.

Mr. STUDDS. Mr. Chairman, does the chairman of the committee think that the absence of title III in its entirety is what the gentleman on the minority side meant when he commented that his substitute was shorter than the original bill?

Mr. MURPHY of New York. I think that is exactly correct.

Mr. TREEN. Mr. Chairman, will the gentleman yield on that point?

Mr. MURPHY of New York. I yield to the gentleman from Louisiana.

Mr. TREEN. Mr. Chairman, is it not true that the reason that section is deleted is because we have already passed such a bill here in the House relating to oil spill pollution, and is it not obvious that our purpose is not to eliminate that but simply because we have provided for it in other legislation?

Mr. MURPHY of New York. The gentleman is a very knowledgeable and valuable member of the Subcommittee on Coast Guard and Navigation, and he is well aware that that bill has not been reported out by the Senate Commerce Committee and has certainly not been signed by the President.

We have placed this language in this bill to protect the Continental Shelf with many of the same provisions that the gentleman supported in the passage through this House of that bill. However, as the gentleman knows, it has not yet passed the other body.

Finally, once again, we have back in this substitute a 20-percent revenue-sharing situation, whereas in the committee bill we have cut down revenue sharing to the $125 million level, and we do not have the situation of oil and gas from Federal lands coming across into a State and that State not being compensated for the impacts caused by energy development.

In effect, we feel it is too big a giveaway, and we have protected States in the committee bill, but do not feel we can go so far as to bring about a 20-percent revenue sharing situation.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I am concerned about a provision in H.R. 1614.

I understand that under the bill which the gentleman has authored, the Secretary of the Interior is required to promulgate and enforce regulations concerning the control of pollutants and emissions occurring on the OCS which affect onshore ambient air quality. In addition, the Secretary regulates the air quality above the Outer Continental Shelf.

This seems to me to be a clear inroad into the responsibilities of EPA and will certainly, if it is not an inroad, lead to confusion as two arms of the Federal Government are regulating air quality.

How is that going to be administrable? I do not understand that.

Mr. MURPHY of New York. The chairman of the Subcommittee on Public Health, who has worked so closely with the gentleman from Ohio, has assured the committee that EPA does not have the authority to go offshore.

We realize that we are dealing in the area of many very harmful pollutants because of the venting requirements on offshore platforms in this area.

In the wisdom of the committee, the present H.R. 1614 gives the Secretary those air pollution control powers.

The CHAIRMAN. The time of the gentleman from New York (Mr. MURPHY) has expired.

(On request of Mr. BROWN of Ohio and by unanimous consent, Mr. MURPHY of New York was allowed to proceed for 2 additional minutes.)

Mr. MURPHY of New York. To continue, Mr. Chairman, we want to be sure that the standards are consistent with the State requirements.

Mr. BROWN of Ohio. If the gentleman will yield further, Mr. Chairman, it just occurs to me that we wind up with two different agencies having authority in the same area, which should have an impact onshore as well as on the offshore situation. I think it would, in effect, diminish the power of the EPA. It seems to me that we are getting the Secretary of Interior into such a position as to have an adverse effect on the EPA.

Mr. MURPHY of New York. Mr. Chairman, if I might respond to my colleague, I would say that at the appropriate time in the debate, the gentleman from Florida (Mr. ROGERS) and I will have a colloquy that will clearly take care of the problems, if any, which the gentleman has referred to, and of course, insure the consistency and integrity of the provisions in this bill.

Mr. BROWN of Ohio. I wonder whether the gentleman would address another problem for me in this legislation.

Section 206 of H.R. 1614 appears to allow the Secretary of Interior to conduct Federal exploration on the Outer Continental Shelf.

I think my question is very simple: Why should the Federal Government be permitted to spend taxpayers' money in a risky venture? We understand that one can drill dry holes and they cost from $5 to $25 million each, but why get the Federal Government into that business?

I know it is hard to resist if one is a bureaucrat spending money or literally throwing it away that fast; but it seems to me that it is a waste of taxpayers' money.

Would this not simply lead to massive Federal expenditures, which would only increase the consumer's cost of oil and gas and lead us one more step down the road to the establishment of some kind of Federal oil and gas production over facility?

I do not see any merit in that, certainly from the taxpayers' standpoint.

Mr. MURPHY of New York. In response to the gentleman, I might tell him that it is the present law.

The CHAIRMAN. The time of the gentleman from New York (Mr. MURPHY) has again expired.

(By unanimous consent, Mr. MURPHY of New York was allowed to proceed for 2 additional minutes.)

Mr. MURPHY of New York. To repeat, it is the present law. The Federal Government has the responsibility for the protection of public lands and also for the development of those lands; and of course, public funds must be used.

As the gentleman is well aware, the Federal Government contracted for exploration of the Elk Hills area, and we now have this vast acreage on the Continental Shelf which belongs to the American people.

It is public land and as the fiduciaries for that public land we feel that the Federal Government should know what is on that land and to know what amounts these leasing programs should go for to insure a fair return to the American taxpayer. They cannot just permit leases to be given away.

The gentleman is well aware of the fact that in the past the department has cancelled leases because the bids have not met the proper level in consonance with the resources under the Outer Continental Shelf. We merely permit the Secretary to contract with private industry for certain geological and geophysical information that is needed. We in no way start "FOGCO"ing as the gentleman indicated. I am opposed and the majority on the committee I believe is opposed to a Federal oil and gas company.

Mr. BROWN of Ohio. But now we sell the lease and the lease is developed by the oil companies. They take the risk when they take that opportunity. All the gentleman is doing is letting my taxpayers put up the money to determine whether there is something down there to be gotten out, and then to sell that lease to an oil company to develop it. I would rather have the oil companies take that risk than have my taxpayer's dollars spent to take that risk in such a venture. It just seems to me it would be throwing away our Federal money. Why do we have to perfect it before we sell it? Let the oil companies take the risks rather than the taxpayers doing so. The Federal Government should not have to take that risk. I believe the logic is bad.

The CHAIRMAN. The time of the gentleman has again expired.

(On request of Mr. WAGGONNER and by unanimous consent, Mr. MURPHY of New York was allowed to proceed for 2 additional minutes.)

Mr. WAGGONNER. Mr. Chairman, will the gentleman from Ohio yield?

Mr. BROWN of Ohio. I do not have control of the time. The gentleman from New York (Mr. MURPHY) has control of the time.

The CHAIRMAN. The Chair will state that the gentleman from New York (Mr. MURPHY) has control of the time.

Mr. WAGGONNER. Mr. Chairman, would the gentleman from New York yield?

Mr. MURPHY of New York. Mr. Chairman, I would first like to respond to my colleague, the gentleman from Ohio (Mr. BROWN) and then I will yield to the gentleman from Louisiana (Mr. WAGGONNER).

I am sure the gentleman from Ohio (Mr. BROWN) does not want the people in the Federal Government who are responsible for the public lands to act with blindfolders on when dealing in such an area as public resources. There is not a penny in this legislation that is authorized for new exploration money except funds for geophysical information. Still the responsibility is on the Department of the Interior to know what is on those lands so that when a lease sale comes out it goes at the proper level.

I now yield to the gentleman from Louisiana (Mr. WAGGONNER).

Mr. WAGGONNER. Mr. Chairman, I would just like to point out that within the scope of the proposed Government actions to find out what is out there the Government will still have blindfolders on. I say that because of the fact that in 1975 there were some 239 wildcat holes drilled off the gulf coast. Two hundred and five of them were dry holes. And off the coast of Florida the entire bid was $9 million to drill eight wildcat holes and all eight of them were dry holes. If what the gentleman wishes to do is develop a format for more congressional investigations then that is what we are going to wind up with. We will be having congressional investigations as to why the holes that were drilled were dry, because they can be dry whether the Government drills them or somebody else drills them, but the taxpayers will pay for them.

Mr. MURPHY of New York. Mr. Chairman, I might point out insofar as the exploration of these lands is concerned that many holes are not driven to find oil and gas but they are driven to develop the geophysical information and to develop where the fields are and any periphery fields. History proves that 9 out of 10 holes that the driven are dry whether on the Outer Continental Shelf or on land areas. They are done for developmental purposes in the exploration for producing fields.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, I was going to say, in response to these questions, that we asked the General Accounting Office to conduct studies.

The CHAIRMAN. The time of the gentleman has again expired.

(On request of Mr. MILLER of California, and by unanimous consent, Mr. MURPHY of New York was allowed to proceed for 2 additional minutes.)

Mr. MILLER of California. Mr. Chairman, if the gentleman will permit me to continue, we asked the General Accounting Office to conduct studies on both lease sale No. 35 and lease sale No. 40, and the gentleman from New York (Mr. FISH) asked for a similar review by the GAO.

The study showed that the Department of Interior had no such information and that this encourages industry to speculate on lands believed to contain no or minimal resources, and does not guarantee that the Government receives the fair market value for these leased resources.

It is not a question of who is going to speculate, but it is money that is put out to develop information so as to assess the proper value of these lands by the Government.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. I thank the gentleman for yielding.

It seems to me what the gentleman is doing is saying to the oil companies we are going to put Federal money into this so that you have got a sure thing.

Mr. MILLER of California. If the gentleman will yield, I will say that for the last 25 years the controversy has been whether or not these lands have gone too cheaply because the Federal Government has lacked information; so I would say we should recover those moneys that we spent to have greater information.

Mr. BROWN of Ohio. Let me just say beauty is in the eye of the beholder. The oil companies are betting on finding recoverable reserves, and they are willing to put their money down and place that bet and we benefit from their putting that money down.

Mr. MILLER of California. The $900 million has nothing to do with drilling costs. That was just to get in the game. That had nothing to do with the cost of their drilling those eight wells.

Mr. BROWN of Ohio. All I can say to the gentleman is I just do not like the idea of the taxpayers' money being spent this way.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. HUGHES, and by unanimous consent, Mr. MURPHY of New York was allowed to proceed for 2 additional minutes.)

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from New Jersey.

Mr. HUGHES. I thank the gentleman for yielding.

I wonder if the Chairman will tell me if we are still talking about on-structure stratographic tests?

Mr. MURPHY of New York. We are generally talking in an area where a

theoretical case is being made that somewhere in this legislation there are public funds for drilling on private lands.

Mr. HUGHES. I wonder if somebody in the Chamber can perhaps dig out for us just which provisions in the bill would provide moneys for Federal exploration. I served for some 3 years on the committee, and I have not been able to find such a provision in the bill—it is a myth.

Mr. MURPHY of New York. There are none, and, of course, it would be difficult to make a case that there could be, or that it is the intent of the committee to in any way imply it.

Mr. HUGHES. Would the Chairman further yield?

Mr. MURPHY of New York. I yield to the gentleman.

Mr. HUGHES. I just do not understand why the oil industry, the major producers of oil in this country, is so afraid of the Secretary of Interior offering them a permit to sink stratographic test wells into the structures which they believe contain oil or gas.

Mr. MURPHY of New York. Because they have a new Secretary of the Interior.

Mr. HUGHES. I thank the Chairman.

Mr. BREAUX. Mr. Chairman, I rise in support of the gentleman's amendment.

Mr. Chairman, I take this time to tell the members of the committee that I do indeed, although my amendment was defeated, support as a preferable alternative the substitute being offered by the gentleman from New York (Mr. FISH). In response to the questions and the colloquy that we just heard between the chairman of the full committee and the gentleman from New Jersey, I want to point out that when we get back to Federal drilling, there is a clear authorization that the Secretary may, if he decides he wants to—and the Secretary has indicated that he, indeed, will—go out on the Outer Continental Shelf and do core and test drilling. That is drilling for oil and gas. He has a general authorization budget that we fund every year into the Department of the Interior, and I would imagine he would be able to conduct these drilling operations under that same budget, just as he is able to conduct geophysical and geological operations in the OCS now.

It is clear if the committee bill passes as it is now that we are putting the Federal Government into the business of drilling oil and gas wells on the Outer Continental Shelf, and I think everybody has listed very clearly reasons why that is not necessary and why it is not in the interest of the general public. The Department of the Interior now has available to them all the information that is available to every single oil company, not just the one company, but all of the companies. They have that information right now available to them.

Other things that I objected to in the committee bill have basically been eliminated by the Fish substitute, and for that reason I support it. It eliminates separating exploration from the production process, a provision which I think makes absolutely no sense in the committee bill. It eliminates the provision for dual leasing. If anybody in this room had heard the Secretary of the Interior explain what dual leasing was when he appeared before our committee, he would really have enjoyed it because it was at best half an explanation, because I do not think he understood it at that time himself. When we asked him specifically whether it would involve Government money, he said, yes, he thought it would, but he was not sure how it was going to work. But he clearly said he was going into a dual leasing system, and he will be paying for the leasing, when that simply is not necessary.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, the question was asked a moment ago about the language in the bill that says that the Federal Government is going to get into the drilling business. Let me read from the language in the bill, and this is from page 274, section 506, which says:

(b) The purpose of this section is to enable the Secretary of the Interior and the Congress to gain the best possible knowledge of the status of Outer Continental Shelf oil and natural gas reserves, resources, productive capacity, and production available to meet current and future energy supply emergencies, to gain accurate knowledge of the potential quantity of oil and natural gas resources which could be made available to meet such emergencies, and to aid in establishing energy pricing and conservation policies.

Then on the opposite page it says:

(2) an independent estimate of total discovered reserves (including proved and indicated reserves) and undiscovered resources (including hypothetical and speculative resources) of Outer Continental Shelf oil and natural gas by fields and reservoirs;

shall be under the authority of the Secretary under this language. I assume that the best possible knowledge would be to strike a gusher. Right? Or maybe get natural gas bubbling up when one drills on the Outer Continental Shelf.

If that is the best possible information, it seems to me clearly we are putting the Secretary into the oil and gas business. Of course if he discovers a dry well, then what he has found for his $5 or $10 million of taxpayers' money that we spent on it, is that there is not any oil or gas right there and then we will move over a mile or two and drill again and again and again and again with the taxpayers' money.

I do not see anything different that one could read into that except that the Secretary is given that authority. Frankly I do not want him in the business because I would like to see somebody else go broke trying to find the oil or take the risk.

Mr. BREAUX. The gentleman is correct. It works both ways. Suppose the Secretary decides to drill off the Baltimore Canyon and does not find anything and says:

We will not drill any more because it will cost too much.

Maybe a second drilling there would have found the gas or oil. If the private capital would have done it, we would have been ahead.

Mr. BROWN of Ohio. Or they will discover a dry hole and say, "We can only give that spot away," and then Exxon comes in and makes a seemingly substantial discovery.

Given the fact that the Federal Government does not have people skilled in drilling for gas or oil—but maybe we will get people off the south ranch or such to drill for oil. But if we do not find any and we sell the lease cheap and then they bring in a big oil field, is this Congress going to sit tight for that modest bid getting to be a big field? Or vice versa, if we discover what we think is a big field and somebody comes in and there is a big bid and then it turns out not to be very much, what then?

I think that is putting the Federal Government into the business of trying to take the risk for the oil companies. It seems to me this is patently wrong. It seems to me if this is a speculative business, if the taxpayer is to get returns from the guy who is doing the speculating, let the one who wants to speculate get the benefit.

Mr. MOORE. Will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from Louisiana.

Mr. MOORE. Mr. Chairman, taking the opposite side of the speculation, what happens if they drill one or two wells and the Secretary finds oil? He might not be willing, when we find a good thing, to think we should turn it over and give that good thing to an oil company. Is not the pressure going to be for us to go ahead and produce it ourselves? We have found it is there. Is that not the next logical step?

Mr. BREAUX. The gentleman makes a good point. Many of us share that concern. While we are not mandating the Federal Government do drilling, we are giving him authority, and that is the first step toward moving the Federal Government into the oil and gas business. What we will see is he will do it to see only if it is there, but if he does find it, they will get the impression they can do it better than anyone else and maybe think then that the Federal Government should take over the entire operation.

Mr. MOORE. Is not the risk in finding it that, once we find it, we know it is found, there is not much risk, but once it is found will there not be pressure on Congress to have the Federal Government, the FOGCO, or whatever we would have, then produce it?

Mr. BREAUX. The gentleman has a good point.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I would like to characterize this part of the bill as the 100-percent parity for oil companies' part of the bill.

AMENDMENT OFFERED BY MR. M'KINNEY TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. FISH

Mr. McKINNEY. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. McKINNEY to the amendment in the nature of a substitute offered by Mr. FISH: Page 55, beginning with line 13, section 22 is struck in its entirety. Insert in lieu thereof the following:

SEC. 22. LIMITATIONS ON EXPORTS.—(a) Any oil or gas produced from the outer Continental Shelf shall be subject to the requirements and provisions of the Export Administration Act of 1969.

(b) Before any oil or gas subject to this section may be exported under the requirements and provisions of the Export Administration Act of 1969, the President shall make and publish an express finding that such exports will not increase the number of barrels of oil or cubic feet of gas imported into this country, are in the national interest, and are in accordance with the provisions and requirements of the Export Administration Act of 1969.

(c) The President shall submit reports to the Congress containing the findings made under this section, and after the date of receipt of such reports Congress shall have a period of sixty calendar days, thirty days of which Congress must have been in session, to consider whether exports under the terms of this section meet the requirements of subsection b. If either House of Congress within such time period passes a resolution of disapproval stating disagreement with any of the President's findings concerning the requirements of subsection b, further exports made pursuant to such Presidential findings shall cease.

(d) The provisions of this section shall not apply to any oil or gas which is either exchanged in similar quantity for convenience or increased efficiency of transportation with persons or the government of an adjacent foreign state, or which is temporarily exported for convenience for increased efficiency of transportation across parts of an adjacent foreign state and reenters the United States.

Mr. McKINNEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. McKINNEY. Mr. Chairman, I will not take the 5 minutes.

This is the amendment that we passed on the Breaux amendment and which I will continue to offer as long as this bill is in front of us. It simply is an amendment that states that the American people whose coastlines are in danger by offshore drilling, and I think we should drill offshore, are not going to be satisfied if we export this oil in a trilateral arrangement or if exporting this oil turns around and means we have to import any more foreign oil or Arabian oil to take its place.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from New York.

Mr. FISH. Mr. Chairman, this is the same amendment that we adopted by voice vote in the committee earlier today in the Breaux substitute; is that not correct?

Mr. McKINNEY. It is the same amendment.

Mr. FISH. And a similar amendment has been adopted by this House in several other pieces of legislation; it is a very constructive one and I support it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Connecticut (Mr. McKINNEY) to the amendment in the nature of a substitute offered by the gentleman from New York (Mr. FISH).

The amendment to the amendment in the nature of a substitute was agreed to.

Mr. BROWN of Ohio. Mr. Chairman, I move to strike the last word.

Mr. Chairman, this Congress and preceding Congresses have been considering changes in offshore legislation for several years. During that time we have heard a lot of technical talk and a lot of emotional arguments. I believe it is time to simplify this issue to a few basic statements of fact that will help us reach a decision.

First of all, I think we can all agree that the United States cannot continue to import over half of its oil supplies from foreign countries. We cannot continue using up 3 billion barrels of oil a year from our proved reserves, and putting back only 2 billion barrels a year in new reserves.

Last year we paid $45 billion for foreign oil. That money should be put to work here at home. It could strengthen our economy, rebuild our domestic energy resources, and provide jobs and services for our own people.

In addition to the cost, we face the ever-present danger of embargos, curtailments, and cutbacks in shipments of oil and gas from other countries.

The second point I want to make is that the United States must move fast to develop its oil and natural gas potential, both onshore and offshore. If we do not, we are headed straight down the road to energy bankruptcy and national disaster.

The third basic point I want to emphasize is that much of our undiscovered oil and gas is believed to lie under the Outer Continental Shelf. In nearly 30 years of offshore drilling, less than 5 percent of the total acreage has been offered for leasing. Although the oil companies and the Government have been studying the Atlantic OCS area for 17 years, no company has yet been allowed to drill a well there in search of oil and gas.

H.R. 1614 has been advertised as a bill which will speed up the development of those offshore oil and gas resources which this country needs so urgently. Unfortunately, the bill does not live up to its advance publicity. The bill creates new opportunities for delay in a situation where further delay cannot be tolerated. For instance, under the new "dual leasing" procedures established by the bill, the same tract could be leased not once, but twice, prior to the commencement of any development and production operations. Separate leases are issued for exploration and for later development and production of the same tract. If passed in its present form this bill would slow down offshore exploration, delay production, increase costs, and permit the Federal Government to become directly involved in the expensive and risky business of searching for oil and gas.

We do not need new OCS legislation at this time. We have a good system—a system that works well to protect the public interest, the environment, the Federal Government, the coastal State, and the large and small oil companies.

Congress and the appropriate agencies of the Federal Government have already taken action to improve environmental protection, to expand the Interior Department's information about unleased areas, to give Coastal States a greater voice in OCS decisions, and to assure smaller oil companies of access to offshore leases.

It seems clear that the Secretary of Energy and the Secretary of the Interior have all the authority they need to deal with whatever problems may still exist, if there are any.

Involving the Federal Government in the risky business of wildcat drilling would be costly to the taxpayers and would open the door to creation of a Federal oil and gas corporation. Drilling decisions based on political pressures would be a waste of time and taxpayers' money.

This country has nothing to gain by lengthening the already complex process of finding offshore oil and gas and bringing them to market. The Office of Technology Assessment has estimated that under the laws and regulations in existence today, it would take at least 7½ years from the time an offshore lease is sold in a frontier area until oil or gas could begin reaching consumers onshore. Various Government and university studies have warned that passage of H.R. 1614 would add another 3 to 6 years of additional delay. A University of Rhode Island study estimates the impacts of this delay will cost the Nation hundreds of thousands of jobs and result in an economic loss of several billion dollars.

Instead of increasing Government revenues, as supporters of this bill claim, H.R. 1614 would reduce them. The Congressional Budget Office has estimated that enactment of this bill would cut Federal revenues by $1.3 billion between 1978 and 1982.

You have no doubt heard the charge that the public is being "ripped off" because the Government does not get fair value for offshore oil and gas. The figures published by the Government do not support that charge. From 1953 through 1976, the Federal Treasury received $23 billion from offshore oil and gas operations. That represents 83 percent of all the money earned from those offshore areas. And the oil companies not the Government takes all of the risks.

Offshore wells are now providing 16 percent of U.S. oil production and 22 percent of our gas output. If we speed up the search, offshore production can play an even larger role in meeting our needs while we develop new forms of energy.

We would be extremely unwise if we passed any laws that delayed the development of offshore oil and gas. H.R. 1614 is that kind of proposal, and it should be defeated.

Mr. Chairman, I want to make one other point, and that is that there is another little clinker in H.R. 1614 that

states that the Secretary shall have access to the data obtained from any activity by an individual oil company working on the OCS. So, what we have here is the opportunity for a company to go out and find oil in an area, find gas in the area; provide that information to the Secretary, and then the Secretary makes it available to the general public. Then, everybody rushes to that area and does the drilling on the strength of what some individual driller finds. It seems to me that is a loss of proprietary effort by the individual driller. What it will mean is a discouragement of that kind of independent activity.

What we have undertaken then, no matter the desire, is to get the Federal Government into the proving up of resources; that is, the Federal Oil and Gas Corporation kind of operation, and discouragement of private industry.

The CHAIRMAN. The time of the gentleman from Ohio has again expired.

(On request of Mr. HUGHES and by unanimous consent Mr. BROWN of Ohio was allowed to proceed for 2 additional minutes.)

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. Of course, I will be glad to yield to the gentleman since he is the author of the section I talked about earlier.

Mr. HUGHES. The gentleman has cited some figures. That of the $23 billion in oil revenues from offshore lease sales, that some 83 percent has gone back to the Government. I presume that is under the bonus bid system.

Will the gentleman tell me how much oil and gas resources are in the ground. These represent also a part of those lease sales. Does the gentleman have those figures? Let us have the other side of the balance sheet.

Mr. BROWN of Ohio. The gentleman in the well is not a geologist, and I am not sure there is anyone who can tell us what offshore reserves are. Not until you get that last drop of oil out of the well do you know what that well will produce. The same thing applies to natural gas. From some wells you get a 10-percent return; from other wells you get as high as 33 percent return.

Mr. HUGHES. I have seen some figures that, just from proven reserves, there is approximately $70 billion in place in these leaseholds that have yet to be developed. Will the gentleman concede that that 83 percent is going to be the declining balance?

Mr. BROWN of Ohio. I would want to know how much is in the well. I would submit that neither I nor the gentleman has any idea what is in that well.

Mr. HUGHES. I do not think one has to be a geologist to be able to determine that if in fact the bonus bid system requires a major outlay in the beginning, and the well is going to be producing for 15 or 20 years, the 83 percent is going to decline.

Mr. BROWN of Ohio. Let us say that neither of us know. If the gentleman thinks it is such an optimistic return, he ought to hawk up a little money and go out and do some drilling on his own. I am trying to find out what is based on our specific, up-to-date experience. If the gentleman wants to speculate, he should get a little money to speculate.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. BROWN) has expired.

(On request of Mr. FISH and by unanimous consent, Mr. BROWN of Ohio was allowed to proceed for 2 additional minutes.)

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from New York.

Mr. FISH. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I was interested in what the gentleman in the well said about the fact that for so many years—I think the gentleman said 17 years—companies have been trying to get to the position of getting out on the Outer Continental Shelf to start the exploration process.

Before that step is taken, obviously, we do not know what we have. In the gentleman's recent colloquy it would seem to me that the inference might be left to the body that we have all kinds of leases in the OCS that are outstanding. I think it is important to cite here that in the National Journal of April 2, 1977, there is information regarding the status of offshore Continental Shelf leasing, which shows that the United States has leased 2 percent of its Outer Continental Shelf area; South America, 16 percent; Europe, 17 percent; Asia and the Near East, 37 percent; Africa, 58 percent. We really are way behind. Ours is not a comparable figure.

Mr. BROWN of Ohio. We are not only way behind, but our imports of foreign oil, that $45 billion of outflow, is so bad for our country that our dollar is falling in relationship to the British pound. We all make jokes about the British Government and how they manage their dollars and their economic resources, but I will tell the Members that the British have been smart in one area. At least they have gotten into the North Sea and they have drilled that oil out and they are now becoming oil independent. They are not so dumb. At least they are faster than we are in this area. If we had the same kind of in-ocean resources that they have found in the North Sea, perhaps we could at least keep our dollar even with the British pound.

Mr. FISH. I want to also make the point that I thought the gentleman from New Jersey may be confusing the House in talking about undeveloped resources.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. BROWN) has again expired.

(By unanimous consent, Mr. BROWN of Ohio was allowed to proceed for 2 additional minutes.)

Mr. FISH. Mr. Chairman, if the gentleman will yield further, if only 2 percent of our entire offshore Continental Shelf has been leased, we cannot make too much about undeveloped leases that the oil companies have been sitting on.

Mr. BROWN of Ohio. I would say there are a lot of ways to discourage development of our resources by private industry. One is the overrergulation. And we are masters at that.

Another one is to make all of the findings general information, so that when one guy risks his resources and puts his cash on the line—and by that I mean the corporation or the private driller—then the Federal Government broadcasts that information to everybody and says, "Come on in, fellows, and take advantage of what this guy has initiated here, what this entrepreneur is undertaking."

Then the third way is to put the Federal Government in competition with the individual so that we let the Federal Government get in the business and drive the individual, the free-enterprise type of entrepreneur, out.

H.R. 1614 provides all of these downside efforts with reference to individual development. It seems to me we must either amend H.R. 1614 thoroughly in the manner of the Fish substitute amendment, or perhaps we ought to just kill it. Maybe that is the most gracious thing we could do.

Mr. TREEN. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment in the nature of a substitute offered by the gentleman from New York (Mr. FISH).

Mr. Chairman, one of the worst features of H.R. 1614 would be taken care of by this substitute. A lot of the bad features would be taken care of by the substitute, but I would like to just dwell on one for a few minutes.

I refer to the concept of dual leasing that has been introduced in H.R. 1614. This is not a new form of bidding, this is an entirely new way of conveying the rights of the Federal Government in the OCS.

At the present time, after the Government has conducted whatever seismic and geophysical work it wants done, it will then put up tracts for lease, and that would be a lease that involves exploration, development, and production. It would be a unitary lease.

What the Secretary of the Interior has suggested, and what the committee has adopted, is a new concept called dual leasing, in which tracts would be put up for an exploration lease only. Then, subsequent to that, the tract would perhaps be put up for development and production. The idea is that the Government would seek bids from private interests to come in and explore a tract or a number of tracts without any right at that particular time to any return from the tracts.

What the private bidder would be expected to do would be to bid for the exploration lease by saying how much of the ultimate production it would take, and, presumably, if there were any bidders at all, the bidder who said he would take the least amount of the product that would be forthcoming from the subsequent lease would be awarded the exploration lease.

The wording of the bill makes it clear that this exploratory lease would be on a cost-sharing basis, and that would be a cost-sharing basis presumably with the Federal Government.

There are so many uncertainties in this concept that the Secretary of the Interior was unable really to describe to us

how it would work. Imagine, if you will, the Secretary calling for bids for exploration on a number of tracts. Presumably, he would say the bid constant is, for example, $5 million worth of exploration work. Then he would say, "You tell us for that $5 million worth of exploration work what percentage of the oil and gas you will take after we lease these tracts, or this tract, for oil and gas production."

What are some of the uncertainties? Do we think that anybody would bid? The bidder would not know if the Federal Government would ever lease those tracts for production. The bidder would not know what form of lease would be entered into for production; he would not know when that lease would begin. And there are cancellation provisions. There are all sorts of reasons why a production lease might be canceled. What happens to the interests of the exploratory lessee if the subsequent production lease is canceled?

In my judgment, to proceed with this type of leasing for exploration would be seriously anticompetitive. Only the big fellows could ever take a gamble on that type of lease. If a little company wanted to go in and bid on an exploration lease, it would have to go to a bank and get some financing.

Can you imagine the discussion with the banker? He would say, "What are you going to get out of this? You are going to put up $5 million; you want us to lend you $4 million of this to go out and do exploration. What are you going to get?"

The prospective bidder would have to say, "We are going to bid for a share of the oil and gas production which will come from these tracts later."

The banker would ask, "When will the Government lease for production?"

The other man would have to say that he does not know, that he does not know if they would ever lease for production.

The banker would say, "If they did lease for production, how do we know that these leases might not be canceled? Then what happens? Where are you going to get the income to pay us back?"

Therefore, if anybody did bid on this type of crazy lease, it would have to be one of the major companies. No little fellow could get into this area.

Another disadvantage that this would create, among other things, is a vast Federal bureaucracy because, after all, if the Federal Government is going to get into the business of exploration, that is what will happen.

The CHAIRMAN. The time of the gentleman from Louisiana (Mr. TREEN) has expired.

(By unanimous consent, Mr. TREEN was allowed to proceed for 3 additional minutes.)

Mr. TREEN. To continue, Mr. Chairman, under the dual lease system the Federal Government is going to get into the business of exploration. Let us say that it is directing a company in its exploration of certain tracts. Then the Government must tell the company where to drill, where to explore. In order for it to do this in a proper way, the Government itself would have to have all manner of experts to insure that the best type of exploration is carried out. It will have to tell the explorer where to drill and to what depths. When he gets to a certain depth, the Federal Government will have to say, "Stop" or "Go further."

Therefore, we will have a plethora of bureaucrats to help run this show and analyze the data as we are going along.

The worst aspect of the dual leasing system, though, is in the additional delay that that will cause in getting to production, which is what we are after; and that is the bottom line here. That is the major issue in all of this discussion, getting on with production so that we can cut down on the amount of money we have to pay for foreign oil.

Under the present leasing system, when a company acquires a right to a tract, it gets the right to explore, develop, and produce. It does not have to segmentize; to do exploration, quit, and then get another lease for production. Under this dual leasing system, that is what would happen. We would have to stop the exploration process, then put out the tracts for development and production. The problem here is, "When do we stop the exploration?"

Under the present system, even when production begins under the unitary lease system, exploration continues. As soon as a company has done sufficient exploration to assure that it has a recoverable product, then it goes into production; but the exploration does not end on that tract. Exploration continues so that we have a melding process. When we segmentize the process into two separate leases, with all of the attendant delays in between those segments; we are going to add considerably to the time it takes us to get production from the OCS.

Finally, this is another place where we will put the Federal Government into the exploration business, make no mistake about it.

Under the present leasing system, once a company has the tract, it goes out and does the exploration. It files a development and production plan, and it proceeds.

Under this arrangement where we have someone bidding to do so many dollars worth of exploration, the Government has to get involved in order to control that exploration.

For these and several other reasons, Mr. Chairman, I urge the adoption of the substitute.

The CHAIRMAN. The time of the gentleman from Louisiana (Mr. TREEN) has again expired.

(On request of Mr. HUGHES and by unanimous consent, Mr. TREEN was allowed to proceed for 1 additional minute.)

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. TREEN. I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Chairman, I understand my colleague's concern over the dual leasing provisions. As my colleague knows, they appear in the bill for the first time. They were not in the legislation reported out by the previous Congress.

Perhaps the gentleman can answer one of my concerns. In sale No. 40, the Baltimore Canyon sale, some 25 percent of the acreage sold had no geophysical or seismic information whatsoever, this means that in that instance the Secretary of Interior was actually leasing blindly.

How does the gentleman resolve the obvious problem of getting a fair return and doing any planning when we lease in that manner?

The oil companies did not provide any geophysical information.

Mr. TREEN. Is the gentleman suggesting we have to have dual leasing to obviate the problem?

Mr. HUGHES. No, but it is one of the tools that we can use.

Mr. TREEN. It is totally unnecessary because the Secretary of the Interior has control over it and he does not have to put these tracts up for lease until he is satisfied he has a sufficient amount of geophysical information.

The CHAIRMAN. The time of the gentleman has again expired.

(On request of Mr. HUGHES, and by unanimous consent, Mr. TREEN was allowed to proceed for 1 additional minute).

Mr. HUGHES. Mr. Chairman, if the gentleman will yield further one of the concerns we have is that of bringing on the Outer Continental Shelf resources as soon as possible.

Mr. TREEN. I agree.

Mr. HUGHES. I believe that my colleague made a brilliant statement in this regard. It is in our interests to develop information about resources in the frontier areas. If it is not possible to develop the seismic and geophysical information from the industry by using existing techniques, then how do we get this information?

Mr. TREEN. I do not think the Federal Government has any problem in obtaining the seismic information; it can be done, I believe, under the present act.

Mr. HUGHES. It is a lot clearer with the language in the present bill.

Mr. TREEN. That is why I think we do not need this amendment to the act since we have the authority under the act.

Mr. HUGHES. But would not the gentleman concede that on structure stratigraphic tests would produce additional information?

Mr. TREEN. Definitely. But I also mentioned in the original colloquy that a previous study by the Department of the Interior indicated that could cause several years delay.

Mr. MICHEL. Mr. Chairman, I move to strike the requisite number of words.

(By unanimous consent, Mr. MICHEL was allowed to proceed out of order.)

POLITICAL ANIMALS?

Mr. MICHEL. Mr. Chairman, I would like to read from a UPI ticker tape release, under a Washington dateline, as follows:

House Speaker THOMAS O'NEILL today called David Marston a vicious "Republican Political Animal" and said the former U.S. Attorney in Philadelphia was only out to get Democrats. . . .

"He never should have had the job. He is Republican political animal," said O'NEILL of Marston. . . .

"He went in there with viciousness in his heart and for only one reason, to get Democrats. . . .

Mr. Chairman, I am shocked that the Speaker is being quoted by UPI as calling former U.S. Attorney David Marston a "vicious Republican political animal" who acted with "viciousness" in putting crooked politicians in jail. I know the Speaker too well to believe that he would use such outrageous language to describe a man whose only fault, according to the administration, is that he is not a member of the Speaker's party.

No, it must be that the Speaker was misquoted. But if he wants to talk about animals, let us talk about the elephant whose memory is legendary. Perhaps the Speaker wishes the President of the United States had such a memory because in his January 12, 1978, press conference he told the press he never knew that Marston was investigating any Congressmen.

But in a sworn statement to the Justice Department the President said he did learn of such an investigation just before that press conference began. Perhaps the Speaker is referring to the ostrich, whose habit of burying his head in the sand resembles the actions of the administration as it tries to avoid the real facts of the Marston affair. Or perhaps the Speaker is referring to the big, befuddled bear that sleeps all winter. It is just mid-January and perhaps others are sleeping or not fully awake yet, Mr. Chairman.

Mr. WIGGINS. Mr. Chairman, I move to strike the requisite number of words.

I commend the gentleman from Illinois for his statement. I am not going to speak on that subject however. In passing, I wonder if the official in the Department of Justice who prepared the statement vindicating the President was sent up to Camp David for that purpose. Shades of the Dean case. Enough said.

I want to talk about dual leasing. The statement of the gentleman who preceded me fairly, I believe, spelled out the concerns of those of us who do not support the dual leasing concept. But I have one additional comment to make. I view dual leasing as merely act 1. I, perhaps, am suspicious, but I think that the ultimate objective is in fact Federal exploration and production in the Outer Continental Shelf, a result which I do not support and which many members of the committee profess to oppose as well.

I think I can make my point best by an analogy. Let us suppose that the Secretary of the Interior was instructed by this Congress in an appropriate bill to search for gold in the Federal lands which are under his jurisdiction and we funded that search. Let us suppose that the Secretary undertook this exploration for gold and, lo and behold, found it in significant quantities. Thereupon the Secretary undertook to contract with private mining companies to exploit the gold resources which the Government had found and knows to be in place.

About that time some national figure from the West would probably rise up and say, "By golly, we own it; we found it; let us keep it. Let us develop it ourselves. After all, we found it on Federal land." That is going to happen, I fear, when the Federal Establishment searches for oil and finds it. Somebody is going to say that it is outrageous to let a private concern develop the known resources which we, the Federal Government, have found.

If Federal exploration is step 1, step 2 will be the full federalization of exploration and production in the OCS. I do not approve of that consequence. Let us not take the first step.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. I thank the gentleman for yielding.

I guess the next line ought to be, "If you like the way they run the post office, you will love the way they run the Federal Oil and Gas Corporation." But I would give the gentleman even a worse scenario than that, and that is that you find the resource and then you handle it in the Boston or the Chicago tradition—or perhaps, I might say, the Philadelphia tradition—and you rent it out. You would not put it up for public bid, but there might be some private bidding done on who gets the opportunity to develop that resource.

It seems to me that is even worse as a method by which we get these resources out. Perhaps I would much prefer the way that we have established, by letting private enterprise do it and regulate it. The Federal Government then balances this situation against the strength of the private developer, and we keep an eye on it.

The Congress keeps an eye on regulation. If the regulation ought to be more stringent, we tighten it up. If it ought to be loosened up, we loosen it up.

Mr. WIGGINS. Obviously I identify with much the gentleman has said.

The substitute now pending precludes this parade of horribles which we have discussed. Those of us in the Chamber who supported Breaux can support Fish. In my opinion, the Fish substitute is better. Accordingly, those who opposed the Breaux substitute have new reasons for supporting the Fish substitute. The Breaux vote was close. There are enough people sitting in this Chamber right now to make a difference, and I hope that they will reflect long and hard upon the likely end of road which we are starting down before they accept the committee notion that dual leasing is in the national interest.

I urge the Members to vote for the Fish substitute.

Mr. ROUSSELOT. Mr. Chairman, I do not have to relate to this body—because the Members have all had a substantial amount of mail on the subject—all about OSHA. I am extremely disappointed that the committee saw fit to stuff OSHA into this operation.

The horror stories about OSHA are well known to all of us. Every time they have attempted to move into a new area, chaos erupts. In 1976, the American farmer was subjected to the bionic flagman, the privy on the prairie, and other proposed OSHA regulations that were stopped only through congressional action.

The provisions of H.R. 1614 would direct OSHA to be the lead agency for regulation of the skindivers on the OCS as well as being directly involved and sharing the lead in other areas with the Secretary of the Interior and the Coast Guard.

The Fish substitute retains the language of H.R. 1614 requiring updates of health and safety regulations on the OCS, as well as some other points, but deletes any expansion of section 4(b)(1) of OSHA. The Secretary of the Interior and the Coast Guard do not need OSHA's brand of help.

OSHA has already attempted to issue regulations covering skindivers. But due to a suit the divers instituted against OSHA, a Federal district court issued an injunction against OSHA preventing the regulations from being implemented, and OSHA withdrew the regulations. I might add that they were aware that the Coast Guard was drafting their own regulations in this area, and that the issuance of these regulations by OSHA was contrary to recommendations made by members of the House Education and Labor Committee. The Coast Guard has since promulgated these regulations.

We have had all of OSHA that we can possibly stand. I will not attempt to recount all of the learning process that OSHA has gone through. I admit that the new Director has made an attempt to eliminate a substantial number of rules and regulations, but they really do not know anything about skindiving.

The Interior Department and the Coast Guard have upgraded their regulations of safety and to now inject OSHA into this legislation—I just cannot believe the committee saw fit to do that. So I must support the Fish substitute just on the basis of that issue alone. I mean there are many other reasons that have been discussed here today.

Mr. MOORE. Mr. Chairman, will the gentleman yield

Mr. ROUSSELOT. I yield to the gentleman from Louisiana.

Mr. MOORE. Mr. Chairman, I thank the gentleman for yielding.

During the first week of January, while I was home in my district, a representative of an engineering firm in my district that is also a skindiving contractor, it hires skindivers to do exploration work on the pipelines on the floor of the Gulf of Mexico, met with me and I found out that there is a regulation that OSHA is putting out that will drastically affect such diving.

Mr. ROUSSELOT. They have not got the authority yet, not yet.

Mr. MOORE. They are already talking about issuing the regulation.

Mr. ROUSSELOT. They have not got

the authority and they are already starting to gin up regulations? I cannot believe that.

Mr. MOORE. They think they have got the authority anyway.

Mr. ROUSSELOT. They think they have got it.

Mr. MOORE. And the idea is that they are going to require in the Gulf of Mexico that anytime one dives in depths over 200 feet one has to dive from a fixed platform. That is pretty hard to arrange in the Gulf of Mexico.

Mr. ROUSSELOT. That is a terrific dive.

Mr. MOORE. As a result the divers are going to be put out of business. They sent a representative to me to see if we can take away this authority from OSHA or change this. It is going to eliminate skindiving, which is a very profitable business right now in the Gulf of Mexico in the oil and gas industry. They are going to have to put down mechanical sensors in their place, which are not as reliable as divers, and put the divers out of work.

This is a case of rushing out to help the diver, who is saying: "Please do not help me any more," and putting him out of business.

Mr. ROUSSELOT. I find it incredible that, just on a guess that Congress will under this legislation give OSHA new authority, they are already starting to define new rules and regulations. That is incredible.

Mr. TREEN. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Mississippi (Mr. TREEN).

Mr. TREEN. Mr. Chairman, what they did was actually usurp authority and they were stopped by a court injunction in New Orleans.

Mr. ROUSSELOT. I recall the divers and several others at least instituted the suit and got an injunction to stop it. But I would like to urge my colleagues to look at page 192 of the bill, and I think on the basis of this issue alone we should support the Fish substitute amendment, because the Fish substitute requires that the Coast Guard and the Interior Department discharge this responsibility, which they have already done.

The Coast Guard has done an excellent job of drafting the safety regulations.

So to me this offers another reason why the substitute offered by the gentleman from New York should be supported.

I wonder if I could call on my colleague, the gentleman from New York (Mr. MURPHY), to state: "Is it the understanding of the gentleman from New York that they have already started writing rules and regulations under OSHA?"

Mr. MURPHY of New York. Mr. Chairman, if the gentleman will yield, under existing statutory authority, OSHA has gone through a full rulemaking procedure, and, if the gentleman will permit me, the new regulations are already in effect, and rightly so. There were 26 men killed in 1 year in deep ocean diving.

Mr. ROUSSELOT. Over what period of time?

Mr. MURPHY of New York. One year.

Mr. ROUSSELOT. When was that?

Mr. MURPHY of New York. In deep ocean diving.

Mr. ROUSSELOT. On the Outer Continental Shelf is where these men died.

Mr. MURPHY of New York. Because there were no diving platforms and other safety precautions where they were; that is the reason these regulations were promulgated.

Mr. ROUSSELOT. My understanding is that according to Coast Guard figures over the last 18 months there was only one death.

Mr. MURPHY of New York. That was in 1976?

Mr. ROUSSELOT. In the last 18 months there was only 1 death, the 26 deaths were all over the world.

Mr. MURPHY of New York. These were Continental Shelf divers.

Mr. ROUSSELOT. All over the world.

Mr. MURPHY of New York. That is right.

Mr. ROUSSELOT. The other countries do not apply safety standards like ours. Is it not possible they were foreign divers? The gentleman did not mean to imply that these deaths were within the jurisdiction of the United States, did he?

Mr. MURPHY of New York. The bulk of the exploration is done by American persons.

Mr. ROUSSELOT. But the gentleman knows full well those 26 deaths were, in many instances, under foreign jurisdiction and should not be quoted in a debate as applying to this country. Our country had no jurisdiction is my understanding. There has only been one death in 18 months.

Mr. MURPHY of New York. The safety procedures in the Outer Continental Shelf are those of the United States.

Mr. ROUSSELOT. The one death is not a good thing, but it does show that our country has a good safety record and that the Coast Guard worked closely with divers in the safety field. They have done an admirable job, and have done it in conjunction with OSHA. The gentleman would not want to leave the impression with the House that the 26 deaths occurred because of lack of jurisdiction or care on the part of the United States. I know the gentleman did not mean to leave that implication. Clearly I think it is wrong to try to interpose OSHA in this process in any formal role when the Coast Guard has already worked with OSHA to promulgate their safety regulations. I think that that is an appropriate point made by my colleague, the gentleman from New York (Mr. FISH).

Mr. BADHAM. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from California.

Mr. BADHAM. Mr. Chairman, I would like, if I may, to direct a question or two to the Chairman.

The CHAIRMAN. The time of the gentleman from California has again expired.

(At the request of Mr. BADHAM, and by unanimous consent, Mr. ROUSSELOT was allowed to proceed for an additional 5 minutes.)

Mr. BADHAM. Mr. Chairman, I would like to address a question to the chairman of the subcommittee. I know of the gentleman's great experience as a scuba diver. I think we have been incorrectly referring to skindiving.

I am a certified diver also. I am very shocked to hear about the 26 people whose lives were lost. They were not Americans. Have we come to that conclusion?

Mr. MURPHY of New York. Mr. Chairman, if the gentleman will yield further, some were Americans. I might say to the gentleman, that the figure would be much higher if we brought in the serious injury rate. Of course, fatalities from immediate injury are one thing, but then the related fatalities that occur later are a totally different and higher number.

I might say that these rules are already in effect, written and promulgated by OSHA, and are in effect for the safety of divers.

Mr. BADHAM. Mr. Chairman, if the gentleman will yield further, because I do know the gentleman to be a diver, I just have a terrible time understanding that the gentleman would advocate, in addition to our Navy standards and Coast Guard standards, our Navy and Coast Guard decompression tables and chambers and all of the body of present scientific knowledge, that the gentleman from New York of all people, would want to add OSHA rules.

Mr. MURPHY of New York. Mr. Chairman, if the gentleman will yield further, OSHA is already injected into it and as we know just from our last year's experience, we have changed completely our decompression times, particularly at deeper depths. Just this year we have gone into a total new technology of diving suits and how we are going to protect them at the greater depths we are now drilling, which are over 1,000 feet.

I think their rules are wise rules.

Mr. BADHAM. Were these made by OSHA?

Mr. ROUSSELOT. No; by the Coast Guard.

Mr. BADHAM. Were the new diving standards made by OSHA?

Mr. MURPHY of New York. They were promulgated by OSHA with, of course, the agency working with NOAA, the Coast Guard and the Navy.

Mr. ROUSSELOT. But the Coast Guard did promulgate formal standards when such became necessary and the gentleman knows that. That is why I am surprised that he wants to have a third inexperienced agency in this when they really do not have a very good record in new areas they become involved in. OSHA does not enjoy a good reputation to judge from the letters I get. So, I think that this issue alone is an important reason to support the Fish substitute amendment.

Mr. LENT. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from New York.

Mr. LENT. Mr. Chairman, I rise in opposition to the substitute to H.R. 1614

offered by the gentleman from New York (Mr. FISH). Admittedly, H.R. 1614, the Outer Continental Shelf Lands Act amendments is not a perfect piece of legislation. But the imminence of OCS exploitation demands its strengthening, not its weakening. To many of my Long Island constituents, fearful of the havoc offshore oil and gas development might someday wreak upon our fragile wetlands, inlets and estuaries, the need for this legislation is a bitter pill to swallow. However, with the announcement this week by Secretary of the Interior Andrus of his intent to conduct OCS lease sale No. 42 in the Georges Bank within this month, and the recent decision of the Court of Appeals for the Second Circuit validating lease sale No. 40 in the Baltimore Canyon, there is no denying the fact that offshore oil and gas development in the Atlantic Ocean is at hand. The public and the environment now require a far greater measure of protection than is provided by existing law.

Under the leadership of Chairman MURPHY, the ad hoc select committee has carefully developed the legislation before us. H.R. 1614 contains a number of worthwhile features which would be eliminated or weakened if either the Breaux or Fish substitute is adopted by this body:

First. Title III of H.R. 1614 contains a comprehensive set of procedures to be followed in the event of an oilspill and compensation for clean up costs and damages resulting from such a spill. An oil spill clean up fund is established for this purpose. This title III is eliminated in both substitutes.

Second. H.R. 1614 provides State and local governments with substantive rights of participation and review of Federal proposals for offshore development. This necessary safeguard is eliminated in both substitute measures.

Third. H.R. 1614 preserves the authority of the Secretary of the Interior to conduct core and test drilling and also requires "onstructure" drilling which will provide reliable data to help the Government identify Federal OCS oil and gas reserves and better insure that the public gets a fair return on its resources.

Fourth. H.R. 1614 provides Federal financial assistance to impacted coastal States and localities through the coastal energy impact program (CEIP), established in the 1976 amendments to the Coastal Zone Management Act. Both substitutes yield far less aid to New York State and neither would require that such funds actually be used to offset OCS related impacts as does H.R. 1614.

Fifth. Both substitutes eliminate authority provided in H.R. 1614 to require compliance with State standards under the Clean Air Act. This omission could result in offshore breezes carrying noxious gases and odors vented from offshore operations to onshore communities.

Sixth. H.R. 1614 would improve competitive bidding procedures by requiring the Secretary of the Interior to experiment with other than the "cash bonus" bidding systems. Both substitutes limit the development of better bidding systems and maintain the status quo which favors major developers.

For these reasons, I urge the rejection of both substitutes and the passage of H.R. 1614 as a significant contribution to safer and sound development of the United States vast, untapped reserves under the Outer Continental Shelf.

AMENDMENT OFFERED BY MR. BROWN OF OHIO TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. FISH

Mr. BROWN of Ohio. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. BROWN of Ohio to the amendment in the nature of a substitute offered by Mr. FISH: Page 6, line 17, strike out "Paragraph (c)" and insert in lieu thereof "Paragraphs (b) and (c)".

Page 6, line 18, strike out "is" and insert in lieu thereof "are".

Page 6, after line 19, insert the following: "(b) The term 'Secretary' means the Secretary of the Interior, except that with respect to functions under this Act transferred to, or vested in, the Secretary of Energy or the Federal Energy Regulatory Commission by or pursuant to the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), the term 'Secretary' means the Secretary of Energy, or the Federal Energy Regulatory Commission, as the case may be.".

Mr. BROWN of Ohio (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. BROWN of Ohio. Mr. Chairman, I advise Mr. MURPHY that this is the same amendment which was offered in concert between Mr. DINGELL and myself to the Breaux amendment, which sustained the colloquy and support, I think, of Mr. BREAUX. I would solicit his support of it.

It merely assures that where the term "Secretary" is used for provisions or authorities that are currently given to the Secretary of the Department of Energy in compliance with the Department of Energy legislation passed by this body some 4 or 5 months ago, that the reference is to the Secretary of the Department of Energy and not to the Secretary of the Department of the Interior.

I would assume that the gentleman from New York (Mr. MURPHY), the gentleman from Louisiana (Mr. BREAUX), and the gentleman from New York (Mr. FISH) all agree that we do not want, now that we have created the Department of Energy to change that creation with this legislation. It has barely gotten underway, therefore I am offering this amendment to the Fish amendment, and would hope that the gentleman from New York (Mr. FISH) would accept it, and that the gentleman from New York (Mr. MURPHY) would accept it, as it was previously accepted by the gentleman from Louisiana (Mr. BREAUX).

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from New York.

Mr. FISH. I thank the gentleman for yielding. This has long been a concern of the minority. It was the subject of our debate yesterday, as well as of my remarks today in support of my substitute amendment. This committee bill was drafted some 3 years ago—and in the meanwhile the Department of Energy has been created. In creating this Department, the Secretary of Energy was given certain responsibilities by Congress in the leasing field. As a result there is now a disagreement developing between the Department of Energy and the Interior Department with respect to features in this bill. This is just one more reason why I cannot understand the reason for bringing this bill up on the second day of this session giving it top priority.

I think we will have, over the next months, a great deal of unraveling to do. What the gentleman has provided us with is a useful tool to prevent differences, overlapping inconsistencies and rows from time to time. I am certainly glad to accept the amendment.

Mr. BROWN of Ohio. I might say that this issue, this question of leasing and rights of the Department of Energy and the Department of the Interior and the two Secretaries, I think was very thoroughly aired in the Government Operations Committee when we considered the Department of Energy legislation. Mr. DINGELL indicated when we discussed this amendment earlier that it was clearly a matter of inadvertence on the part of the committee when it left the Secretary in reference to the Department of the Interior, but I want to be sure that it is cleared up, and would offer the amendment in the effort to do that.

As I say, it was accepted. I think we had a voice vote on it, as was required. I think it was generally accepted, and I do not think it really had any opposition when it was offered to the Breaux amendment. So, I would hope it would have the support of the committee.

Mr. FISH. Mr. Chairman, will the gentleman yield further?

Mr. BROWN of Ohio. I yield to the gentleman from New York.

Mr. FISH. Mr. Chairman, while the gentleman is in the well, I will say that we in the committee know of his work with the gentleman from Michigan (Mr. DINGELL) on the Commerce Committee, and they are two of the most respected and responsible energy experts in the House.

Mr. BROWN of Ohio. If it is a strange and wonderful relationship, I will not indicate which is which.

Mr. FISH. Does the gentleman recall, in the consideration of the amendments on the Breaux substitute, the gentleman from Michigan (Mr. DINGELL) offered an amendment to deal with the rule on the record aspect?

Mr. BROWN of Ohio. Yes.

Mr. FISH. I would just like to point out, because I do not believe he is in the Chamber, that this defect is not in the Fish substitute. We have deleted that language, so that the Dingell amend-

ment in that regard would not be necessary.

Mr. BROWN of Ohio. There is another amendment, which, however, is necessary, I think, and I will offer that in a moment. But this amendment does not deal with that particular aspect.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. BROWN) to the amendment in the nature of a substitute offered by the gentleman from New York (Mr. FISH).

The amendment to the amendment in the nature of a substitute was agreed to.

Mr. MURPHY of New York. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I wonder if I could take this time to inquire of my colleague, the gentleman from New York, the ranking minority member, as to how much more debate he feels we will have on this substitute.

We have been at this stance since 2:25, and I think we have been over these issues time and again.

Mr. FISH. If the gentleman will yield, in response to the gentleman's question, I would say that I imagine that pure debate would be very short order. I cannot imagine more than 10 minutes or 15 minutes. It is difficult to say who might appear and who would want to speak by striking the last word. However, as regards those who offered amendments to the Breaux substitute which were successful, there are at least one-half dozen individuals who offered amendments who are just coming in the Chamber now, who will offer amendments to my substitute that I also propose to accept, as did the gentleman from Louisiana (Mr. BREAUX). It is a matter of amending and not debating.

Mr. MURPHY of New York. Mr. Chairman, I ask unanimous consent that all debate on the amendment in the nature of a substitute offered by the gentleman from New York (Mr. FISH) and all amendments thereto conclude at 4:30 p.m.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. TREEN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. FISH. Mr. Chairman, if the gentleman will yield, I would think that if the gentleman said 5 o'clock I could do my very best to get this matter resolved by then.

Mr. MURPHY of New York. Mr. Chairman, I ask unanimous consent that all debate on the amendment in the nature of a substitute offered by the gentleman from New York (Mr. FISH) and all amendments thereto conclude at 4:50.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. TREEN. Mr. Chairman, reserving the right to object, we do not have any idea what amendments may be offered to this from either side of the aisle.

Is the gentleman seeking to cut off debate not only on this substitute, which is a comprehensive substitute—we are not talking about a very simple amendment—but, in addition to that, the gentleman is asking that the debate should be stopped at 10 minutes to 5 on all amendments that may be offered in this Chamber to this substitute?

Mr. MURPHY of New York. Just to this substitute. We may not know what amendments are to be offered, but we do know what the airline schedule is.

Mr. TREEN. Mr. Chairman, reserving the right to object, can the gentleman tell me when he expects to move that the Committee rise?

Mr. MURPHY of New York. Mr. Chairman, by prior agreement, the Committee will rise at 5:30. But we would like to make substantial progress today.

Mr. TREEN. Mr. Chairman, further reserving the right to object, we could rise at 10 minutes to 5 so everybody could make their plane, but we do not have to finish this substitute today.

Mr. MURPHY of New York. Mr. Chairman, I would think it would expedite the business of the House to do so.

Mr. Chairman, I ask unanimous consent that all debate on the amendment in the nature of a substitute offered by the gentleman from New York (Mr. FISH) and all amendments thereto conclude at 5 o'clock.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

AMENDMENT OFFERED BY MR. MOORE TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. FISH

Mr. MOORE. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. MOORE to the amendment in the nature of a substitute offered by Mr. FISH: Page 67, immediatley after line 8, add the following new section:

RULE AND REGULATION REVIEW

SEC. 408. (a) Any rule or regulation prescribed pursuant to this Act or the Outer Continental Shelf Lands Act, as amended by this Act, by the head of any Federal department or agency may by resolution of either House of Congress be disapproved, in whole or in part, if such resolution of disapproval is adopted not later than the end of the first period of 60 calendar days when Congress is in session (whether or not continuous) which period begins on the date such rule or regulation is finally adopted by the head of such department or agency. The head of any Federal department or agency who prescribes such a rule or regulation shall transmit such rule or regulation to each House of Congress immediatley upon its final adoption. Upon adoption of such a resolution of disapproval by either House of Congress within such 60-day period, such rule or regulation, or part thereof, as the case may be, shall cease to be in effect.

(b) Congressional inaction on or rejection of a resolution of disapproval of a rule or regulation promulgated under this Act or the Outer Continental Shelf Lands Act, as amended by this Act, shall not be deemed an expression of approval of such rule or regulation.

(c) The provisions of this section shall not apply to any finding or action by the Secretary of the Interior pursuant to section 8(a)(5)(C)(ii) or 8(b)(4) of the Outer Continental Shelf Lands Act, as amended by this Act.

On page 2 insert:

"Sec. 408. Rule and Regulation Review."

Mr. MOORE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. MOORE. Mr. Chairman, this is the same amendment I offered earlier to the Breaux substitute and which was accepted by the gentleman from Louisiana (Mr. BREAUX) and passed by the committee. I have the understanding that the author of this substitute, the gentleman from New York (Mr. FISH), likewise has no objection to this amendment.

This is the legislative veto amendment. I think it is most important that I and the gentleman from California (Mr. KETCHUM) offer this amendment to this particular bill. We did it many times in the 94th Congress. This language exists in some 200 instances in law now. In the 1st session of the 95th Congress we passed it into law seven times, and it exists in six other measures that have been passed by this House and await the conclusion of the legislative process.

This amendment has been held constitutional by some people's interpretation by a January 9, 1978, decision of the U.S. Supreme Court.

The reasons why I think the amendment is most important in this particular case are because first, the committee itself thought it necessary to include a version of the legislative veto amendment in two sections of this bill. Our amendment does not affect those sections. It affects all other sections of the bill and leaves the committee's handiwork alone in those two sections.

If the committee found it necessary to put it in two instances, it would seem to me to be necessary throughout the bill.

We know from the Tulane study and the Rhode Island University study, as well as by other estimations, that there will possibly be some 40 different sets of regulations issued to implement this bill. We have some nine different agencies of the Federal Government that will be issuing regulations under this bill. The committee says that an important purpose of this bill is to try to avoid conflicts and to try to put under one statute all authority dealing with the Outer Continental Shelf. In fact, however, with nine agencies involved and the possibility of 40 sets of regulations, we are, indeed, inviting conflict and duplication and delay.

Therefore, we think it is most important that an amendment of this nature be adopted to the Fish substitute, in order to give the House some control over this measure so that in days to come, when dealing with something that is as important as the development of our energy resources in the Outer Continental Shelf, if there is a duplication of efforts or a particularly bad regulation, this

House or the other body will have some way to rectify the situation short of passing new legislation.

So, Mr. Chairman, I urge the House to adopt this amendment, as has been done so many times during the first session of this Congress and as was done earlier today when we considered the Breaux substitute.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana (Mr. MOORE) to the amendment in the nature of a substitute offered by the gentleman from New York (Mr. FISH).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. LAGOMARSINO TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. FISH

Mr. LAGOMARSINO. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. LAGOMARSINO to the amendment in the nature of a substitute offered by Mr. FISH: Under title IV, Miscellaneous Provisions, add the following new section on page 67, after line 2:

RECOMMENDATIONS FOR TRAINING PROGRAM

SEC. 407. Not later than 90 days after the date of enactment of this Act, the Secretary of the Interior, in consultation with the Secretary of the Department in which the Coast Guard is operating, shall prepare and submit to the Congress a report which sets forth the recommendations of the Secretary for a program to assure that any individual—

(1) who is employed on any artificial island, installation or other device located on the Outer Continental Shelf; and

(2) who, as part of such employment, operates, or supervises the operation of pollution-prevention equipment, is properly trained to operate, or supervise the operation of such equipment, as the case may be.

Redesignate section 407 as section 408.

Mr. LAGOMARSINO (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. LAGOMARSINO. Mr. Chairman, the amendment that I am offering now is exactly the same amendment I offered to the Breaux substitute earlier today. That amendment was agreed to by the gentleman from Louisiana (Mr. BREAUX) and was adopted by the membership.

I will explain the amendment briefly in case any Member is not familiar with it. This amendment is designed to insure that those individuals who are directly responsible for the operation, implementation, and/or supervision of antipollution equipment know how to operate that equipment and can effectively install it and operate it during emergency conditions.

It is a simple amendment. I do not think it is controversial. It would require the Secretary of the Interior, in consultation with the Coast Guard, to submit his recommendations to Congress within 90 days after the date of enactment of this legislation for a training program for key OCS employees. It would be directed toward individuals who are directly responsible for the implementation and for the operation of antipollution equipment.

I think that primarily we are talking about such things as blowout preventers. At such time as Congress receives the Secretary's recommendations, it would be my hope that appropriate committees of the Congress review the recommendations in both an oversight capacity and also to determine whether further legislation might be necessary or desirable.

Mr. Chairman, as the Members may know, the Department of the Interior, through the U.S. Geological Survey, recently completed work on such a training and certification program and declared that all drilling crew members must attend a certified school in order to stay on the job.

I commend the Department for their commitment and for their responsiveness, and I should point out that they have that regulatory authority now. In the light of this recent development, I believe my amendment has, perhaps, a greater significance now than before that action.

First, it would provide in a formal sort of way for congressional oversight, which I believe to be very important to assure that the training program is not only effective but would not seriously disrupt OCS activities for frivolous purposes.

Secondly, it would mandate into law the commitment of Congress to a training and certification program for those key OCS workers. Under current authority, the Department of the Interior may or may not institute such a program; and perhaps subsequent administrations would decide to discontinue it. Therefore, it seems to me that this is a vital matter, one that we should speak to, and I think it could lead to significantly improved OCS safety records, and Congress should not go forward without addressing this subject.

I think the need for such a training program has been tragically demonstrated in the past. I talked earlier about the Santa Barbara Channel blowout in 1969 and how the investigation of that accident seemed to indicate that human failures were the primary cause.

There was also a recent blowout in the North Sea. An official commission of inquiry ruled that insufficient training, poor organization, and inadequate inspections were responsible for that mishap, which not only resulted in ecological damage, but also resulted in the waste of millions of gallons of crude oil which were dumped into the ocean.

As a matter of fact, I understand that one of the findings in that case was that the drilling crew, when the blowout occurred, tried to put in a blowout preventer upside down, it did not work too well in that configuration.

I think if we study the causes of all of the significant accidents on the OCS, we will find the major proportion is directly attributable to human error and poor training and not to equipment failures. Therefore, there is sufficient cause for responsible Government action to rectify this situation.

Mr. Chairman, as I said earlier, this particular amendment will make sure that Congress gets into the act in a responsible way. I want to emphasize that my amendment will not in any way interfere with the ongoing efforts of the Department of the Interior to establish a training and certification program, but it will demonstrate congressional interest in the safe development of OCS oil and gas.

As I said earlier also, we contacted every responsible party that we could think of who might have an interest in this amendment; and I and my staff have checked with industry representatives, with environmental groups, with the U.S. Geological Survey; and all have been supportive of the concept. No one, to my knowledge, has indicated any problem or any opposition to it.

Therefore, Mr. Chairman, I urge adoption of the amendment.

Mr. TREEN. Mr. Chairman, I move to strike the requisite number of words.

May I have the attention of the author of the amendment. I wanted to ask a couple of questions.

I did not speak to this amendment when it was offered previously to the Breaux substitute, and I am reluctant to do so now because of my respect for the gentleman who has offered the amendment. However, I am concerned about several things.

First of all, the wording of the gentleman's amendment is identical to the amendment as he offered it to the Breaux substitute; is that correct?

Mr. LAGOMARSINO. If the gentleman will yield, Mr. Chairman, that is correct.

Mr. TREEN. Therefore, this amendment calls for a study?

Mr. LAGOMARSINO. Yes. Actually, it calls for them to prepare and submit to Congress a report which sets forth recommendations.

Mr. TREEN. And it would be the gentleman's idea, then, that we would have a Federal program of training and certification of workers on the OCS.

Mr. LAGOMARSINO. Which, as I said in my statement, we already have; but it would put Congress into the act. We would then be in a position to approve or disapprove those recommendations.

Mr. TREEN. Is the gentleman saying that we have in effect now a requirement that a worker on the OCS go through a certain amount of training and be certified?

Mr. LAGOMARSINO. I am saying that the Department of Interior has just come forth with regulations which say that, regardless of what we do with this legislation or with this amendment.

Mr. TREEN. Is there a Federal training school involved in this matter?

Mr. LAGOMARSINO. My understanding is that a private school would be used for that purpose, a university; and I do not have that information before me, but that recommendation has been made.

Mr. TREEN. If we are going to do it in this area then why not do it in other areas where we can get the Federal Government into the business of certifying that people are properly trained for all sorts of hazardous occupations? It seems to me what we need in this Federal Government of ours is to stop getting involved in so many different things.

Mr. LAGOMARSINO. I would agree except that I believe the Federal Government does have a legitimate interest in protecting not only the environment with which a lot of people are concerned, but also with the resources themselves. I believe that training is desirable. As I pointed out earlier, it is not really a question of whether there will be a training program but it is a question of what the involvement of the Congress will be. At the present time, under the Outer Continental Shelf legislation—and I understand that that portion of the act is not affected by the proposed legislation, or by any of the substitutes—they have the authority now and they have just exercised it.

Mr. TREEN. They have the power to certify?

Mr. LAGOMARSINO. Yes, or to set up certain standards.

Mr. TREEN. Do they certify everybody who works on OCS, that is, do all the workers have to be certified?

Mr. LAGOMARSINO. That is what they are proposing to do.

Mr. TREEN. That is what they are proposing to do?

Mr. LAGOMARSINO. Yes, that is what they are proposing to do. They apparently have the authority to do that.

This amendment does not speak about any authority that they have at the present time, it merely says if they would make rules to submit them to Congress for appropriate action.

Mr. TREEN. Then, of course, if the "regulation veto" amendment is adopted in the final legislation then those regulations would have to come to us?

Mr. LAGOMARSINO. Yes, that is correct.

Mr. TREEN. I am not going to call for a no vote against the amendment, but I am very concerned that we have to involve the Federal Government in training because we have people, especially those in Louisiana who have been working on the OCS since 1946, and they are certainly pretty well trained. Perhaps some of them do not speak English too well, and I would hope that we will permit the Cajuns of Louisiana, who wish to do so, to take their tests in their Cajun French. As I say they are pretty well trained. They go all over the world, and I just think that to require them to go back and get some more training and further certification is an unnecessary imposition.

Mr. LAGOMARSINO. If I might reply to the gentleman with just a final word on this, that is one of the things about this particular amendment and that is that they would have to come back to the Congress and present their recommendations, and we could see what they are and pass upon them. I would agree that we should not require 4 months schooling for a person who knows what this is all about because as we know experience is one of the best teachers we can have. I believe that any program that is developed would provide for a grandfather clause and experience substitutes for schooling, and so forth. I agree with the gentleman.

Mr. TREEN. Mr. Chairman, I thank the gentleman from California (Mr. LAGOMARSINO) for answering my questions.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. LAGOMARSINO) to the nature of a substitute offered by Mr. FISH).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. BROWN OF OHIO TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. FISH

Mr. BROWN of Ohio. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. BROWN of Ohio to the amendment in the nature of a substitute offered by Mr. FISH: Page 67, line 20, after "SEC. 508." insert "(a)".

Page 67, after line 24, insert the following:

"(b) Nothing in this Act or any amendment made by this Act to the Outer Continental Shelf Lands Act (43 U.S.C. 1331, et seq.) or any other Act shall be construed to affect or modify the provisions of the Department of Energy Organization Act (42 U.S.C. 7107 et seq.) which provide for the transferring and vesting of functions to and in the Secretary of Energy or any component of the Department of Energy."

Mr. BROWN of Ohio. Mr. Chairman, this amendment is merely a clarifying amendment, a technical amendment as I would characterize it. It is not meant to change in any way the law in either the Fish amendment or the purposes and thrust of that amendment or the purposes and thrust of the original bill H.R. 1614, the Murphy of New York bill.

Rather, it is an amendment to the Fish amendment to be sure that we do not change the purposes and thrust of the Department of Energy Act. In the Department of Energy Act certain responsibilites were vested in the Secretary of Energy, and that has been addressed by the previous amendment that was just accepted a few moments ago that I offered. But there are also other assignments made of responsibility in the Department of Energy Act, in addition to the Secretary, to other parts of that department, and notably the Federal Energy Regulatory Commission, nee, the Federal Power Commission. I do not feel that those should be in any way affected by either the language of the Fish amendment or of the basic legislation, so it is my purpose here in this catch-all amendment or this final additional amendment to the Fish substitute, or Fish amendment to the basic bill, to say that we are not going to change the law as we wrote it in the Department of Energy Organization Act. That act had extensive hearings by the Committee on Government Operations, and we very carefully placed certain responsibilities in the Office of the Secretary of the Department of Energy, in other elements of the Department of Energy, and in FERC. Those hearings, I think, were logical in their conclusions in the way the act was written.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Illinois.

Mr. YATES. I thank the gentleman for yielding.

Can the gentleman tell the House what duties specifically he has in mind that he does not want interfered with in the Department of Energy by this legislation?

Mr. BROWN of Ohio. I do not want any of them interfered with, in other words, none of them changed. They have been assigned by that legislation we passed 4 to 5 months ago.

Mr. YATES. Does the gentleman know of any?

Mr. BROWN of Ohio. I do not think that is the purpose of either the Murphy bill or the Fish bill.

Mr. YATES. Does it conflict with any the gentleman knows about? What is the reason for the gentleman's offering his amendment?

Mr. BROWN of Ohio. I am unaware of a specific conflict beyond that in which in the basic bill the Secretary of the Interior was the reference, and we made those assignments to the Secretary of the Department of Energy. I just want to be sure that none of the assignments made in this bill are in any way interpreted as modifying the assignments we gave within the Department of Energy to the Secretary, the Federal Regulatory Commission, or other agencies within the Department of Energy.

Mr. YATES. But the gentleman knows of no conflict at this time?

Mr. BROWN of Ohio. I know of no conflict specifically made in the bill, but I do not want any made by inadvertence.

Mr. TREEN. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Louisiana.

Mr. TREEN. I thank the gentleman for yielding.

I cannot vouch for this entirely, but we have heard that there is conflict now between the Department of the Interior and the Department of Energy over certain responsibilities and authorities set forth in this. There is some, so I think the amendment is appropriate.

Mr. BROWN of Ohio. I guess, frankly, that that is one of the things I want to address. I was not satisfied, I might say to the gentleman from Illinois as a personal matter, that when we wrote the Department of Energy legislation we had fully refined the distinctions and responsibilities between the Department of Energy and the Department of the Interior. in the leasing obligations. However, I might say that that sort of dynamic tension that still remained unresolved, it was felt when the Department of Energy bill was debated, would probably have to be resolved by the President of the United States referring between his two Secretaries and his two significant

and worthy Departments. It is my ambition in this not to see any tilt given in this legislation by inadvertence that would move from the Department of Energy certain responsibilities over to the Department of the Interior or, for that matter, the other way around.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I will be happy to yield to the gentleman from Illinois.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. YATES, and by unanimous consent, Mr. BROWN of Ohio was allowed to proceed for 1 additional minute.)

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I will be glad to yield to the gentleman.

Mr. YATES. In view of the statement made by the gentleman from Louisiana (Mr. TREEN) that some controversy does exist, would it not be better to find out before we vote on this amendment what the controversy is so that we are in a position either to support the gentleman's amendment or leave that decision to the President of the United States as to which of the departments ought to have that responsibility?

Mr. BROWN of Ohio. I might say to the gentleman from Illinois I state clearly that the purpose of this amendment is to leave things essentially where they are so that the President of the United States would be the referee to make that determination.

It is, as I say, not my ambition either to move responsibilities into the Department of Energy that do not currently exist there under the DOE law, or to see them moved, specifically not to see them moved to the Department of the Interior from the legislation we passed when we created the Department of Energy. There are some ambiguities still left and I think the President has the responsibility to resolve them. This does not resolve them one way or the other. This just says none of those issues that are left in the creation of the Department of Energy should be changed at this point.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. BROWN) to the amendment in the nature of a substitute offered by the gentleman from New York (Mr. FISH).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. LIVINGSTON TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. FISH

Mr. LIVINGSTON. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. LIVINGSTON to the amendment in the nature of a substitute offered by Mr. FISH: Title II, add the following new section 31:

"SEC. 31. DOCUMENTATION AND REGISTRY.

(a) Within six months after the date of enactment of this section, the Secretary of the Department in which the Coast Guard is operating shall by regulation require that any vessel, rig, platform, or other vehicle or structure which is used for activities pursuant to this Act, shall comply with such minimum standards of design, construction, alteration, and repair as the Secretary of the Department in which the Coast Guard is operating establishes; and except as provided in subsection (b) of this section and which is contracted to be built or rebuilt one year after enactment for use in the exploration, development or production of the mineral resources located on or under the seabed and subsoil of the Outer Continental Shelf be built or rebuilt in the United States and when required to be documented, be documented under the laws of the United States;

(b) The Secretary may waive the requirements of this section if he determines that:

(1) compliance will unreasonably delay completion of any vessel or structure beyond its contracted delivery date;

(2) the requirements will result in costs that are unreasonable; or

(3) the articles, materials, or supplies of the class or kind to be used in the building or rebuilding are not produced or manufactured in the United States in sufficient and usually available commercial quantities and of a satisfactory quality.

(c) As used in this section, the terms "vessel," "documented under the laws of the United States," shall have the meaning assigned to them under section 2 of the Shipping Act of 1916 (46 U.S.C. 801 and 802) and 'built or rebuilt in the United States' means that only articles, materials and supplies of the growth, production or manufacture of the United States as defined in paragraph K of Section 1401 of manufacture of the Tariff Act of 1930 may be used in such building or rebuilding:

Mr. LIVINGSTON (during the reading). Mr. Chairman, I ask unanimous consent to dispense with further reading of the amendment and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

Mr. ROUSSELOT. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk will continue to read.

The Clerk completed the reading of the amendment.

Mr. ROUSSELOT. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Thirty-two Members are present, not a quorum.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The Chair recognizes the gentleman from Louisiana (Mr. LIVINGSTON).

Mr. LIVINGSTON. Mr. Chairman, I have asked that this amendment be considered to amend the Fish substitute to H.R. 1614 for principally the same reason that I came before this Chamber after the Breaux amendment was pending.

Mr. Chairman, my amendment again is fundamentally in the same language as offered by the chairman of the committee, the gentleman from New York (Mr. MURPHY), in his proposed amendment to the original bill, H.R. 1614, with respect to the "Buy American" provisions.

It is my firm conviction that the entire OCS bill will be extremely important to the fate of the oil and gas exploration facilities throughout this country, not only in my own State of Louisiana but throughout the coastal regions of these United States.

Therefore, Mr. Chairman, let me point out that I understand that roughly 80 percent of the American offshore drilling equipment presently manufactured is in fact manufactured abroad and not in these United States, and that valuable jobs are lost to this country simply by virtue of the reason that the equipment is produced abroad and not in this country. Therefore, unless the situation is corrected, our economy, I believe, stands to suffer.

For that reason I have offered this language to induce my colleagues to consider buying American equipment and to induce American equipment to be produced here in the United States, thereby boosting the number of jobs in this country, and in my own district as well, which, by the way, is one of the largest geographical producers of oil and gas in the Nation.

The Outer Continental Shelf legislation, with the Fish amendment, will have an enormous effect on the amount of drilling throughout the country. The first offshore well was drilled in Louisiana in 1947, and since that time production has been extremely important to the State's economy.

In 1972, a peak year for offshore drilling activity, the Outer Continental Shelf-related employment counted for more than 17,000 jobs. These jobs were those related to drilling activity and the service industries that support it. They do not include jobs in activities caused by offshore drilling, such as refining.

It is easy to see, Mr. Chairman, that offshore drilling is a big industry for the State of Louisiana. Yet the construction of equipment has not added appreciably to that activity. This is a major factor that my amendment would seek to correct.

The people of this country need jobs, and jobs can be provided if we take steps to include this amendment in the Fish substitute, as it is included in the committee bill.

Mr. Chairman, I am proposing this amendment because it means jobs not only for the First Congressional District of Louisiana and other districts of Louisiana but for the United States as a whole.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. LIVINGSTON. Yes, I will be happy to yield to the gentleman from New York.

Mr. FISH. Mr. Chairman, I am very happy on behalf of the minority to accept the gentleman's amendment. It was accepted previously by this Committee today when the gentleman offered it to the Breaux amendment. I think the reasons for its acceptance are just as valid at this point as they were before.

Mr. RHODES. Mr. Chairman, will the gentleman yield?

Mr. LIVINGSTON. I yield to the minority leader.

Mr. RHODES. Mr. Chairman, I congratulate the gentleman on offering this amendment. I think it is a good amendment, and I certainly intend to support it.

Mr. LIVINGSTON. Mr. Chairman, I thank the gentleman for his support.

Mr. GIBBONS. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Louisiana (Mr. LIVINGSTON) to the amendment in the nature of a substitute.

Mr. Chairman, I know that these emotional amendments are popular. I know they are hard to oppose, but we should recognize this is essentially an emotional issue, not a real issue.

We wrap an issue like this in the flag and we drape it with patriotism, and then we say, "Oh, that's great." But all we are really doing is saying that for some people "We are going to create jobs for you, but for other people we are going to take jobs away."

There is no way in this world that we can get away with this kind of economics. It will not work. It never has worked. It causes more trouble.

The Subcommittee on Trade of the Committee on Ways and Means has been conducting hearings in the last couple of days. In fact, that is where the members from that committee are right now.

We have been talking to all of the people who claim to be impacted by this bill, and none of them recommend that this be the solution to the problem.

Therefore, Mr. Chairman, I would encourage the Members not to vote for this amendment. I know it sounds sweet and wonderful, but actually it is not. It will hurt other jobs. It will penalize other Americans in jobs. It escalates the kind of conflict in which there is no winner, and it is bad for the country. It is bad for people who want jobs.

Mr. DUNCAN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from Oregon.

Mr. DUNCAN of Oregon. Mr. Chairman, I would like to associate myself with the remarks of the gentleman from Florida (Mr. GIBBONS).

I spoke in opposition to this when the same issue was up earlier this afternoon. I think it puts us in violation of our present trade agreements. I think is a step down the line toward protectionism that was created, in my judgment, not to improve the prosperity of this country but to detract from it.

We are a trading nation, and we are entirely dependent upon our foreign trade. I think it is a mistake for us to get into this type of protectionism.

I do not have any objection to requiring American crews on these vessels or rigs, but I think it is an entirely different proposition when we are building vessels for the U.S. Navy to require U.S. tax dollars to be spent in this country.

This is not what we are doing here. We are telling private people that they have to use all American facilities, all American materials; and I think it is a mistake. I think it is going to result in reciprocal steps being taken by foreign countries against American drilling rigs which are scattered clear across the face of the globe.

Mr. GIBBONS. And this amendment is against American agricultural products for which we badly need a market, as well as being against all other American products.

Mr. WHALEN. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from Ohio.

Mr. WHALEN. Mr. Chairman, I would like to associate myself with the remarks of the gentleman from Florida (Mr. GIBBONS).

I think this kind of amendment, if agreed to, would be bound to result in retaliation.

In the long run, therefore, adoption of this kind of amendment is going to cost American jobs rather than save American jobs.

Therefore, Mr. Chairman, I urge that the amendment be defeated.

Mr. GIBBONS. Mr. Chairman, yesterday we had some of the most prominent Americans in the steel industry, both representing labor and the producers of steel; and none of them recommend this as a solution to the problem.

Mr. Chairman, I would urge my colleagues to vote a reasonable vote and not to put this amendment in the bill.

Mr. SIMON. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from Illinois.

Mr. SIMON. Mr. Chairman, I also would like to associate myself with the remarks of my colleagues, the gentleman from Ohio (Mr. WHALEN) and the gentleman from Oregon (Mr. DUNCAN).

While there is this initial appeal which the amendment has, I think we ought to keep in mind, No. 1, that the committee which is assigned this kind of responsibility, the Committee on Ways and Means, is not recommending this.

I think, second, we have to keep in mind as we balance this whole protectionism issue, that any kind of barrier like this is, in and of itself, inflationary and that there is no way of getting around that fact.

I think the third thing we ought to do is to take a small look at history.

The Smoot-Hawley tariff was designed to give Americans jobs. It did precisely the opposite.

Mr. Chairman, I see a real danger that we are still moving in that direction.

I commend my colleague, the gentleman from Florida (Mr. GIBBONS), for his remarks.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana (Mr. LIVINGSTON) to the amendment in the nature of a substitute offered by the gentleman from New York (Mr. FISH).

The question was taken; and the Chairman being in doubt, the Committee divided, and there were—ayes 19, noes 23.

Mr. BAUMAN. Mr. Chairman, I demand a recorded vote, and, pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

Seventy-nine Members are present, not a quorum. The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

Mr. BAUMAN. Mr. Chairman, I withdraw my request for a recorded vote.

So the amendment to the amendment in the nature of a substitute was rejected.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from New York (Mr. FISH), as amended.

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. FISH. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 143, noes 229, not voting 60, as follows:

[Roll No. 16]

AYES—143

Abdnor	Crane	Hubbard
Anderson, Ill.	Daniel, Dan	Huckaby
Andrews, N. Dak.	Daniel, R. W.	Hyde
	de la Garza	Ichord
Archer	Derwinski	Johnson, Colo.
Badham	Devine	Jones, N.C.
Bafalis	Dickinson	Jones, Okla.
Barnard	Duncan, Tenn.	Kazen
Bauman	Edwards, Ala.	Kelly
Beard, Tenn.	Edwards, Okla.	Kemp
Boggs	English	Kindness
Bowen	Erlenborn	Krueger
Breaux	Evans, Del.	Latta
Brinkley	Evans, Ga.	Leach
Brown, Mich.	Fish	Livingston
Brown, Ohio	Flippo	Lloyd, Tenn.
Broyhill	Forsythe	Long, La.
Buchanan	Frenzel	Lott
Burke, Fla.	Frey	McClory
Burleson, Tex.	Fuqua	McDonald
Butler	Gammage	McEwen
Caputo	Goodling	McKinney
Cederberg	Gradison	Madigan
Chappell	Grassley	Mahon
Clawson, Del	Hagedorn	Marlenee
Cleveland	Hall	Marriott
Cochran	Hammer-schmidt	Martin
Coleman		Mathis
Collins, Tex.	Hansen	Michel
Conable	Harsha	Milford
Corcoran	Holt	Miller, Ohio
Coughlin	Horton	Mitchell, N.Y.

Montgomery	Rudd	Thone
Moore	Runnels	Treen
Myers, Gary	Santini	Vander Jagt
Myers, John	Sarasin	Walker
O'Brien	Satterfield	Watkins
Pickle	Sawyer	White
Poage	Schulze	Whitten
Pritchard	Shuster	Wiggins
Pursell	Smith, Nebr.	Wilson, Tex.
Quayle	Snyder	Winn
Quillen	Spence	Wydler
Railsback	Stanton	Wylie
Regula	Steed	Young, Alaska
Rhodes	Steiger	Young, Fla.
Risenhoover	Stockman	Young, Tex.
Robinson	Stump	
Rousselot	Taylor	

NOES—229

Addabbo	Foley	Moorhead, Pa.
Akaka	Ford, Mich.	Moss
Alexander	Ford, Tenn.	Mottl
Allen	Fountain	Murphy, Ill.
Ambro	Fowler	Murphy, N.Y.
Ammerman	Fraser	Murtha
Anderson, Calif.	Gaydos	Myers, Michael
	Gephardt	Natcher
Andrews, N.C.	Giaimo	Neal
Annunzio	Gibbons	Nedzi
Applegate	Gilman	Nolan
Ashley	Ginn	Nowak
Aspin	Glickman	Oakar
AuCoin	Gore	Oberstar
Baldus	Gudger	Obey
Bedell	Hamilton	Ottinger
Beilenson	Hanley	Panetta
Benjamin	Hannaford	Patten
Bennett	Harkin	Patterson
Bevill	Harrington	Pattison
Biaggi	Harris	Pease
Bingham	Hawkins	Perkins
Blanchard	Heckler	Pike
Blouin	Hefner	Pressler
Bolling	Heftel	Preyer
Bonior	Holland	Price
Brademas	Hollenbeck	Rahall
Breckinridge	Holtzman	Rangel
Brodhead	Howard	Richmond
Brown, Calif.	Hughes	Rinaldo
Burke, Mass.	Jacobs	Roberts
Burlison, Mo.	Jeffords	Rogers
Burton, John	Jenkins	Rooney
Burton, Phillip	Jenrette	Rose
Byron	Johnson, Calif.	Rosenthal
Carney	Jones, Tenn.	Rostenkowski
Carr	Jordan	Russo
Carter	Kastenmeier	Scheuer
Cavanaugh	Keys	Schroeder
Chisholm	Kildee	Seiberling
Clausen, Don H.	Kostmayer	Sharp
	Krebs	Simon
Clay	LaFalce	Skelton
Cohen	Lagomarsino	Skubitz
Collins, Ill.	Le Fante	Slack
Conte	Lederer	Smith, Iowa
Conyers	Lehman	Solarz
Corman	Lent	Spellman
Cornell	Levitas	Stark
Cornwell	Lloyd, Calif.	Steers
D'Amours	Long, Md.	Stokes
Davis	Luken	Stratton
Delaney	Lundine	Studds
Dellums	McCloskey	Teague
Derrick	McCormack	Thompson
Dicks	McDade	Traxler
Dingell	McFall	Tsongas
Dodd	McHugh	Udall
Downey	McKay	Ullman
Drinan	Maguire	Van Deerlin
Duncan, Oreg.	Mann	Vanik
Early	Markey	Vento
Eckhardt	Marks	Volkmer
Edgar	Mattox	Walgren
Edwards, Calif.	Mazzoli	Waxman
Eilberg	Meeds	Weaver
Emery	Metcalfe	Weiss
Ertel	Meyner	Whalen
Evans, Colo.	Mikulski	Whitehurst
Evans, Ind.	Mikva	Whitley
Fary	Miller, Calif.	Wolff
Fascell	Mineta	Wright
Fenwick	Minish	Yates
Fisher	Mitchell, Md.	Yatron
Fithian	Moakley	Young, Mo.
Flood	Moffett	Zablocki
Florio	Mollohan	Zeferetti

NOT VOTING—60

Armstrong	Boland	Burgener
Ashbrook	Bonker	Burke, Calif.
Baucus	Brooks	Cotter
Beard, R.I.	Broomfield	Cunningham
Danielson	Moorhead, Calif.	Sikes
Dent		Sisk
Diggs	Murphy, Pa.	St Germain
Dornan	Nichols	Staggers
Findley	Nix	Stangeland
Flowers	Pepper	Symms
Flynt	Pettis	Thornton
Goldwater	Quie	Trible
Gonzalez	Reuss	Tucker
Guyer	Rodino	Waggonner
Hightower	Roe	Walsh
Hillis	Roncalio	Wampler
Ireland	Roybal	Wilson, Bob
Kasten	Ruppe	Wilson, C. H.
Ketchum	Ryan	Wirth
Leggett	Sebelius	
Lujan	Shipley	

The Clerk announced the following pairs:

On this vote:

Mr. Sikes for, with Mr. Dent against.

Mr. Ireland for, with Mr. Bonker against.

Mr. Stangeland for, with Mr. Baucus against.

Mr. Sebelius for, with Mr. Staggers against.

Mr. Guyer for, with Mr. St Germain against.

Mr. Dornan for, with Mrs. Burke of California against.

Mr. Ashbrook for, with Mr. Ryan against.

Mr. Broomfield for, with Mr. Cotter against.

Mr. Lujan for, with Mr. Rodino against.

Mr. Symms for, with Mr. Nix against.

Mr. HANNAFORD changed his vote from "aye" to "no."

So the amendment in the nature of a substitute, as amended, was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will designate the title of the bill now pending.

The Clerk read as follows:

TITLE I—FINDINGS AND PURPOSES WITH RESPECT TO MANAGING THE RESOURCES OF THE OUTER CONTINENTAL SHELF

FINDINGS

SEC. 101. The Congress finds and declares that—

(1) the demand for energy in the United States is increasing and will continue to increase for the foreseeable future;

(2) domestic production of oil and gas has declined in recent years;

(3) the United States has become increasingly dependent upon imports of oil from foreign nations to meet domestic energy demand;

(4) increasing reliance on imported oil is not inevitable, but is rather subject to significant reduction by increasing the development of domestic sources of energy supply;

(5) consumption of natural gas in the United States has greatly exceeded additions to domestic reserves in recent years;

(6) technology is or can be made available which will allow significantly increased domestic production of oil and gas without undue harm or damage to the environment;

(7) the lands and resources of the Outer Continental Shelf are public property which the Government of the United States holds in trust for the people of the United States;

(8) the Outer Continental Shelf contains significant quantities of oil and natural gas and is a vital national resource reserve which must be carefully managed so as to realize fair value, to preserve and maintain competition, and to reflect the public interest;

(9) there presently exists a variety of technological, economic, environmental, administrative, and legal problems which tend to retard the development of the oil and natural gas reserves of the Outer Continental Shelf;

(10) environmental and safety regulations relating to activities on the Outer Continental Shelf should be reviewed in light of current technology and information;

(11) the development, processing, and distribution of the oil and gas resources of the Outer Continental Shelf, and the siting of related energy facilities, may cause adverse impacts on various States and local governments;

(12) policies, plans, and programs developed by States and local governments in response to activities on the Outer Continental Shelf cannot anticipate and ameliorate such adverse impacts unless such States and local governments are provided with timely access to information regarding activities on the Outer Continental Shelf and an opportunity to review and comment on decisions relating to such activities;

(13) funds must be made available to pay for the prompt removal of any oil spilled or discharged as a result of activities on the Outer Continental Shelf and for any damages to public or private interests caused by such spills or discharges; and

(14) because of the possible conflicts between exploitation of the oil and gas resources in the Outer Continental Shelf and other uses of the marine environment, including fish and shellfish growth and recovery, and recreational activity, the Federal Government must assume responsibility for the minimization or elimination of any conflict associated with such exploitation.

PURPOSES

SEC. 102. The purposes of this Act are to—

(1) establish policies and procedures for managing the oil and natural gas resources of the Outer Continental Shelf in order to achieve national economic and energy policy goals, assure national security, reduce dependence on foreign sources, and maintain a favorable balance of payments in world trade;

(2) preserve, protect, and develop oil and natural gas resources in the Outer Continental Shelf in a manner which is consistent with the need (A) to make such resources available to meet the Nation's energy needs as rapidly as possible, (B) to balance orderly energy resource development with protection of the human, marine, and coastal environments, (C) to insure the public a fair and equitable return on the resources of the Outer Continental Shelf, and (D) to preserve and maintain free enterprise competition;

(3) encourage development of new and improved technology for energy resource production which will eliminate or minimize risk of damage to the human, marine, and coastal environments;

(4) provide States, and through States, local governments, which are impacted by Outer Continental Shelf oil and gas exploration, development, and production with comprehensive assistance in order to anticipate and plan for such impact, and thereby to assure adequate protection of the human environment;

(5) assure that States, and through States, local governments, have timely access to information regarding activities on the Outer Continental Shelf, and opportunity to review and comment on decisions relating to such activities, in order to anticipate, ameliorate, and plan for the impacts of such activities;

(6) assure that States, and through States, local governments, which are directly affected by exploration, development, and production of oil and natural gas are provided an opportunity to participate in policy and planning decisions relating to manage-

ment of the resources of the Outer Continental Shelf;

(7) minimize or eliminate conflicts between the exploration, development, and production of oil and natural gas, and the recovery of other resources such as fish and shellfish;

(8) establish an oilspill liability fund to pay for the prompt removal of any oil spilled or discharged as a result of activities on the Outer Continental Shelf and for any damages to public or private interests caused by such spills or discharges; and

(9) insure that the extent of oil and natural gas resources of the Outer Continental Shelf is assessed at the earliest practicable time.

Mr. RHODES. Mr. Chairman, I move to strike the requisite number of words.

(By unanimous consent Mr. RHODES was allowed to speak out of order.)

THE DAVID W. MARSTON AFFAIR

Mr. RHODES. Mr. Chairman, I read with great disappointment a statement attributed to my good friend, the Speaker of the House, with regard to David W. Marston. I think the remarks of the Speaker are regrettable, inaccurate, and unbecoming of a person of the Speaker's stature.

He is quoted on the news wire as having said of Marston:

He never should have had the job. He is a Republican political animal. . . . He went in there with viciousness in his heart and for only one reason, to get Democrats. . . . If I have any criticism of the way the President handled that case it's that he didn't fire Marston soon enough.

Now, when President Carter was campaigning for office he promised a change in the political appointment system for Federal prosecutors. In spite of this promise President Carter and officials within his administration have admittedly handled the Marston affair in a political manner.

The Speaker is quoted as saying that Mr. Marston approached his job with "viciousness in his heart and for only one reason, to get Democrats." That statement astounds me and is utterly ridiculous. There has been absolutely no proof of any political operation or motive on the part of Mr. Marston. When the Speaker called him a "Republican political animal" he sank to a new low of political demagoguery.

In vigorously pursuing corruption by State officials, Mr. Marston indicted and prosecuted Republicans as well as Democrats. One former Republican county chairman—who represented one of Pennsylvania's leading Republican counties—a man with statewide influence—is currently in jail as a result of Mr. Marston's active pursuit of corruption. As a matter of fact, the indictment of this Republican Party official came just a few weeks before the 1976 election. If Mr. Marston had been playing politics, he certainly would have withheld this action, which came so near to a close Presidential election. Certainly I think the least you could say is that this is hardly the work of a "vicious Republican political animal."

Another man who had run as a Republican candidate for the House is currently under indictment as a result of Mr. Marston's efforts.

I believe the Speaker's attack on Mr. Marston is uncalled for and further degenerates a situation the Democratic Justice Department has already handled very poorly.

Congress is currently struggling through Watergate, through Koreagate, to regain its integrity in the public mind. We should encourage active discovery and prosecution of wrongdoing by all public officials. I think the Speaker's remarks are a disservice to the House. I read them without anger, but with great personal sorrow.

Mr. Chairman, the bill we have before us today, H.R. 1614, is not sound legislation. Its progress to date has violated long-accepted House procedures, as the ad hoc committee has run roughshod over the jurisdiction of duly assigned standing committees of the House.

It appears that the sudden great haste expressed by the administration and the leadership of this body reflects an attitude of "do something, even if it is wrong." Certainly, Congress has not covered itself with glory in its handling of the energy challenge. It would not be sensible to compound past failures by enacting a piece of legislation that runs counter to obvious energy needs.

Let us look at the realities of our energy situation. We all know that we import nearly half our petroleum. We all know that oil and gas produce about 75 percent of our energy used today. We also should know that we have a vast potential for increased supplies by drilling off our thousands of miles of coastline.

Today, less than 5 percent of coastal shelf lands have been offered for exploration and development. Yet, these areas produce 15.6 percent of our domestic oil and 21.5 percent of our natural gas. It does not make any sense to me for this Congress to pass a bill that will hamper orderly development of a much-needed resource.

This bill proposes 49 new sets of regulations. Obviously this will lengthen the leadtime necessary to get these resources into production by an estimated 3 to 6 years. It requires a double environmental impact process—one for exploration—and another before a find can be developed. More delay.

The Congress established a fair and workable bidding process in the 1953 act. This bill introduces a rigid formula requiring that 50 percent of the bidding be conducted under six new experimental bidding processes—involving complicated mixes of bonus payments, royalties and sliding rovalties, and commitment payments. It should be clear that this will in itself complicate and needlessly extend the time required for the bid process. It would be far more feasible to require that at least 50 percent of the bids be under the tried and tested formula of the original act, so that we could move ahead with development on the most promising areas while the Secretary experiments with the half-dozen new formulas.

This bill extends the powers of OSHA, which automatically portends delays and conflict between Government and the industry.

Mr. Chairman, we have had an offshore leasing program for the past quarter of a century that has produced what the Nation needs, substantial supplies of natural gas and oil. It has provided Federal revenues under the two systems of granting leases now in effect. At a time when our need quite clearly is for augmented domestic supplies of oil and gas, Congress should not disrupt the development program by passing legislation that produces nothing but redtape and moves us away from our goal of less dependence on imports.

I believe that the alternative proposed by my colleague from New York, Congressman HAMILTON FISH, is a pragmatic, effective bill that would carefully and wisely amend the Outer Continental Shelf Lands Act of 1953, without endangering the environment or throwing up bureaucratic roadblocks in the path of production.

I urge my colleagues to reject H.R. 1614, and instead to accept the much better substitute offered by my colleague from New York.

Mr. LUKEN. Mr. Chairman, I rise in support today for the "Build American" amendment that is being offered to the Breaux substitute amendment for the Outer Continental Shelf Lands Act.

It is imperative that such an amendment be included in this bill if we are going to act responsibly in protecting our offshore oil vessel construction industry. The current trend of competitors who are willing to build offshore oil drilling equipment at no profit or even at a loss must be dealt with before we let, yet again, another industry suffer at the hands of foreign governments. Especially when these governments have, at times, even gone so far as to subsidize their industry in order to get their foot in the door and squeeze our workers out.

This amendment, by requiring that all offshore equipment be built in the United States of U.S. materials, will help to protect thousands of U.S. construction and offshore workers jobs that are in serious jeopardy. Further, it will have the effect of halting the steady erosion of the U.S. offshore construction industry to low-wage foreign nations.

This amendment will also create new employment on the east and west coasts as offshore development proceeds. This is of particular importance because unemployment in these areas is significantly below the national average and projections indicate an even further drop on the east coast for the next few years.

Additional benefits to adoption of this amendment is the effect it will have on our presently troubled steel industry which is suffering from a serious downturn in production. The offshore platform potential between 1977–87 on both coasts is between 120 to 170 platforms which will require from 2 to 3 million tons of steel.

The producing and fabricating of this steel will provide work for approximately 8,000 workers per year for the next 10 years.

In conclusion, Mr. Chairman, I wish to point out that the well-recognized arguments relating to free trade, do not, in my judgment seem applicable to this matter. What we are talking about is that American-owned and American-manned facilities to be erected in American territories should most definitely be built by American workers.

Mr. BIAGGI. Mr. Chairman, I rise as a supporter of this legislation. I am especially interested in seeing the amendment offered by our distinguished Chairman known as the "Preference America" amendment passed today. The issue is profoundly simple—we must begin to promote American employment interests first.

Passage of H.R. 1614 as reported will greatly increase activity along the Outer Continental Shelf. This will mean tremendous potential for employment in all facets of the maritime industry. What we must do today is make it a part of the legislation that American seamen, longshoremen and harbor workers are provided with a preference in the distribution of these jobs.

To continue to neglect the economic needs of the maritime industry is pure folly. Without a new infusion of job order, the maritime industry could face a new wave of unemployment as early as next year.

It is only right that American workers export American oil and that American seamen and longshoremen build American ships. For too long, we have permitted foreign workers to gain an advantage in employment. Severe unemployment in many of America's shipyards is the price we are paying.

This Congress had the opportunity to improve employment in the maritime industry when it considered the Cargo Preference bill. Unfortunately, Congress did not capitalize on this chance. We cannot afford to make the same mistake twice. I urge support for this amendment for the good of the American economy which for too long, has been ravaged by chronic unemployment in its key industries.

Mr. LEGGETT. Mr. Chairman, in considering this amendment, I would first like to express my support for passage of the committee version of the Outer Continental Shelf Lands Act amendments. H.R. 1614 is a comprehensive revision of the statutes pertaining to the development of oil and gas resources of the Continental Shelf of the United States. The bill would revise the existing statutes in order to insure the speedy development of these much needed resources while at the same time providing for the necessary protection of our coastal and marine environment. The bill would also provide a mechanism for State participation in offshore and coastal oil and gas development plans and the means for states to manage the impacts resulting from such development.

The balancing of the many different and sometimes conflicting interests of energy development and environmental conservation is a difficult task. H.R. 1614 is the consensus product of a special ad hoc committee which spent many hours considering testimony from a wide array of witnesses, and produced hearing transcripts running to thousands of pages. The broad support that has been expressed for H.R. 1614 by public interest groups and the concerned Federal agencies is testimony to the effectiveness of the hard work of the ad hoc committee and to the fairness of the bill's provisions. In this regard, I must congratulate Mr. MURPHY on his fine work as chairman of the Outer Continental Shelf Ad Hoc Committee.

Despite its general excellence, the bill contains a major deficiency in that it does not provide an adequate basis for the maintenance of the health of the U.S. offshore oil construction industry.

Construction of drilling and production platforms for the offshore oil industry is in itself a major industry. Mobil drilling rigs are massive structures costing in excess of $50 million, requiring over 1,500 man-years of labor and in excess of 4,000 tons of steel to construct. Production platforms are permanent structures placed over a well after drilling in order to control the flow of oil during the production phase. These permanent production platforms are also massive structures costing millions of dollars. Presently over 8,000 workers are employed directly in offshore oil rig construction while at least 16,000 are employed in a variety supporting industries in the United States.

Until the early part of this decade, the U.S. offshore oil construction was predominant in the world. However, this predominance has been eroded away so that less than 30 percent of current orders for drilling rigs are placed in the United States. The seriousness of the situation is more clearly understood when it is realized that our less than 30-percent share of the market represents only 7 orders in 1977 compared, for example, with 33 orders which were active in 1972.

It is illuminating to review the history of the offshore oil construction industry to see the possible reason for the erosion in the U.S. position relative to other countries. The technology required for offshore drilling was developed substantially in the United States and almost all of the early offshore drilling took place in the U.S. coastal zone. However, in the early 1970's, there was a very rapid expansion in offshore drilling in many parts of the world. Drilling in Europe and Asia was at first carried out with U.S.-built rigs. Many nations, particularly Great Britain and Japan, quickly developed their own offshore oil construction industry. In some countries this development was financed by the National Government as a means to relieve unemployment in their shipbuilding industries. In each country the offshore oil construction industry was developed with the aid of technology transferred from the United States, often with U.S. citizens in key managerial roles.

At the same time that drilling activities outside the United States were expanding rapidly the rate of growth of drilling activities was slowing in the U.S. coastal zone. Some of the decline in the U.S. offshore oil construction industry was, therefore, related to the shift of drilling activities away from the United States.

The present situation sees the U.S. coastal zone as the area for rapidly expanding exploratory drilling in waters deeper than previously leased, requiring the construction of a number of drilling rigs. However, the rate of growth of exploratory drilling is beginning to slow in other parts of the world and the requirement for offshore drilling rig construction is falling. The foreign yards who have now developed a capability for construction of offshore drilling rigs are, therefore, looking toward the U.S. market for continued sales. Just as they did when the foreign offshore oil construction industry was being developed, some foreign governments are likely to provide support for the industry in bidding on U.S. contracts. Indeed this may already have happened in at least one instance.

An amendment has been offered to H.R. 1614 by Chairman MURPHY, which seeks to recognize the reality of the competitive situation of the world offshore oil construction industry. This amendment would require offshore drilling lease holders who wished to use drilling rigs or support vessels constructed outside the United States, to demonstrate to the Secretary of the Interior that such purchase would aid the timely or cost effective development of our Outer Continental Shelf oil reserves. Such foreign purchases would only be approved by the Secretary if the rig or vessel purchased from the foreign source could not be purchased in the United States because of unsatisfactory quality, price availability, or delivery date. This is clearly not a protectionist measure as portrayed by some. The requirement for purchase of U.S. built drilling rigs as proposed in the Murphy amendment will insure that American jobs will not be lost to unfair competition from government subsidized foreign yards, but its most important effect may be to protect the U.S. coastline from unnecessary oil spills.

Accidental spillage of oil from oil rigs due to operation error or malfunctioning equipment can and has in the past created large-scale degradation of the beaches and the ecology of our coastline. The development of our Outer Continental Shelf must be carried out in such a manner as to reduce the chances of such spills to the minimum possible, and to provide for orderly, rapid, and effective control and clearing of a spill when it occurs. We must avoid the use of inferior equipment that could result if offshore drilling rigs were to be built for sale at below their cost by foreign fims with government support designed to keep their industry alive. The temptation in such an instance would be to re-

duce the quality of the product to minimize losses.

The American public will pay the bill for offshore oil and gas development. They must be guaranteed that foreign competitors do not benefit unfairly from that investment and that every possible effort will be made to prevent the unacceptable cost of unnecessary environmental degradation.

Mr. STUDDS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. WRIGHT) having assumed the chair, Mr. NATCHER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1614) to establish a policy for the management of oil and natural gas in the Outer Continental Shelf; to protect the marine and coastal environment; to amend the Outer Continental Shelf Lands Act; and for other purposes, had come to no resolution thereon.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Chirdon, one of his secretaries.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 8336, CHATTAHOCHEE RIVER NATIONAL RECREATION AREA

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. No. 95–852) on the resolution (H. Res. 982) providing for the consideration of the bill (H.R. 8336) to enhance the outdoor recreation opportunities for the people of the United States by expanding the National Park System, by providing access to and within areas of the National Park System, and for other purposes, which was referred to the House Calendar and ordered to be printed.

LEGISLATIVE PROGRAM

(Mr. DEL CLAWSON asked and was given permission to address the House for 1 minute.)

Mr. DEL CLAWSON. Mr. Speaker, the reason I have asked for this time is to inquire of the acting majority leader about the program for the balance of the day, the balance of the week, and next week.

Mr. BRADEMAS. Mr. Speaker, will the gentleman yield?

Mr. DEL CLAWSON. I would be happy to yield.

Mr. BRADEMAS. Mr. Speaker, there is no further business scheduled before the House today, I will say to the gentleman from California (Mr. DEL CLAWSON).

The schedule for next week, the week of January 30, 1978, is as follows:

On Monday the House meets at noon. There is one suspension scheduled, and that is S. 2076, Grand Canyon School District.

Then we will consider H.R. 5646, Con-Rail medical payments, under an open rule, with 1 hour of debate. The rule has already been adopted.

That will be followed by H.R. 5798, Office of Rail Public Counsel, under an open rule, with 1 hour of debate, the rule having already been adopted.

On Tuesday the House meets at noon. There is 1 bill under suspension scheduled, and that is H.R. 9851, to improve air cargo service.

Then we shall take up H.R. 1614 and complete consideration of that bill, the Outer Continental Shelf Lands Act.

Then we shall complete consideration of H.R. 8200 to establish a uniform law on bankruptcy.

On Wednesday the House meets at 3 p.m. on the following business:

H.R. 6362, to establish an Advisory Committee on Timber Sales Procedure, open rule, 1 hour.

H.R. 8336, the Chattahooche River National Park, open rule, 1 hour.

H.R. 2637, cargo capacity for civil aircraft, open rule, 1 hour.

For Thursday and the balance of the week, the House meets at 11 a.m. and will consider the following bills:

H.R. 9214, the International Monetary Fund supplementary financing, subject to a rule being granted; and then H.R. 2664, the Sioux Indian claims bill, open rule, 1 hour.

The House will adjourn at 5:30 p.m. on all days except Wednesdays.

Conference reports may be brought up at any time, and any further program will be announced later.

I thank the gentleman for yielding, Mr. Speaker.

Mr. DEL CLAWSON. Mr. Speaker, may I inquire further whether our Friday sessions are still off for the next 2 weeks.

Mr. BRADEMAS. The gentleman is correct, until the 24th of February.

Mr. DEL CLAWSON. Until the 24th of February there will be no Friday sessions?

Mr. BRADEMAS. That is correct.

Mr. DEL CLAWSON. Mr. Speaker, I thank the gentleman.

Mr. BRADEMAS. Mr. Speaker, I thank the gentleman.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule on Wednesday of next week be dispensed with.

The SPEAKER pro tempore (Mr. WRIGHT). Is there objection to the request of the gentleman from Indiana?

There was no objection.

ADJOURNMENT TO MONDAY, JANUARY 30, 1978

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at noon on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

THE DAVID W. MARSTON AFFAIR

(Mr. MIKVA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MIKVA. Mr. Speaker, I regret deeply that the distinguished minority leader is not on the floor.

I was somewhat disturbed to hear his comment. As I understand it, our minority leader took umbrage to remarks made by our distinguished speaker in response to a question from the press.

Obviously, the Marston situation is a matter of public moment, but I think it is getting out of context.

A U.S. attorney serves at the pleasure of the Attorney General. That has been the way it has been from time immemorial.

To suggest that is improper is similar to suggesting that there is something improper if a Member of Congress replaces the administrative assistant of his or her predecessor.

Mr. Speaker, the remarks that disturbed me most were the distinguished minority leader's reference to the "Democratic Department of Justice."

Mr. Speaker, I think that the sooner we eliminate party labels from the description of justice and the manner in which it is administered, the better off we will be. It is very well and good for the minority party to talk about the fact that a U.S. attorney has been replaced; but I would point out, with all due deference, that the gravamen of the charge being made is that U.S. attorneys have been replaced at the pleasure of the Attorney General—as it has always been, as it was during the preceding administration, and as it will be probably forevermore.

The sooner we stop trying to make a political circus out of Mr. Marston's leaving, the better off the administration of justice will be.

Mr. BADHAM. Mr. Speaker, if the gentleman will yield, it was the speaker who referred to the political animal, as a political animal of a certain party, thereby starting the interchange.

Mr. MIKVA. Mr. Speaker, if I respond to the gentleman in kind, that response will again escalate the exchange.

I merely suggest that, first of all, the statement by our speaker was in response to a question that was asked. It was not a case of the speaker volunteering and injecting himself into it.

I think as soon as we do all of the business we have to do and leave the Marston

case to the press and the Department of Justice, the better off we will all be. If we go back and dig up every U.S. attorney who was replaced under Republican administrations, we could have a lot of 1-minute speeches which many of us could choose to make.

I do not think that is going to make the distribution of justice any better.

THE DAVID MARSTON AFFAIR

(Mr. EVANS of Delaware asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EVANS of Delaware. Mr. Speaker, I think it is important to be fair when we speak in terms of justice. It is not a question of Democrats or Republicans, but I think it is a question of the confidence that we have in our judicial system and the perception that Americans have for their system of justice.

In this particular instance I really do not think the Speaker was entirely fair because he did say that Mr. Marston had viciousness in his heart and he was only dead set to get Democrats. I would just like to point out that, in addition to the chairman of the Chester County Republican Committee, Mr. Robino, who was indicted and successfully prosecuted by Mr. Marston, there was another gentleman by the name of Robert B. Cohen who ran as a congressional Republican candidate in 1966 and who was indicted in February of 1977. I think the facts show quite clearly that the U.S. attorney actively pursued political corruption without regard to political affiliation, and I point this out in an effort to correct what I consider to be unfair statements regarding his motives.

LEGISLATION TO IMPROVE ORGANIZATION AND OPERATION OF FEDERAL GOVERNMENT'S HIGHWAY AND TRANSIT PROGRAMS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 95–284)

The SPEAKER pro tempore (Mr. WRIGHT) laid before the House the following message from the President of the United States; which was read and, without objection, referred to the Committee of the Whole House on the State of the Union and ordered to be printed:

To the Congress of the United States:

I am today transmitting to Congress proposed legislation that will significantly improve the organization and operation of the Federal government's highway and transit programs.

One of the Administration's important goals is to develop a well balanced national transportation policy, one which takes account of our increased sensitivity to the effects of transportation on the social and economic life of our cities and rural communities. The reforms which are proposed in this legislation are designed to make certain that the nation has an effective transportation system, which uses energy more efficiently, enhances the quality of life in our urban and rural areas, and helps expand our economy.

The program I am proposing will intensify the Federal effort to complete the Interstate System and provide flexible assistance for highway construction and transit development. The legislation would authorize more than $50 billion over the next five years and proposes the following changes to meet national transportation needs:

—a comprehensive transportation planning program;
—measures to speed completion of the Interstate System and to improve maintenance;
—consolidation of more than 30 highway and public transportation grant programs into fewer and more flexible programs for both rural and urban areas;
—a uniform Federal share for all grant programs except Interstate construction and Interstate transfer projects;
—focusing the transit discretionary program on major investments;
—an expanded bridge replacement and rehabilitation program;
—a unified safety program; and
—greater flexibility for state and local governments to pursue their own priorities.

To achieve our objectives in this area, we propose a reorganization of a variety of highway and transit programs into a simpler and more manageable system of federal assistance. Certain aspects of our new approach to these programs should be emphasized.

TRANSPORTATION PLANNING

To promote more efficient short-range and long-range planning by state and local officials, I propose to consolidate highway and transit planning funds and to distribute these funds as a single grant, under a formula to be determined by the Secretary of Transportation.

Planning grants will be made directly to designated metropolitan planning organizations in urbanized areas over one million in population. The Secretary will review transportation plans for such areas to ensure that they take reasonable account of such issues as air quality, energy conservation, environmental quality, accessibility to employment, effect on minorities, housing, land use and future development. The planning process for other areas will be strengthened as well.

INTERSTATE SYSTEM

Our first priority will be to complete the essential gaps in the Interstate System. Fifty percent of the apportionment formula will be based on the cost to complete the essential gaps and fifty percent on the cost to complete the total system. Highway projects substituted after an Interstate withdrawal will be funded from a state's Interstate apportionment, and substitute mass transit projects will be funded from the General Fund. Interstate substitute projects, both highway and transit, will be eligible for a ninety percent federal share.

States will be required to have completed the Environmental Impact Statement process or to have submitted an application for an Interstate withdrawal on all uncompleted segments of the Interstate by September 30, 1982. Segments which have not met either requirement will be removed from the system. All incomplete Interstate segments must be under contract for construction and initial construction must have commenced by September 30, 1986.

FEDERAL-AID PRIMARY SYSTEM

To simplify an unduly restrictive funding structure, seven highway categories will be consolidated into a single Primary program. Funds will be apportioned by a formula specified in the legislation and the Federal share will be eighty percent. Up to fifty percent of a state's primary system funds may be transferred to the urban highway or the small urban and rural transportation programs.

URBAN FORMULA GRANTS

Two compatible programs will be established, one for highways and one for transit, for all urbanized areas with a population of 50,000 or more. The highway program will consolidate five categorical programs, and all urban roads not on the Interstate or primary systems will be eligible for assistance. The transit program will provide assistance for the acquisition, construction and improvement of facilities and equipment for use in public transportation services and the payment of operating expenses, including commuter rail operating expenses.

Funds will be apportioned by formula and the federal share for capital projects will be eighty percent. The highway formula will be based on urbanized area population. Up to fifty percent of the urban highway funds may be transferred to the Primary program or to the small urban and rural program. Up to fifty percent of the transit funds may be transferred to the highway program. Highway funds will continue to be available for transit capital projects.

Governors and local officials will be required to designate a recipient or recipients for urban highway funds in urbanized areas with a population of one million or more. By this step we will significantly improve the opportunity for large cities to become more involved in the planning and programming of their highway systems. Urban highway funds for areas with small populations will go to the State.

URBAN DISCRETIONARY GRANT

This transit grant program will be focused on major expansion of bus fleets and new fixed guideway projects, including extensions of existing systems, and joint development projects.

SMALL URBAN AND RURAL FORMULA GRANT

To meet the unique needs of small cities and rural communities, we propose a consolidated grant program for highways and transit for all areas with a population below 50,000, with the state as the recipient.

Nine categorical highway programs will be consolidated into this new pro-

gram, and all public roads not on the Interstate or primary systems will be eligible for assistance. The new program will provide assistance for both capital and operating expenses for public transportation in small urban and rural communities. Authorization for this program would come out of the Highway Trust Fund, but the Trust Fund would be reimbursed out of the General Fund for transit operating expenses.

SAFETY PROGRAM

To allow more flexible and rational use of funds, six highway safety programs will be consolidated into a single safety grant to states, with the federal share at eighty percent.

BRIDGE PROGRAM

For the first time states will be able to use substantially increased funds for rehabilitation as well as replacements of deteriorating bridges. The federal share will be eighty percent, and up to thirty percent of the funds will be available for bridges not on the Federal-aid highway systems.

AUTHORIZATIONS

The proposed authorizations are designed to permit better long-term planning by those responsible for both highway and transit development. The Highway Trust Fund will be extended for an additional four years. The formula grant programs will be authorized for a four-year period, and the urban discretionary grant program will be authorized for a five-year period.

In proposing the reforms contained in this legislation I recognize the critical relationship between transportation, energy and development in urban and rural areas. I believe that these proposals will lead toward energy conservation and better land use. The enactment of this legislation will bring new opportunities and responsibilities to state and local officials, will respond to the problems of the present programs, and will help to place the surface transportation system on a sound financial basis.

I ask the Congress to move promptly to pass this highway and transit legislation.

JIMMY CARTER.

THE WHITE HOUSE, *January 26, 1978.*

IRONICALLY, PRESIDENT CARTER'S TAX CUT WILL REDUCE ECONOMIC GROWTH AND ULTIMATELY INCREASE THE TAX BURDEN ON ALL AMERICANS

Mr. KEMP. Mr. Speaker, for several years now I have been saying that our economy needs lower taxes, but as bad as it needs a tax cut it has to be the right kind of tax reduction. The shape of a tax cut is more important than just the aggregate dollar figure. Our country needs a tax reduction which will restore incentive and reduce the total tax burden borne by the American people, not just one that pumps money into the economy to try and match what Government taxes away in other areas, such as social security and energy. We need a tax reduction which will encourage economic output and create jobs by increasing the after-tax reward to all Americans for their work, production and investment.

Unfortunately, President Carter's tax package falls woefully short of meeting our Nation's economic needs. As in the case of the last five tax reduction bills passed by Congress since 1971, the Carter plan focuses on reducing aggregate tax liability without changing the way our tax structure affects the incentive of people to work, save, invest, and produce.

The fact is that despite large tax cuts in 1971, 1975, 1976, and 1977, the steeply progressive tax rates went unchanged. In the meantime inflation pushed all workers and investors up into higher and higher tax brackets and resulted in tax increases, not lower taxes.

TABLE I.—*Size of major changes in Federal income and excise taxes since 1964*

[In billions of dollars]

Year enacted	Amount of tax change in first 2 years
1964	cut 11.9
1965	cut 5.0
1966	increase 4.5
1968	increase 15.7
1969*	increase 10.2
1970	increase 1.5
1971	cut 11.4
1975*	cut 28.6
1976	cut 27.6
1977	cut 20.4

*Two tax bills passed.

SOURCE: U.S. Department of the Treasury.

Despite the cuts in 1971, 1975, 1976, and 1977, taxes have tripled for a typical family and increased from $2,276 in 1967 to an estimated $6,333 in 1978. A median family will pay an estimated 37.3 percent of the annual family income in taxes this year, compared with 28.9 percent a decade ago, all as a result of the steeply graduated, or progressive, tax rates which President Carter says are not progressive enough.

In particular, marginal taxes have increased—the tax on each additional dollar that is earned.

Thus, as nominal incomes go up, marginal tax rates go up dramatically. I cannot overemphasize this fact because it is the marginal tax rate which affects economic behavior. In other words, the decision to work or invest for a higher income is not determined by the amount of taxes people have paid previously but by how much tax people will pay on additional income.

Given this fact, we can now see that our tax structure is discouraging people from maximizing their economic efforts. Because the individual income tax is steeply progressive, people with relatively moderate incomes pay extremely high rates of tax on their additional income. This is especially true when you combine the Federal income tax with social security taxes, unemployment compensation taxes, State and local taxes.

Is it any wonder therefore, that more and more union contracts are emphasizing increased time off over increased wages for their members? It simply does not pay to go out and work additional hours or to forgo current consumption in order to save or invest for future income. But it is precisely that saving and investment which pays for the tools and equipment which ultimately makes workers more productive and thereby increases real incomes and expands the economy. By all indicators, the rate of savings and investment is dangerously low given our national goals for economic growth and creating jobs without inflation.

An examination of the details of President Carter's tax package gives little hope that incentive will be restored to our economy. On the contrary, I find the reaction of the stock market to the President's program instructive: It predicts taxes will go up, just as they did after the other so-called tax reforms in 1969 and 1976. As one analyst noted:

The State of the Union message and the tax program were dissappointing and neither provided any basis for buying stocks.

It should be noted that the President himself had said he would measure the success of his tax reform program by the performance of the stock market.

Of course, the market has been dropping steadily all along, as details of the President's program became known. It has, in fact, dropped nearly 200 points since President Carter started discussing tax reform. Thus we can assume that the market has already discounted some of the worst features of President Carter's program and would have dropped more since its announcement otherwise.

I believe that the market's apprehension and that of the public at large about the President's economic policy is well founded. To date he has done virtually nothing to restore the incentive for economic growth in this country except to fall back upon outmoded Keynesian economic policies. Last year he proposed a $50 rebate, which was ultimately withdrawn under pressure from Congress and the people, who recognized it for what it was: The economic equivalent of shoveling money out of an airplane in the hope that it would stimulate the economy. It was a lousy idea under President Carter just as it was when first proposed by the Ford administration.

This year the President has sent us a proposal which differs in form but not in substance. The New York Times, for example, has said that the President's tax package "reflects only the worn-out stimulative policies of a less inflationary era." And more recently the Times called Carter's new tax bill just another rebate—this time being a rebate of taxes already imposed on the economy in other forms. An examination of the tax increases which will result this year from

increased social security taxes, new energy taxes, and the tax increase which results when inflation pushes taxpayers up into higher and higher tax brackets supports this view. Table II estimates the amount of these tax increases.

TABLE II.—TAX INCREASES UPON INDIVIDUALS FROM INFLATION, SOCIAL SECURITY, AND ENERGY [1]

[In billions of dollars]

Fiscal year	Inflation	Social security	Energy	Total
1978	5.3	2.5	−0.6	7.2
1979	13.4	9.5	2.9	25.8
1980	22.4	22.2	15.2	59.8
1981	32.8	46.4	30.6	109.8
1982	44.9	79.0	38.3	162.2
1983	58.7	114.3	42.5	215.5
1984	74.1	151.9	46.8	272.8
1985	91.8	200.0	51.4	343.2

[1] Assuming the House energy bill; all figures cumulative.

Source: Joint Committee on Taxation.

In order to compensate for these automatic tax increases President Carter has proposed some tax reductions. But he has also proposed massive additional tax increases under the guise of "reform." The results are summarized in table III.

TABLE III.—THE PRESIDENT'S TAX PROGRAM [1]

[In billions of dollars]

Fiscal year	Tax decreases	Tax increases	Total
1979	−30.3	+5.3	−25.0
1980	−67.3	+15.7	−51.6
1981	−109.1	+28.9	−80.2
1982	−155.5	+44.5	−111.0
1983	−207.9	+62.0	−145.9

[1] All figures cumulative.

Source: Treasury Department.

As one can see, the President's program does not even offset the tax increases which are already set to take place. Clearly, in order to get any stimulus at all—even in the Keynesian framework—there would have to be a tax reduction greater than the forthcoming increase. Clearly, there will be a reduction in purchasing power at the very least.

It would be wrong to suggest, however, that the principal problem with President Carter's tax package is its size. On the contrary, its greatest weakness is its composition. The fact is that President Carter's tax package is designed not to encourage economic growth, but rather to redistribute income. The result will be to raise taxes and ultimately make all Americans worse off. As table IV demonstrates, Carter's major tax reform—that of changing the $750 personal exemption to a $240 tax credit—will result in an income transfer of $3.7 billion from those earning more than $20,000 per year to those earning less.

TABLE IV.—$240 CREDIT IN LIEU OF THE $750 EXEMPTION, 1977 INCOME LEVEL

Adjusted gross income (thousands)	Returns with tax decrease (thousands)	Amount of tax decrease (millions)	Returns with tax increase (thousands)	Amount of tax increase (millions)	Net tax change (millions)
0 to $5,000	4,696	−$300	9	$3	−$297
$5,000 to $10,000	12,373	−1,206	3,719	136	−1,070
$10,000 to $15,000	8,373	−1,309	6,450	543	−766
$15,000 to $20,000	5,751	−612	6,226	527	−86
$20,000 to $30,000	1,889	−117	9,948	1,241	1,124
$30,000 to $50,000	18	−2	4,406	1,528	1,526
$50,000 to $100,000	4	(2)	1,174	837	836
$100,000 and over	(1)	(2)	297	263	263
Total	33,104	−3,547	32,230	5,078	1,53

[1] Less than 500 returns.
[2] Less than $500,000.

Note: Details may not add to totals because of rounding.

Source: Joint Committee on Taxation.

According to the President's statement this change is "designed to increase the progressivity of the tax system." But what does this mean? In short, it means that you are using the tax code to take income from those with "high" incomes and give it to those with "low" incomes. Presumably this action satisfies some notion of equity, which says that everyone ought to have the same income regardless of what they produce. Unfortunately, our economy pays a very heavy price for progressivity and income redistribution. That cost is the foregone economic growth, jobs and wealth that our economy loses because people were discouraged from earning high incomes.

Progressivity is also increased by the President's plan to reduce tax rates by 2 percentage points across-the-board. This works out to a 3-percent cut at the top and a 14-percent reduction at the bottom, which must shift the tax burden upward. Also, the elimination of numerous deductions will amplify this effect.

Furthermore, steeply graduated tax rates cause the tax burden on all Americans to rise as inflation pushes them up into progressively higher tax brackets, although their real income may be unchanged. Thus, table V shows that since 1967 gross average weekly earnings for American workers have gone up more than 70 percent in nominal terms and only 1.5 percent in real terms. But taxes are paid on the nominal income, rather than the real income. The result is that marginal tax rates have increased dramatically on all American workers.

TABLE V.—GROSS AVERAGE WEEKLY EARNINGS

Year	Current dollars	1967 dollars
1967	$101.84	$101.84
1968	107.73	103.39
1969	114.61	104.38
1970	119.46	102.72
1971	127.28	104.38
1972	137.16	108.67
1973	145.43	109.26
1974	154.45	104.57
1975	163.89	101.67
1976	176.29	103.40

Source: Bureau of Labor Statistics.

If present trends continue, a worker who today is earning $8,000 per year may find himself in a 50-percent marginal tax bracket as early as 1982—at least in New York. This takes into effect the total social security tax burden—on both workers and employers—Federal and State taxes. Table VI demonstrates how great this tax "wedge" is for a single worker living in New York State. If inflation is allowed to continue, it is not hard to foresee the devastating effect it will have in just a few years as working Americans all find themselves in 50 to 60 percent marginal tax brackets. This is what I mean when I talk about the "Britainization" of our economy. In other words the rates must be dramatically reduced because otherwise they will dramatically rise and depress economic growth and discourage everyone.

TABLE VI.—MARGINAL TAX WEDGE, 1978

Income	Social security	Federal	New York	Tota
$				
$1,000	12.1	16	2	30.1
$2,000	12.1	19	3	34.1
$3,000	12.1	19	4	35.1
$4,000	12.1	21	4	37.1
$5,000	12.1	21	5	38.1
$6,000	12.1	24	5	41.1
$7,000	12.1	24	6	42.1
$8,000	12.1	25	6	43.1
$9,000	12.1	25	7	44.1
$10,000	12.1	27	7	46.1
$11,000	12.1	27	8	47.1
$12,000	12.1	29	8	49.1
$13,000	12.1	29	9	50.1
$14,000	12.1	31	9	52.1
$15,000	12.1	31	10	53.1
$16,000	12.1	34	10	56.1
$17,000	12.1	34	11	57.1
$18,000	12.1	36	11	59.1
$19,000		36	12	48.0
$20,000		38	12	50.0
$21,000		38	13	51.0
$22,000		40	13	53.0
$23,000		40	14	54.0
$24,000		40	14	54.0
$25,000		40	15	55.0
$26,000		45	15	60.0
$32,000		50	15	65.0
$38,000		55	15	70.0
$44,000		60	15	75.0
$50,000		62	15	77.0

As one can see, it costs progressively more and more to get another dollar of after-tax income. Right now, for example, it would cost an employer $2 to give an employee earning $13,000 per year an additional $1 in take-home pay. Surely this is going to have a dramatic effect on employers' ability to hire new workers and pay them adequately, and on the incentive of workers to strive for

higher incomes through greater productivity.

Furthermore, the President's program will be highly damaging to capital formation and business confidence, despite the proposed reduction in the corporate tax rate. For example, it continues the assault on capital gains which was begun in 1969 and which has directly led to a considerable decrease in the amount of invested capital coming into the market. The fact is that in order to achieve tax neutrality capital gains ought not to be taxed at all. Other proposals to increase the minimum tax, eliminate various tax shelters, and reduce business deductions will only amplify the tax bias against capital formation and business enterprise and ultimately reduce economic growth, for which we will all suffer.

By contrast to the President's plan, the Roth-Kemp Tax Reduction Act is expressly designed to restore incentive to the American economy by increasing the after-tax reward for work, production and investment. The Roth-Kemp bill, which presently has 160 cosponsors in the House and Senate, accomplishes this goal by doing the following:

Reducing all individual income tax rates by an average of 33 percent, from the present range of 14 at the bottom to 70 percent at the top to 8 percent at the bottom and 50 percent at the top, phased in over 3 years;

Reducing the corporate normal tax rate by 3 percentage points, from 48 to 45 percent,

And increasing the corporate surtax exemption from $50,000 to $100,000 to help small business.

History confirms that an across-the-board tax rate reduction is the best way to revitalize our economy. The Roth-Kemp bill is consciously patterned after the Kennedy-Johnson tax rate reductions of 1964–65, which led to one of the greatest economic expansions our country has seen in the past 40 or 50 years.

I urge the Congress to reject President Carter's income redistribution tax reform and adopt a tax rate reduction package that will really restore economic growth, increase individual incomes, and restore incentive to our economy for all Americans.

IS THERE A CONTRACT OUT ON THE FBI?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. MICHEL) is recognized for 5 minutes.

Mr. MICHEL. Mr. Speaker, recently President Carter issued an Executive order reorganizing our various foreign intelligence agencies and their operations. I presume that in due course similar administrative actions will be taken in connection with the FBI's activities.

According to press accounts, the President's Executive order devotes five single-spaced, legal-sized pages to "restrictions on intelligence activities." I do not yet know what they all are but, obviously they are extensive. They could go too far and severely impair intelligence gathering vital to our national security.

It would seem it is open season on the intelligence community and on the Federal Bureau of Investigation as well.

The Judiciary Subcommittee on Civil and Constitutional Rights has scheduled hearings next month on a bill (H.R. 10400), obstensively dealing with FBI abuses of authority that goes so far as to repeal virtually all our substantive domestic security laws, which the FBI enforces. Section 4 of the bill would repeal the laws relating to riots, seditious conspiracy, advocating the overthrow of the Government, registration of certain organizations, the deportation of aliens, and even the law relating to the interference of the Armed Forces.

It is as if, in jargon of the underworld, there is a contract out on the FBI with Congress being asked to play the role of hit man. If such legislation ever did pass, the United States would become a paradise for terrorists, subversives, and foreign agents.

With this in mind I am today sending to Attorney General Griffin Bell a letter requesting from him the opinion of the Justice Department on the substance of H.R. 10400. I also will request that he inform me of his own views as to the direction reforms of the FBI should take. The American people have a right to know if the administration shares the views of those who would effectively cripple the best law enforcement agency in the world.

THE DAVID MARSTON AFFAIR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Delaware (Mr. EVANS) is recognized for 5 minutes.

Mr. EVANS of Delaware. Mr. Speaker, I am deeply disappointed that Speaker of the House O'NEILL would call former U.S. Attorney David Marston a "Republican political animal" as he has apparently done today. Despite the fact that many Democrats in this body have expressed deep concern over the Marston affair, the Speaker, according to a wire service report, has charged that Mr. Marston entered the job with "viciousness in his heart and for only one reason—to get Democrats."

I think it is highly regrettable that the Speaker of this House finds it necessary to defend what is increasingly becoming a political railroad job of the highest order. Obviously, the Speaker's remarks indicate that it is politics as usual.

The simple fact of the matter is that Mr. Marston has moved against both Republicans and Democrats, including former Chester County Republican Chairman Ted Robino and former Republican Congressional candidate Robert B. Cohen.

Unfortunately, the Justice Department has apparently developed amnesia in this whole matter. As my colleagues know, Attorney General Bell sent three of his associates to investigate. In my opinion, this is like sending the fox out to investigate who's stealing hens from the chicken coop.

It saddens me greatly that the distinguished Speaker of this body would make such charges regarding the motives of David Marston and I hope that the appropriate Committees of Congress will at once begin an independent investigation of this increasingly sordid affair. Public confidence in our judicial system is at stake.

TRUTH-IN-LENDING WORKS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, it is not every day that we have the opportunity to gage the positive results of legislation which has passed through this body and into law. That is why I am particularly heartened by the preliminary findings of a consumer awareness survey released by the Board of Governors of the Federal Reserve System in its annual report to Congress. This study shows a healthy and significant increase in consumer awareness since Congress passed the Truth-in-Lending Act in 1969.

Nine years ago the average consumer's awareness of the cost of credit and annual percentage rate was pretty dismal. According to this poll, only 14.5 percent were aware of the cost of their closed end credit accounts—those accounts used to purchase automobiles, for instance. That figure now reads 54.6 percent, a 40-percent increase. In the original 1969 study, only 8.6 percent of those with less than a high school education understood the stipulations of this kind of credit arrangement. Again, that figure has soared to 41 percent, a 32-percent improvement. Among blacks there was a fourfold improvement between 1969 and 1977.

These findings indicate a widespread increase in consumer awareness that crosses all socioeconomic lines and all types of credit. It can be safely stated, I think, that consumers are now understanding the mechanics of credit at levels they never did before. They are shopping around for the best deal they can get and I would surmise that it's a better deal than it was 9 years ago. Truth-in-Lending has done what any good law should do: It has reached people at all levels of income and education, and they have benefited.

Yet if Truth-in-Lending is working so well, as these dramatic improvements indicate, why the frantic pleas for simplication? Though efforts to remove some disclosure requirements in the interest of simplification may be tempting to certain experts, such efforts can only weaken the protection consumers now have under this law. As chairman of the Consumer Affairs Subcommittee, I have stated that I would support simplifying some technicalities, but I could never abide by the subversion of Truth-in-Lending's basic principles. This act has given the consumer the tools with which to educate himself.

Mr. Speaker, where some people see complexity in Truth-in-Lending, I see protection. Let me ask those who favor simplification where changing the rules now would leave the consumer who is just beginning to understand what is expected of him and his creditor. Education is a long process, but it is working and consumers are learning.

In fact, consumer credit is at record levels and increasing each month. And the major reason is that consumers are now better able to understand the terms of their credit purchases. Before Truth-in-Lending every contract was a snake about to bite, a whip ready to lash out and sting the consumer. But now there is a growing confidence among consumers that the days are gone when they were vulnerable to undisclosed penalties and charges.

In our credit-based economy it is not unusual for a person to purchase his car, his home, and his furniture on some form of credit. Either these consumers are going to be protected in full from losing their life's belongings or they are going to be in limbo, paying credit costs they do not understand. Credit protection is not a simple or uncomplicated matter. Nor should it be, for the consumer must know the consequences of his indebtedness and, in order to do so, the creditor must provide disclosure. They share the burden.

Mr. Speaker, there is no consumer protection without consumer awareness. And, as this poll shows, Truth-in-Lending has provided consumers with the knowledge to protect themselves.

CONGRESSMAN RICHMOND MEETS WITH FARMERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. RICHMOND) is recognized for 5 minutes.

Mr. RICHMOND. Mr. Speaker, yesterday I had the opportunity to meet with hundreds of farmers participating in the American agricultural movement. Joining me were several other Representatives of our Nation's urban area—TOBY MOFFETT, of Connecticut, PETE STARK, of California, GEORGE MILLER, of California, HENRY NOWAK, of New York, and BILL BRODHEAD, of Michigan, as well as two Members representing rural areas—TOM HARKING, of Iowa and RICK NOLAN, of Minnesota.

Mr. Speaker, I would like to revise and extend my remarks at this point in the RECORD, to discuss yesterday's meeting in greater detail.

As the only member of the House Agriculture Committee representing a totally urban, inner city district, I am painfully aware of the pressures facing our Nation's farmers.

Escalating fertilizer, farm machinery, and other farm input prices have drastically outstripped the national rate of inflation. As if this squeeze is not enough, prices now being received by producers for their commodities are hovering at levels more appropriate to 50 years ago than today.

But, Mr. Speaker, consumers are also concerned about food issues. Almost daily it seems another commodity takes off on a dizzying price escalation or yet another product is deemed to be dangerous to health. Consumer confidence is shaken, but recent polls still indicate that more than 90 percent of all Americans believe that a widely diversified system of family owned and operated farms is the most efficient and economical method of food and fiber prduction.

However, consumers, by and large, are unaware that farmers are receiving just pennies for the wheat in a loaf of bread, the corn in a box of breakfast cereal, the head of fresh broccoli or cauliflower at the produce counter or the cotton in a pair of jeans or shirt. We urban Representatives must take this knowledge back to our constituents.

But, as we carry this crucial message back home, we hope farmers will also become more deeply aware of the problems our Nation's urban dwellers face. In New York City, for example, we have people housed in unlit, unheated and unsanitary dwellings, people with little or no hope of gainful employment and young people suffering from malnutrition.

As the problems of the Texas or Kansas farmer must also be our problems in Brooklyn or Los Angeles, I hope that farm people will listen sympathetically to our problems, as there can be no permanent, long range, independent solution to either the farm problem or the urban crisis.

It takes, for example, approximately 5 acres of crop, orchard, range and pasture land to feed every New Yorker . . . meaning New York City requires the equivalent of the tilled acreage of Delaware, Hawaii, South Carolina, New Jersey, Maryland, Pennsylvania, Massachusetts, Rhode Island, Connecticut, Vermont, New Hampshire, Maine, West Virginia, and Alaska to survive.

There is no question that farmers are critical to the future of New York, but New York is also critical to the farmers and the future farm economy. Food stamps generate $1.5 billion in income for farmers; the vast network of wholesale markets, "ma and pa" stores, independent truckers and union workers are all a part of the farm community, the rebuilding of our cities means less prime farmland gobbled up for sprawl and unchecked development and assistance for our port facilities means more efficient, modern export facilities for grain and other commodities.

Those of us representing urban America must act to assure the farmers of this country financial security, for there is no doubt in my mind that the best consumer policy for all of us is the best farm policy.

I believe we have come a long way in forging a true urban/rural coalition of mutual interest and shared concerns in Congress and I am hopeful that the exchange of ideas that has been evident here in the past few weeks between those Americans who till our billion acres of crop and pasture land and those of us who consume those products has been mutually beneficial.

Mr. Speaker, the King of Brobdingnag in Jonathan Swift's "Gullivers Travels," gave it for his opinion that,

> Whoever could make two ears of corn, or two blades of grass, to grow upon a spot of ground where only one grew before, would deserve better of mankind, and do more essential service to his country, than the whole race of politicians put together.

The farmers that have been here in Washington, meeting with both urban and rural members, have contributed much to our economy, national security and sense of well-being, but, as one of that "race of politicians," I know that, in our complex age, it requires both the work of politicians and farmers to cultivate our soil and produce our most basic necessity of life in a way that will truly unite urban America and rural America.

PRESIDENT CARTER'S SUPPORT FOR A NATIONAL CONSUMER COOPERATIVE BANK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island (Mr. ST GERMAIN) is recognized for 5 minutes.

Mr. ST GERMAIN. Mr. Speaker, President Carter has announced his support of a National Consumer Cooperative Bank similar to that provided in legislation which passed the House last July 14.

This is great news and I am very pleased that the President has decided to include a Consumer Cooperative Bank in his domestic agenda. The President has also endorsed a self-help development fund to assist low-income consumer cooperatives and a technical assistance function for consumer cooperatives.

The details of the President's consumer cooperative program were presented before the Senate Banking Committee this morning. The package contains the basic thrust of H.R. 2777 which the House has approved but there will remain important details to be worked out in both the Senate and in the conference committee. The final passage must be workable and it must not stray too far from the intent and goals already expressed by the House of Representatives.

Mr. Speaker, this has been a long hard battle to gain recognition for the important role that consumer cooperatives can and do play in our economy. I introduced this legislation in the last Congress, conducted hearings in my subcommittee, and we were successful in gaining passage of the bill in the Banking Committee. However, time ran out and the bill died at the end of that session.

On February 1, 1977, I reintroduced the National Consumer Cooperative Bank and was ultimately joined by

more than 100 of my colleagues. Unfortunately, the Treasury Department and the Office of Management and Budget—unlike many in the administration—opposed the creation of the Consumer Cooperative Bank and this fact created great difficulties as we battled for approval in the committee, through the Rules Committee, and ultimately on the floor of the House. The proconsumer forces did prevail and we were able to move the bill out of the House and forward for Senate consideration.

Now, we have the support of President Carter who has had the opportunity to receive the advice and counsel of persons who have long experience with cooperatives and consumer organizations. The channels of communication have been opened up and the people-oriented officials in the administration have had a voice in the decisionmaking.

Mr. Speaker, the President is to be commended for the open manner in which he has reached this decision and the careful manner in which he has analyzed all of the issues. He has been extremely courteous to me in hearing out my arguments for the bill both in face-to-face conversations and in written messages. His willingness to hear the arguments for the bill from Capitol Hill refutes the tired clichés that we hear so often about bad relations between the Congress and the White House.

Mr. Speaker, the national consumer cooperative bank legislation has been a team effort. It has included magnificent support from people within the Carter administration, from my colleagues of both parties on the Banking Committee and in the full House. It has been heavily dependent on public interest organizations, willing to work night and day to gain acceptance of the need for a bank for consumer cooperatives—the Ralph Naders and his Congress Watch staff like Mitch Rofsky, Stan Dreyer and the entire Co-operative League, the AFL–CIO, the United Auto Workers and other labor organizations, senior citizens groups, religious organizations like Network, urban and rural organizations, local public officials, farm groups, virtually every consumer organization across the Nation including the hard-working staff at Consumer Federation of America.

Mr. Speaker, I do not remember a broader spectrum of public interest groups banding together to support a piece of legislation in the Banking Committee in my 17 years in the House.

My colleagues on our subcommittee and in the full committee have given tremendous support and we would not have reached this point without their active work. Chairman REUSS has pushed very hard for acceptance of the legislation and my colleague on the subcommittee, CHALMERS WYLIE, has been with me every single step of the way. In fact, Mr. WYLIE and STEW MCKINNEY, who has also done yeomanlike work for the bill, joined with me in testifying before the Senate Banking Committee as the leadoff panel in support of the legislation yesterday. There are many others—the list could go on and on.

Mr. Speaker, I am hopeful of early and favorable action by the Senate and with President Carter's magnificent display of support there is every likelihood that we will have a National Consumer Cooperative Bank Act signed into law before this Congress adjourns.

As I told the Senate Committee yesterday, this legislation could be the proudest accomplishment of the 95th Congress. It not only addresses a substantive economic need but it expresses our hope and faith in the ability of the American people to do things for themselves through self-help organizations. It is a giant step forward for the American consumer.

UKRAINIAN INDEPENDENCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. RODINO) is recognized for 5 minutes.

Mr. RODINO. Mr. Speaker, we Americans know the extreme importance of the human rights issue. We enjoy more freedoms than any people on Earth. It is only right that we speak out in the interests of those who are oppressed, but who long for basic freedoms.

Keeping this in mind, it is important for all Americans to join in remembering the day, 60 years ago, when the people of the Ukraine attempted to win freedom and become an independent state. Ukrainian Independence Day, commemorated this week, is especially meaningful to the millions of Americans of Ukrainian descent who share the sadness and pride of the Ukrainian attempt at freedom.

The men and women of the Ukraine are proud people who have not lost their determination to live free. Their brothers and sisters in America have made many important contributions to our society. They are a constant reminder of our duty to speak out for human rights throughout the world.

I believe the Carter administration has taken a giant step in bringing the issue of human rights to the attention of the world community. As the leaders of that effort, we Americans cannot afford to forget the meaning of the Ukrainian attempt to win independence 60 years ago. The Ukrainian struggle lives on and so must our fight for human rights.

WARREN JERNIGAN IS IMPROVING

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, the House will be happy in the knowledge that our good friend Warren Jernigan, chief doorman for many years, is steadily improving. He has been extremely ill from a rare paralysis known as the Guillain-Barre syndrome—French polio—and has been confined to George Washington University Hospital for the past 2 months. Happily, the prognosis is optimistic and, while the period of rehabilitation is a lengthy one, he is expected to recover completely.

Warren's good work is not confined to his services as doorman. He has been a leader in important civic and patriotic enterprises. He was an organizer and for years served as president of the Doormen's Society of the U.S. House of Representatives. Perhaps his chief interest other than his work at the Capitol and his family has been his dedication to the Masonic Order. His fine services to that important organization were crowned by his election to the position of Worshipful Master of Federal Lodge No. 1 in Washington. This is indeed a fine distinction.

I am happy to note two recent awards to Warren in connection with those services. One from the Association of Worshipful Masters of the District of Columbia, dated January 14, 1978, reads as follows:

Federal Lodge No. 1, F. & A. M. and Warren H. Jernigan, W.M., For Receiving the Most Petitions of Any Lodge in 1977.

The other, from the 1977 Association of Worshipful Masters of the District of Columbia, dated January 14, 1978, reads:

Warren H. Jernigan, W.M., President, Chairman Executive Committee, In Appreciation For Your Outstanding Leadership, Hard Work, and Dedication Whereby We Have Raised For the Masonic and Eastern Star Home $50,000, the Largest Amount Ever Raised.

All of this attests to the high regard in which Warren is held. All of us whom Warren has served so ably and effectively in the House express our sympathies to Warren, his wife Helen and his sons, in his illness and wish for him the earliest possible and complete recovery. I have assured him that our prayers and our thoughts are with him. I know that he will be pleased to receive a note of encouragement from his friends on the Hill or to see familiar faces.

A NEW LAW SETTING GRAZING FEES ON PUBLIC LANDS

(Mr. RONCALIO asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. RONCALIO. Mr. Speaker, I am today introducing legislation which I hope will go far towards solving what I perceive to be acute problems involving the management and improvement of range conditions on the public grazing lands administered by the Bureau of Land Management and the Forest Service. During 1977, the Subcommittee on Indian Affairs and Public Lands held a series of public hearings in the Western States and in Washington, D.C., on various public lands matters. Those hearings revealed severe problems stand in the way of the improvement of the rangeland conditions. More efficient management is needed of the 283 million acres of Federal land that is used for livestock grazing.

This is especially true on the approximate 160 million acres administered for livestock grazing by the Bureau of Land Management. Specifically, our hearings revealed: Problems with levels of range improvement funding; an abundance of land that was producing less than its true potential for various range values; and overpopulation, in certain areas, of free-roaming wild horses and burros; great uncertainty as to what scale and type of range improvement projects may proceed under current law and court decisions; a potential hardship to the ranching community from proposed increases in grazing fees; and several other matters.

In my estimation, each of these issues represents a serious problem which could be dealt with in separate legislation. Indeed, several bills are pending in Congress that speak to these matters. However, rather than deal with these critically interrelated issues in a piecemeal fashion, I have become convinced that they merit consolidated consideration in an "omnibus" bill which will enable enactment of a balanced program, and not solve one problem at the expense of another. To achieve this, my bill deals with the following important subjects:

RANGE CONDITIONS PLUS FUNDING

Numerous reports and studies completed during the last several years have concluded that there exists a great need for improvement of the range conditions of the public grazing lands. Indeed, according to the Bureau of Land Management's own standards, as set forth in a 1975 report to the Senate Committee on Appropriations, over 80 percent of the lands currently administered for grazing by the Bureau are in an "unsatisfactory" condition in the sense that they are not producing anywhere near their true potential for diversified rangeland values such as livestock grazing, fish and wildlife habitat, recreation, and water and soil conditions.

While much of this condition is a legacy of the virtually unregulated grazing which occurred in the Western States in the 19th century and up until 1934, it is beyond controversy that current levels of range improvement funding and range management have not been able to achieve dramatic improvements in overall range conditions.

Although concerted efforts on the part of many conscientious ranchers, Government agencies, and environmental groups have resulted in some improvements, especially in recent years, there is still a very long way to go before most rangelands attain a condition which enables them to best serve the numerous values and uses associated with a fully healthy and productive range. In short, current range conditions are cheating the public, the livestock industry and wildlife out of benefits that should be inherent on the public grazing lands.

To correct this situation my bill would authorize appropriation of a total of $350 million over the next 20 years to improve range conditions. These moneys would be in addition to funds to be requested for ongoing BLM range, wildlife, soil and water programs, and in addition to the moneys allocated to on-the-ground range improvements in 1976 under the provisions of the Federal Land Policy and Management Act. No less than 80 percent of the $350 million would be limited for the sole purpose of financing on-the-ground range maintenance and improvements such as fencing, water development, increased vegetation, wildlife and soil and water conservation projects. These improvements are vitally needed if existing forage is to be more efficiently used by livestock and wildlife, and ranges are to become more productive for livestock and wildlife values. However, by limiting the use of these funds to "on-the-ground" range improvements, my bill insures that the moneys will physically go toward range improvements and not be eaten up in paperwork and administration. Specifically, the moneys cannot be used for the conducting of inventories and studies, nor for the preparation of land use plans, allotment management plans or environmental impact statements.

The bill also provides that up to 15 percent of the funds can be used by BLM to train and hire additional qualified and experienced personnel to engage in on-the-ground supervision and enforcement of range land use and allotment management plans. It is my fervent hope that these moneys will enable BLM to put more qualified people "on the ground" and in the field to work closely with range users, grazing advisory boards, and other interested parties in refining range management plans, improvements and techniques so that the land use and allotment management planning process is responsive to the specific needs and range conditions of the area to which it applies.

This is critical, as land use and allotment management planning cannot be entirely successful unless it is based on a good working knowledge on the part of BLM officials of the particular problems and range conditions—whether seasonal or year-round—indigenous to a given area. At present, it would appear that in many cases, paperwork and other administrative requirements have so monopolized the time of BLM employees that they have insufficient time to get "on-the-ground" and work with range users to develop the plans that will best achieve the range improvements that we all desire. My bill should provide the additional personnel necessary to correct this.

The additional on-the-ground personnel will also enable BLM to more effectively police the unconscionable few who overgraze the public range for the sake of short term profits. The problem of overgrazing is acute in some areas of the Western States, and is extremely harmful to the long-term welfare of all range uses, users, and values.

RANGE IMPROVEMENTS

The present state of affairs involving the installation and maintenance of range improvements is rather chaotic. On the one hand, the courts—in NRDC against Andrus, June 15, 1975—have forbidden BLM from implementing any new "allotment management plan or its equivalent" until an environmental impact statement on the allotment management plan has been completed. On the other hand, Congress, in passing the Federal Land Policy and Management Act (FLPMA), provided that the annual distribution and use of certain range betterment funds would not require an environmental statement. The waters are further muddied by language in the conference committee's report on FLPMA stating that nothing in FLPMA "is intended to interfere" with the court's orders to complete environmental impact statements for allotment management plans or their equivalents. Finally, when one considers that an "allotment management plan," as defined in FLPMA, includes a description of "the type, location, ownership, and general specifications for the range improvements to be installed and maintained," it is not hard to envision why BLM and others have had a difficult time in ascertaining exactly what types of range improvements can proceed in the absence of a completed environmental impact statement for a given area.

While various interests argue the extent to which the range improvements are currently permissable, it is undeniable that the NRDC case, when coupled with congressional pronouncements on the subject, has had a "chilling effect" on the Government's willingness to implement a vigorous range improvement program.

My bill seeks to solve this dilemma for once and for all by specifically spelling out those range improvements which can proceed prior to the completion of the court ordered environmental impact statements, and those which cannot. As many environmental impact statements will not be completed until 1988, or later if court challenges to their adequacy occur—as occurred with the first grazing EIS for the Challis unit in Idaho—the importance of a legislative solution to the problem becomes clear.

Quite simply, my bill allows certain range improvements such as fencing, small water developments, fish and wildlife projects, the restoration of native vegetation, and vegetative manipulation through grazing management, to proceed without completion of an environmental impact statement. In my mind, such improvements are clearly of a desirable nature, and do not artificially alter the environment or pose a threat of environmental disruption or pollution. As such they merely enable us to use existing forage and other range values more efficiently, and make it possible to augment existing values without a commitment to irreversible decisions that could lead to poorly thought out environmental alterations and impacts.

Conversely, it is my firm belief that the NRDC decision was completely cor-

rect in asserting that some provisions of allotment management plans and range improvements are indeed major Federal actions which may significantly affect the environment. Therefore, my bill prohibits the use of any earmarked range improvement funds for projects such as chaining, chemical and herbicide treatment, major water developments, stream modification, and seeding to introduce nonnative species such as crested wheatgrass, until the court ordered environmental impact statements and other planning documents for the area have been satisfactorily completed. This will insure that range improvements and techniques which could significantly alter existing ecologic and vegetative patterns through artificial means will not be implemented until the background data to support or refute their desirability has been thoroughly gathered and evaluated.

WILD HORSES AND BURROS

In 1971, Congress passed legislation to protect wild and free-roaming horses and burros from capture, branding, harassment, and death. While the act has been successful in its goal, it has become evident that, in certain areas, populations of wild horses and burros have been so well protected by the law that their numbers now exceed the carrying capacity of the range. This poses a threat to wildlife, livestock, overall range conditions, and even to the horses and burros themselves.

BLM has initiated a program whereby certain of these excess animals are captured and may be "adopted" by individuals who will accord the animals humane treatment. However, this program has been frustrated by the fact that the 1971 law prohibits the Government from transferring title to the animals to the adopting party.

To alleviate this problem, my bill would do three things. First, it requires the Secretaries of Interior and Agriculture to conduct up to date inventories to determine whether overpopulations of wild horses or burros exist in an area. If either Secretary finds an area is overpopulated, he is then directed to round up the excess animals for which an adoption demand exists, and put the animals out for adoption. Second, to encourage adoption, the 1971 law is changed to allow a transfer of title to the adoptor after a period of 1 year, if the animal has been well treated. I believe that the 1-year "holding period" under humane conditions will involve expenses to the adoptor that will absolutely preclude resale of the animals to slaughterhouses. Third, excess animals for which an adoption demand does not exist, are required to be disposed of in the most humane manner possible so as to restore a thriving natural ecologic balance to the range.

GRAZING FEES

Unless Congress acts prior to March 1, the Secretaries of Interior and Agriculture plan to implement a proposal to increase public lands grazing fees by 25 percent per year until the Secretaries' definition of "fair market value" is reached sometime in 1980 or 1981. Depending on the lease rate charged on private grazing lands in future years, this would mean an increase in grazing fees of from 80–100 percent by 1981. For a rancher running 100–150 head of cattle on the public lands, increases could run in excess of $600 per year with no consideration of the rancher's ability to pay this increase. While I have introduced legislation (H.R. 9757) which was passed by the Committee on Interior and Insular Affairs on November 29, 1977, to place a 1-year moratorium on any increase in grazing fees, it only allows time for Congress to consider the issue of grazing fees. The legislation which I am introducing today is a followup which would enact the formula recommended by the Secretaries' own experts, the Technical Committee To Review Public Land Grazing Fees. I feel this formula is far more equitable than the Secretaries' proposal because it is intricately tied to the short-term costs of production, beef prices, and the ranchers' ability to pay, while at the same time being sensitive to long range forage values.

To prevent undue fluctuations in any one given year my bill would also limit increases and decreases to 25 percent of the previous year's fee. Although this formula may need some further refinement in markup of the legislation, its paramount virtue is that it recognizes the critical items of cost of production and ability to pay.

TEN-YEAR GRAZING PERMITS

When Congress passed the Federal Land Policy and Management Act (FLPMA) in 1976, it directed that public lands grazing leases or permits be issued for a period of 10 years, unless "it will be in the interest of sound land management to specify a shorter term." The Secretary of the Interior has subsequently determined, on a blanket basis, that it is "in the interest of sound land management" to issue only 1-year leases in all cases where land use planning is not complete. My bill would simply reiterate the spirit of Congress' directive, which I feel has been subverted, to require the Secretaries to issue 10-year leases or permits except when he determines on a case-by-case basis—as opposed to a blanket basis—that a short term is necessary. The goal, of course, is to insure that land management decisions are made as responsive as possible to the range needs of a particular area rather than being implemented on an indiscriminate and inflexible basis which does not give sufficient attention to localized needs and conditions.

Other features of my bill would:

First, require an inventory of rangeland conditions and trends;

Second, insure, to the extent feasible, that the authorized appropriations of $350 million are actually spent;

Third, to the extent practicable, require that environmental impact statements, land use plans, and other planning documents for a land management unit be rolled together into one consolidated unit plan; and

Fourth, set a goal to make the public grazing lands as productive as feasible for all range values.

It is my intention to begin hearings on this legislation in mid-February, and as time is short in this session of Congress, to move as expeditiously as possible toward enactment into law. I am looking forward to broad public participation at our hearings so that all views will be represented and the best possible solutions can emerge.

PETITION OF MARTY B. DIXON AND JOHNNY W. McRAE

(Mr. DELLUMS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DELLUMS. Mr. Speaker, on October 11, 1977, two veterans, Marty Dixon and Johnny McRae, submitted a petition to the Secretary of the Army, Clifford Alexander, requesting that their discharges be upgraded to honorable. Following is a detailed explanation of the factual background of these two men who did no more than speak out against the vicious and institutional racism and outright segregation that was allowed to exist in some elements of the U.S. Army in South Korea in 1971. I regret that their experiences cannot be considered as past history for the conditions to which they attest continue today.

PETITION OF MARTY B. DIXON AND JOHNNY W. McRAE UNDER THE PROVISIONS OF ARTICLE 74(b), UCMJ

I. INTRODUCTION

A. Jurisdictional Allegation—

This petition is submitted pursuant to Article 74(b) of the Uniform Code of Military Justice, Title 10 United States Code § 874(b). That provision reads, in its entirety: "(b) The Secretary concerned may, for good cause, substitute an administrative form of discharge for a discharge or dismissal executed in accordance with the sentence of a court-martial."

Marty B. Dixon received a four year sentence including a Dishonorable Discharge from a General Court-Martial on October 26, 1971, as a result of events in and around Camp Humphreys, South Korea, on July 9, 1971. That discharge was upheld by the Army Court of Military Review on October 6, 1972, and, after a grant of review on a collateral procedural point, was also upheld by the United States Court of Military Appeals on June 8, 1973. An application by Dixon to the Army Board for the Correction of Military Records, unassisted by counsel, was denied pro forma on May 15, 1974.

Johnny W. McRae received a three year sentence including a Bad Conduct Discharge from a General Court-Martial on November 16, 1971, as a result of the same incidents at Camp Humphreys, South Korea. That discharge was upheld by the Army Court of Military review on November 2, 1972. His sentence was not reviewed by the United

States Court of Military Appeals or the Army Board for the Correction of Military Records.

Since both veterans have, and continue to have, discharges "executed in accordance with the sentence of a court-martial", the authority of the Secretary of the Army to substitute "an administrative form of discharge" is clear. There are no time limitations set forth in Article 74(b), and, in fact, the so-called finality provisions of Article 76, 10 U.S.C. § 876, specifically provide that "sentences of courts-martial as approved, . . . and discharges carried into execution under sentences by court-martial . . . are final and conclusive . . . subject only to action . . . by the Secretary concerned as provided in section 874 of this title (Article 74) . . ." There are no procedures regulating the application of Article 74(b) in the Manual for Courts-Martial, and no regulations of either the Department of Defense or the Department of the Army are known with respect to this provision. No statute delegating this authority to anyone other than "the Secretary concerned" has been found.

Consequently, it is submitted that the Secretary of the Army may upgrade the petitioners' discharges upon a showing of "good cause" regardless of any other provisions of law or regulation respecting military discharges. Furthermore, it is petitioners' position that the nature of the issues raised in this case require the direct attention and intervention of the Secretary of the Army, and cannot be appropriately considered by any other review mechanism, such as the Army Board for the Correction of Military Records, presently in operation. These more conventional avenues for relief are restricted by various procedural rules and regulations. And nowhere is a concern for rectifying the consequences of racist practices by the U.S. Army delineated as a basis for relief. Consequently, the burden of such relief should fall with that office most responsible for the overall functioning of the service, in this case, the Secretary of the Army.

B. Relief Sought—

Although there are three types of "administrative form of discharge", Honorable Discharge, General Discharge Under Honorable Conditions, and Discharge Under Other Than Honorable Conditions, petitioners submit that they should receive Honorable Discharges, the discharges to which they would have been entitled under applicable regulations, but for the courts-martial discussed below. The provisions for characterizing a member's service are found in ¶ 1–9 of AR 635–200. Subparagraph d(2) of that paragraph provides that service "will be characterized as honorable" if the member has conduct ratings of at least "good", efficiency ratings of at least "fair", has not been convicted by General Court-Martial, or more than once by Special Court-Martial. But for the cases in question, both petitioners would have been entitled as of right to Honorable Discharges. Because the wrongs done to them stem from the initial action, the upgradings should, of course, be retroactive to the original dates of the discharges.

II. THE SITUATION AT CAMP HUMPHREYS, SOUTH KOREA, 1971

A. Background—

As the historical review elaborated below in Part III demonstrates, racism is, and always has been, a pervasive aspect of American military life (as, indeed, it has been of American society in general). But to understand the particular situation we are concerned with in this petition, some special factors must be kept in mind, at the events at Camp Humphreys, South Korea, are described.

For one thing, Camp Humphreys was hardly a choice assignment. It was a drab, cold, muddy, rainy place, and the only town nearby was the little village of Anchong-ni, adjoining the base. Korea has never been considered a desirable duty assignment to the average GI, and within Korea, Camp Humphreys was low on the list. (Several times during his stay in Korea, Marty Dixon asked to be transferred to Vietnam, to combat.)

Another aspect of the GI situation in Korea concerned Black troops specifically. Although the statistics are undoubtedly more available to the Secretary of the Army than to petitioners, it is generally asserted that there are a greater percentage of Blacks in Korea than in the Army as a whole, and it is unquestioned that there were many units at Camp Humphreys which were inordinately staffed by Black troops, and vice versa. When Dixon was first assigned to Camp Humphreys in May, 1970, for example, he was the only Black in the helicopter maintenance platoon. He was then promoted to a flight platoon, where there were two Blacks, and, finally, transferred to a technical supply platoon which was almost entirely Black. This latter assignment was to a unit with less technical or skilled activities and reflects another aspect of racism in the services: Black troops are consistently placed in the most unskilled duty assignments where career possibilities are limited and training is minimal. Johnny McRae, who arrived at Camp Humphreys some six months prior to Dixon, was one of only four Blacks in the two flight platoons (out of a total of approximately 70 soldiers). Aside from always feeling that he was a "token" Black, McRae notes that this racial imbalance led to persistent harassment and no means for redress.

Added to this pervasive sense of de facto semi-segregation was the attitude of the local community—an attitude encouraged by the military, as explained below in Part III. Discrimination is not against the law in Japan and Korea—two countries in which nearly 100,000 American troops are stationed. Not only is discrimination not against the law, it is fairly common. For example, a bar or restaurant owner could, if he or she so wished, refuse to serve Blacks, or whites, or people with blue eyes, and not violate the local law or constitution.[1] But the United States military is not supposed to condone, much less encourage, this, and there, of course, is the rub. The military contains more than its fair share of bigots, and the sad fact is that what might be very difficult in San Francisco or Chicago, and a bit less difficult in Jacksonville, North Carolina, or Columbus, Georgia, is much less difficult in Korea. As we will describe, and as the Army has admitted in several reports and investigations, discrimination—indeed segregation—was a problem at Camp Humphreys.

B. Spring, 1971—

Although, as the historical review below makes clear, racism was always a problem among GIs in Korea, the situation in the Spring of 1971 was, for some reason, inordinately severe. Many white GIs were openly members of the Ku Klux Klan; Blacks were being arrested for the mere possession of the Black Panther Party newspaper; virtually segregated platoons, as noted above, were standard; and the bar owners in Anchong-ni and other base villages were learning that they would do much better business with white GIs if Blacks were "discouraged" from frequenting their clubs. At the same time, of course, a few club owners were learning that there was money to be made catering to the Blacks, and little expenditure on decor was required. As every report notes, the white-oriented clubs were relatively plush; the Black-oriented clubs were, in the words of *Pacific Stars and Stripes*, "dingy", "drab", and "unadorned." Complaints by Black troops about this situation went unheeded, even after April, 1971 on-site investigations by the Camp Humphreys Equal Opportunity Commission verified the discriminatory treatment in the village and on-base social facilities. (This investigation was prompted by demonstrations on Camp Humphreys protesting ongoing courts-martial of Black troops.)

As Easter Sunday, 1971, approached, one of the two bars in Anchong-ni which served Blacks, the 777 Club—which was in a bar street surrounded on both sides by clubs catering to whites—was closed down. (Not surprisingly, it reopened a few weeks later as a restaurant catering to whites, customers of the adjoining bars.) Uncontradicted rumor suggested that this closing down was instigated by the adjoining owners, at the prodding—and with the financial assistance of—white GIs. These rumors were never pinned down, but it was undisputed that at this point there was only one bar in Anchong-ni, the OB Club, which served Blacks, and it was off in an alley by itself, away from the bar street.

All of this appears in the *Pacific Stars and Stripes* edition, which covered the events that ensued. "Owners of other clubs in the village," it reported, "have not been reticent in their displeasure at having the Blacks come to their clubs." Easter Sunday night, violence began. According to the *Stars and Stripes*, sporadic fighting between more than 200 troops broke out, and was barely contained by the MPs. "Fights broke out in the alley as Blacks, with no place to go, stood and watched the throng." Then, the next night, "one Black walked in to the Box T Club and was 'hassled'." ["T-shirt" and "rabbit" are Korean-American slang for white GIs. Clubs such as the Box T. and another in Anchong-ni called the Top Hat, whose emblem was a rabbit being pulled out of a hat, announced by their very names that they catered to whites.] As soon as the Black was "hassled" at the Box T, "other Blacks charged in and the club was 'demolished'."

There were more fights that night, and eleven people were injured. The next night, according to the *Stars and Stripes*, firebombs were thrown at whites-only bars, including Duffy's Tavern, shortly after the owner was heard to have expressed his opinion of Blacks. Later that night, firebombs were thrown at the NCO Club on base, and the base gym.

Still, despite consistent spontaneous outbursts of violence, no official response was forthcoming from the Camp Humphreys command to the grievances of the Black GIs.

C. May 19, 1971

May 19, 1971, Malcolm X's birthday, was selected by Black troops as the date to present those grievances en masse to the command in Seoul. Stated most briefly, the Black troops went to Yongsan Military Reservation and demanded that the Army "treat us like human beings, or send us home."

After a month of planning, several hundred Blacks from all over Korea made it to Seoul on May 19th. There evidently would have been more, but on the 18th, all passes and leaves were canceled, and the military buses to Yongsan Military Reservation were canceled. When they arrived at Headquarters, the post commander refused to come out, and sent word that he would not even speak to a small representative party. The Blacks refused to move, and demanded to

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[1] Host country racial attitudes are not much more enlightened elsewhere. As recently as October 3, 1977, the U.S. Court of Military Appeals noted, in *United States v. Brown*, 3 M.J. 402, 403 (CMA 1977), that in the Federal Republic of Germany, it is standard police practice, whenever a Black is implicated in an offense, to arrest all Blacks in the vicinity. In base towns, of course, this leads to the periodic round-up of Black GIs for no reason other than their being Black.

speak with the general. They were then told that he was not around, although his flag was flying at the time, indicating that he was within two miles. A little later on, the mess hall, provocatively, refused to serve meals to the protesting Black GIs, allegedly because they were visitors, whereupon the mess hall was demolished during the noon meal. Later that afternoon, the protestors learned that two Black GIs were arrested for some minor offenses and were taken to the MP station, which the crowd of Blacks subsequently surrounded, demanding their release. Although the station was also surrounded by MPs, no pitched battle occurred. In fact, several Black MPs dropped their weapons, broke ranks, and joined the protestors. A white MP lieutenant, shouting that the crowd had grabbed some MPs, waded into the crowd, and was carried by the demonstrators, by his hands and feet, back to the station, when the Blacks who had been arrested were released. Despite repeated provocations, the Blacks avoided any confrontation with the large deployment of MPs.

In a masterpiece of misreporting, reflecting the Army's distortion of the actions of the Black GIs, the headline in *Jet Magazine*, in the United States, read: "Blacks Stage 'Soul' Fest for Malcolm X in Seoul." The two sentence article mentioned no "soul fest", but noted that the garrison commander "called out about 150 military police and troops armed with M-16 rifles and tear gas. . . . " No mention was ever made of the Black MPs who broke ranks, or the officer who nearly did cause a riot, but who was unceremoniously returned to his troops.[2]

The May 19th protest appeared to have fallen on deaf ears. As far as Black troops could see, the result of their action had only been increased activity by CID and MI, which were seeking to identify and isolate leaders of the Black protest. These efforts were often arbitrary. Johnny McRae, for example, was not known as a leader or a militant. His participation in the May 19th demonstration is a measure of the mass character of the Black troop movement at this time. Yet, he was subsequently detained by CID, questioned extensively, and labeled a troublemaker. These characterizations would play a large role in his being picked out as a participant in the riot on July 9, 1971, and his subsequent conviction.

D. The Fourth of July, 1971—

After the events of May, and during June, numerous attempts were made to meet with officials to present grievances, which met with little success. The situation was so frustrating that the Blacks who were active in this struggle decided to present their case to the United States Ambassador, in Seoul. They picked the Fourth of July, a date when American Ambassadors traditionally have open houses for Americans at the Embassy, and because it would coincide with Vice-President Agnew's South Korean tour. They also assumed, correctly, that the command would not attempt to cancel passes and leaves and buses as they had done in May, because so many people planned simply to celebrate the holiday.

Much to the Blacks' surprise, however, U.S. Embassy was placed off limits to military personnel, and MPs were stationed there with orders to arrest any GI who attempted to visit the Embassy—a possibly unprecedented situation.

During this time, because of his involvement in the agitation, Marty Dixon was scheduled for a hearing, after his commanding officer recommended he be discharged for unsuitability under AR 635-212. Typically, sad to say, the Army's response to someone who complained about racism was to attempt to discharge him for unsuitability. On July 7, 1971, the Board of Officers decided contrary to the recommendation of Dixon's commander, and held that he should be retained in the Army and given an immediate transfer from Camp Humphreys. Had his commander not refused to do so, Dixon would never have been involved in the incidents two days later, because his commander was ordered to send Dixon home immediately, without awaiting transfer orders, which were to be forwarded to his home of record. The CO refused a direct order to do so; a few days later the question was moot—Dixon was on legal hold, then arrested and charged.

E. July 9, 1971—

By July 9, there was one other club catering to Blacks in Anchong-ni, the Black Star Club. This club had evidently been subject to pressure (and financial aid) from Camp Humphreys authorities to cater to Blacks and relieve some of the tensions around the other clubs. [The use of racially indicative names was supposed to be prohibited by the Army. No instance is known, however, of a club ever having been placed off limits for such an offense.] However, the situation remained as bad as ever, and became even a bit worse. A government witness at the pretrial investigation in the Dixon case had testified: "Some time ago a group of Whites from the ASA had collected some money and donated it to the Duffy's for the use of remodelling and stated that they didn't want any 'niggers' in there." The whites-only clubs, in an effort to please their patrons, and prevent even occasional inconvenient visits by perhaps unwitting Blacks, were offering bounties to Korean troops—in the area for maneuvers—to "get Black heads", i.e., beat up Black GIs indiscriminately and create an atmosphere of intimidation.

After winning his 212 hearing, the night of July 7, Dixon first saw the Korean troops in the village. During the next day he was told of the club owners' plans, and in a hastily called meeting at the Black Star, informed the Black GIs of the impending troubles. The night of July 8, the Korean troops massed at the Camp Humphreys gate and had to be confronted by the MP force. There were reports that some Korean soldiers had pulled pistols on Black MPs.

The situation became so unbearable that, on the night of July 9, after learning of the plot to use Korean troops to physically attack and segregate Black GIs, a large group of Black GIs demolished three whites-only clubs, the Paradise, the Seven, and Duffy's Tavern. It should be pointed out that Johnny McRae contends, and has always contended, that he was not among that group of Black GIs at the time that this property destruction was taking place, but was, near the end of the evening, observing the crowd. Marty Dixon was with the crowd, but maintains that he never committed the acts of destruction for which he was charged. The details of their trials are set forth below.)

During the several days succeeding the July 9 riot, upwards of a dozen Black GIs were arrested and confined. Few white GIs were questioned, and many were influenced not to offer testimony, with the threat of having their records flagged, and being forced to remain in Korea. Approximately a dozen Blacks were court-martialled. Of the first group, Marty Dixon received a Dishonorable Discharge and Johnny McRae a Bad Conduct Discharge. They both served eighteen months of their sentences at Fort Leavenworth. Others served lesser amounts or accepted undeserved Undesirable Discharges.

F. The Congressional Inquiries and the Investigations—

Even while the Blacks were still in the stockades in Korea, numerous Congressional inquiries were made regarding the situation, led by Representatives Ronald V. Dellums of California and Bella Abzug of New York. In October and November of 1971 an extensive investigation was conducted in and around Camp Humphreys, a lengthy memorandum of which remains on file at the Office of the Inspector General. The report confirms the substance of most of the complaints.

Even on base there was discrimination. The report noted that the waitresses at the NCO Club at Camp Humphreys did practice racially motivated favoritism, and, more significantly, the investigators discovered that "unescorted females [who were in fact prostitutes registered with the Army] were allowed to enter the NCO Club to socialize with military personnel. Some of these unescorted guests would refuse to dance with black soldiers, but would immediately accept a dance request from a white soldier." And this was on base—this perhaps the most humiliating of affronts. Typical again of the way such problems are dealt with, or more correctly not dealt with, is the following comment from the report on this subject:

"The management of the club was aware of the situation and the resultant adverse effect on the morale of the Negro [sic] soldier. Waitresses were continually warned that such favoritism would not be shown to any individual. . . . Unescorted females who were permitted to enter the club were warned that discrimination would not be tolerated and would result in their being banned permanently from the club while unescorted."

The efficacy of this solution is questionable. If waitresses were "continually" being warned, the warnings could not have been very serious. And as for the unescorted females, there is no indication in the report or elsewhere that the practices were halted. Merely that people were being warned, perhaps with a wink.

Off base, though, the situation was far graver. As the Inspector General's report noted, "several night clubs in the city of Anyang-ni [sic] were engaged in discriminatory practices which resulted in their catering to patrons along racial lines." Once again, the club owners were given "strict" warnings. Nowhere, it should be noted, have we uncovered evidence that a club was ever put off limits, even for a day, although violence often exploded because of the racial policies at the clubs.

The IG report also mentions an April 1971 "inquiry into racial unrest at Camp Humphreys," a report which unfortunately appears to have been destroyed. The November report goes on to summarize the determinations of that report, though, and they coincide with the history outlined above: "the primary causes of the unrest were the feeling of the black soldiers that they were being discriminated against and no one seemingly cared about their welfare; . . . the Equal Opportunity Program was lacking in several respects, the most striking of which was that replies to complaints had not been made in many cases; and the unawareness among the officers of the apparent volatile atmosphere that prevailed over Camp Humphreys."

Thus we have the example of an April report warning of "volatile" atmosphere, which is followed by inaction and then riots in May and again in July.

The IG report, with somewhat greater perspicacity than *Jet Magazine*, confirmed that "a 19 May 1971 demonstration occurred in front of Headquarters, Eighth United States

[2] It is assumed that documentation of most of these incidents exists; witnesses abound. Sadly, I have been informed by the Office of the Inspector General that all Eighth Army and subordinate Inspector General files for 1971 were destroyed in January, 1975. Given the rather slow rate at which racism is battled, three to four years seems an inordinately short time to keep such files.

Army to protest alleged racial discrimination and to present grievances. . . ."

The problem with this investigation, though, lay in its conclusion. Despite the confirmation of all these grievances; despite the policies of the clubs; despite the fact that riot after riot was occuring; the report concluded:

"Contrary to (name deleted) opinion, Negro soldiers have not been subjected to incredible discrimination. The United States Army does not tolerate racial discrimination. This is not to imply that individual service members have not been subjected to discriminatory measures by other individuals and agencies. Whenever discrimination is discovered, the Army commanders concerned make every effort to correct this unacceptable situation. The matter is recognized and understood; however, it transcends the military and reflects a national sociological problem."

This, it is submitted, is as fatuous as it is untrue. A glance at the historical review of the many reports on racism in the military belies the assertions of the report. Perhaps the Army no longer officially endorses discrimination, but most assuredly it has tolerated it for many, many years. Moreover, the commanders concerned may make every effort to keep things quiet; and they may make every effort to transfer "troublemakers" as quickly as possible, but they most definitely do not make "every effort" to eliminate discrimination. They could have put every whites-only bar off limits in April; or in May; or in June; or in July; or in 1975; or in 1977. They never did.

G. The Courts-Martial—

It is submitted that, under the circumstances of these cases, the discharges in question should be upgraded even if the petitioners were guilty of the acts with which they were charged. If they had been part of the crowd which expressed their rage on the whites-only clubs—the cases only involved property damage, not assaults of any kind—they would have been, in a real sense, justified. But, for such consideration as it may be given, the petitioners want the record clear that though they agreed, and still agree with the message of the crowd, they did not commit the acts charged. In addition, in such a volatile atmosphere, and given the documented racist practices, it is also clear that the possibility of a fair trial was minimal. The very nature of the events precluded this possibility. For example, because resentment toward Blacks was so great among the villagers after the events of July 9, no Black investigators could enter Anchong-ni to collect information or interview potential witnesses for accused Black GIs.

1. Johnny McRae—

Johnny McRae's case is in this respect typical of a kind of "justice" that is not yet as rare in American society as it ought to be. McRae was not involved in the riot on July 9, 1971. He testified that when he returned to the Black Star Club after a visit to a girlfriend, the place was empty, and when he walked out, he saw a huge mob moving down the street (which turned out to be a crowd of villagers chasing the crowd of Blacks who had attacked the clubs). Unable to move in that direction, he returned to the base and watched most of the ensuing chase from there. He had a witness who was with him at the gate; he had another witness who saw him changing his clothes back at the barracks, all this during the time the crowds were chasing each other nearby. Two other witnesses saw him inside the compound well before the crowd from the village had reached the perimeter of the base. The prosecution produced one witness who saw him at the Black Star Club before he went to see his girlfriend—a fact he did not deny—when the club was filled with many Black GIs, some of whom were later identified as involved in the riot. The prosecution witness had given a statement to the investigators prior to McRae's trial in which he said that McRae didn't say anything at the Black Star Club. At the trial, he said that he had heard McRae say, "Let's not go now, let's go later."

The only other witnesses against McRae were the doormen at two of the clubs, who insisted that they had seen McRae in the crowd which destroyed the clubs, although one said he had "only a glimpse" of McRae, and the other said that though he saw him, he was not doing anything.

Based just on this, McRae was convicted of involvement in all three clubs. What was never brought out, however, was that each club owner had filed a claim with the United States Army for property damage sustained, and that such claims were payable if, and only if, it was proven that the damage was caused by U.S. personnel, and the only conceivable candidates for this distinction were the Blacks who had been charged. In the minds of the club owners and their employees, if Dixon and McRae were not convicted—if somebody were not convicted—they might not be paid by the Americans for their damages. (These damages, it should be added, were grossly inflated. A white MP, SGT David Aptekar, testified he entered Duffy's Tavern and saw the club personnel destroying their own equipment. One other MP attested to the same story. The club owners, it seemed, used the riot for their own benefit, to win monetary settlements that led to the purchase of new and better equipment.)

2. Marty Dixon—

Dixon's case is more complicated, complicated because at trial he entered a plea of guilty, and yet he insists he was not guilty. Marty Dixon was placed in the stockade after the July 9 riots, and he remained there for more than three months before his trial was held. During that time, he was threatened and abused. And, finally, he was set up. Just after being released from several weeks in solitary back to the general population of the stockade, he was passed an open pack of cigarettes by a guard who told him it was from another inmate. This was against regulations, and, when Dixon looked in the pack he saw a note which said "refuse work call tomorrow." He went to see the guard commander to complain and upon leaving the office, was called by the PA system to the Provost Marshal's office. When he got there he was told that he was accused of passing notes, apprehended, and told he was to be placed in solitary again. Refusing to enter the cell block, he broke from the guard and was assaulted by several MPs. In self-defense, a guard was struck, and Dixon was charged with assault on a prison guard without provocation, to be added to his pending charges.

Dixon had already been in court in connection with the pretrial investigations. When he returned to court the day after the additional assault charge was added, the judge warned him, apropos of nothing, that that charge was good for a year in jail by itself, and that the proof was overwhelming. It was already obvious from the court's attitude that he was going to be found guilty of some of the original charges, and two days later his lawyer came to see him with a suggested plea agreement, limiting his jail time to eighteen months, if he would plead guilty to everything. Dixon was told it was the best they could get. Fearing by now for his sanity as well as his physical well-being, Dixon decided to plead guilty as quickly as possible, to avoid an unfair trial and to get out of Korea as soon as he could.

Neither McRae's protestations of innocence, nor Dixon's allegations of set-ups and threats are presented here in any effort to obtain some sort of quasi-judicial reversal of their convictions. The law, in all its so-called majesty, canont deal with the frame-up and with the lying witnesses. The two convictions, indeed, were affirmed by the Army Court of Military Review with pro forma, preprinted, one sentence affirmances. The point, however, is that the Secretary of the Army has the absolute power to upgrade their discharges—the only meaningful relief at this point. The existence of their convictions is not what bothers the petitioners most. What bothers them the most are the years of institutionalized racism, and the fear that so little has been done. Their cases—their discharges—can be a starting point.

III. RACISM IN THE MILITARY

The incidents and the investigations discussed above amply demonstrate that the allegations of racist practices in the Army in Korea in the early '70s were well-founded. But it must be emphasized that that situation was neither an historical aberration nor a particularly extreme case. Just as racism has been a part of American society since the first European explorers set foot on the arrogantly named "New World" which they more arrogantly claimed to have "discovered," racism has been a part of the American military system. This is not to say that gains have not been made, as they have in the overall society, nor to say that there have not been instances when the military position was more advanced than that of the general society—most notably in 1948 when President Truman "desegregated" the armed forces by executive order, six years before the Supreme Court "desegregated" the schools by constitutional decision. But, just as it is a fact that today, twenty three years after *Brown* v. *Board of Education*, there are segregated schools in Chicago, Boston, Louisville, and thousands of other towns and cities, so too racial discrimination—bordering in many instances on outright segregation—has continued in the military over the nearly thirty years since President Truman's Executive Order.

A. Up to 1948—

Black troops have been a part of the American military since long before the Revolutionary War. Blacks as well as whites were subject to the 1652 Massachusetts Bay Colony military training bill, perhaps the first selective service law in this country. Blacks fought in the French and Indian War. As most Americans now know, a Black, Crispus Attucks, died in the Boston Massacre. Most Americans still know few other facts about the history of Black troops, though, such as the knowledge that the central figure in the famous painting of the Battle of Bunker Hill, the soldier who is aiming at the Major commanding the British troops, and who downed him with one shot, was Peter Salem, a Black from Massachusetts who fought at Lexington, at Concord, and at Bunker Hill.[3]

Near the end of the Revolutionary War, however, a new form appeared, the all-Black company. From that time on, with some exceptions, there were segregated military units through the end of World War II. Black troops served, in proportions equivalent to the Black population of the country, in all the intervening wars, but almost always in separate, segregated units. Indeed, since the Civil War there were Black divisions. Then, on July 26, 1948, President Truman issued Executive Order 9981, which stated: "It is hereby declared to be the policy of the President that there shall be equality of treatment and opportunity for all persons in the armed services without regard

[3] There is an interesting lesson in Black history to be found in "The Negro Soldier in American History," Chapter 8 of Army Service Forces Manual M 5, October 1944, "Leadership and the Negro Soldier."

to race, color, religion or national origin. This policy shall be put into effect as rapidly as possible, having due regard to the time required to effectuate any necessary changes without impairing efficiency or morale."

As the school desegregation cases, and many other examples have shown, however, declaring that "there shall be equality of treatment" and achieving actual equality of treatment are two vastly different concepts. A succession of studies over the years since 1948 has shown how unreal "equality of treatment" actually is.

B. The 1950 Report—

President Truman's Executive Order established a Presidential Committee to investigate the scope of the problem, to confer with the Secretaries of the services, and to make recommendations regarding the new policy. It took two years for their report to issue. That Report, "Freedom to Serve: Equality of Treatment and Opportunity in the Armed Services," suggests that the description of the 1948 Order as "desegregating" the armed forces was a bit overstated. By 1950, the Marines had not, in fact, desegregated, and the other services were just making the initial steps.

The Report also shows that there was great resistance to integration in the Army. For the first two years after the Executive Order, the Army continued to have segregated units, and, in particular, maintained quotas limiting the number of blacks in any unit. In March of 1950, the Army eliminated the quota system.

The 1950 Report did not deal with segregation and discrimination in general, though; as it was concerned only with the initial step, "equality of treatment." Also, of course, this was before the *Brown* case, and segregation was the law in much of the country.

C. The 1963 Reports—

In 1962, President Kennedy established a President's Committee on Equal Opportunity in the Armed Forces, chaired by now-federal District Judge Gerhard A. Gesell, which issued, in 1963, two reports, one of the problems of black troops stationed within the United States, and one of the problems of black troops stationed overseas. These reports—fifteen years after President Truman's Executive Order—point out the severe nature of the problem.

The first report, "Equality of Treatment and Opportunity for Negro Military Personnel Stationed Within the United States," drew some stark conclusions:

"Negro military personnel and their families are daily suffering humiliation and degradation in communities near the bases at which they are compelled to serve, and a vigorous, new program of action is needed to relieve the situation. In addition, remaining problems of equality of treatment and opportunity, both service-wide and at particular bases, call for correction."

The statistics showed little progress since the 1948 order. At the end of 1962, less than one-fourth of one percent of the officers in the Navy and the Marine Corps were Black! The other percentages were slightly better, although, wtih the exception of lower-ranking enlisted members of the Army, the figures did not approach the percentage of Blacks in the overall population.

The problems of on-base recreational facilities were discussed at length. (When reading the conclusions of the 1963 Presidential Committee, bear in mind the grievances of the Blacks at Camp Humphreys, eight years later.) The report noted:

"One of the principal sources of difficulty arises in connection with the operation of on-base Service and NCO Clubs. . . . At some bases, due to pressures brought by white personnel or other factors, forms of segregated Service clubs have developed in practice. . . . Commanding officers have permitted this condition to be imposed by the wishes of a minority of white personnel. . . . At some Service clubs, it is customary for the command, through professional or volunteer hostesses, to arrange for girls [sic] to come to the base for a dance or other entertainment. Although such Service clubs are used by whites and Negroes alike, there are instances when too few or no Negro girls are brought to the base, thus creating unnecessary tensions. There is also evidence that on occasion civilian hostesses have imported onto the base from the civilian community attitudes which are inconsistent with Department of Defense policy."

Numerous other instances of command authorized segregation were noted, including segregated MP units, with Black MPs not sent into white areas. Instances were noted involving the removal of Black members from military bands and choruses when they were scheduled to perform in civilian communities, and it was apparently common practice for base commanders to attend, as speakers or in othed semi-official capacities, segregated community activities. Segregated busing facilities were still used by the military in 1963, with some practices which would be comic were it not for the deadly serious subject matter: "In a number of instances, buses, while required to integrate during the period the bus is on base property, enforced a segregated pattern of seating immediately upon leaving the installation."

Off-base segregation was much more serious and all-pervasive, of course. Segregated schools were common, as were segregated housing patterns. As the Report noted, with considerable prescience, these conditions were not limited to the South, but were found equally in the North. The situation facing Black troops in the local communities was summarized as follows:

"Usually the Negro officer or serviceman has few friends in the community where he is sent. He and his family must build a new life, but many doors are closed outside the Negro section of town. Drug stores, restaurants and bars may refuse to serve him. Bowling alleys, golf courses, theatres, hotels and sections of department stores may exclude him. Transportation may be segregated. Churches may deny him admission. Throughout his period of service at the particular base he is in many ways set apart and denied the general freedom of the community available to his white counterpart.

"Many of these Negro military personnel are well-educated, specially skilled and accustomed to home communities relatively free from discrimination. All of them have enjoyed the relative freedom from distinctions drawn on the basis of color which prevails on military bases. *To all Negroes these community conditions are a constant affront and a constant reminder that the society they are prepared to defend is a society that deprecates their right to full participation as citizens. This should not be.*" [Emphasis added.]

The second report, "Equality of Treatment and Opportunity for Negro Military Personnel in the Reserves, the National Guard, and in Overseas Areas, and for Other Minority Groups," dealt extensively with the peculiarities of bases overseas. Although there was generally a similarity between conditions on-base both at home and abroad, there were some differences, and, in particular, a correlation between the situation on and off-base: "to some extent the presence of off-base discrimination . . . appeared to affect the attitudes toward Negroes prevailing on base."

Discussing the specifics overseas, the report noted: "the bulk of our personnel—enlisted men in the lower grades—find that segregation in clubs, bars, restaurants and other public places is, in some areas, the rule rather than the exception." The complicity of the military in many instances was clearly seen:

"Local action is not always the force behind segregation. *More commonly, and very unfortunately, such discriminatory practices in many areas develop and are sustianed as a result of pressure from some white American military personnel and their dependents. Thus in Europe, the Far East, . . . and possibly in other areas, proprietors originally willing to serve all races have been forced to yield to pressure from such Americans under threat of economic reprisal and, in some instances, violence.*" [Emphasis added.]

This approaches the crux of the problem at Camp Humphreys, and at many other base towns. The report ocntinued:

"Negroes in the lower enlisted grades are also faced with widespread discrimination and segregation in many of the public establishments—bars, clubs, restaurants, and the like—in which these service personnel spend off-duty hours. The problem is a virulent one, and one of considerable magnitude; in Germany, for example, it was reported that most of the enlisted personnel attended segregated establishments with some degree of regularity. The problem does not seem to affect higher grade NCOs or officers, very few of whom reported that they patronized such establishments. The gravity of this widespread problem abroad has been accentuated by attempted sit-ins in Bamberg, Germany, and in various cities in Japan, earlier this year, as well as by the strong views voiced by Negro personnel who were interviewed during overseas visits.

"These incidents point up a related problem. *When Negro or white personnel attempt to break the color barrier in these segregated public establishments, some sort of disturbance often results. When this occurs, the military police arrive and apprehend all those involved, including those personnel whose only transgression was an attempt to obtain service available to their counterparts. The resulting disciplinary action against those apprehended inevitably deters Negro personnel from seeking to be served in other places, and just as inevitably tends to preserve the status quo of segregated facilities.*" [Emphasis added.]

The Report's section on overseas discrimination concluded that the military's record in attempting to combat these problems "is on the whole unimpressive." The Committee proposed a plan for investigating and dealing with all reported incidents of such discrimination, and for putting establishments which discriminated off limits, and requiring approved establishments to display a placard indicating approval.

"Personnel who violate the commander's order by using unauthorized facilities, by discriminating against another member of the Armed Forces in an approved facility or by threatening a proprietor with economic or other reprisal for serving a member of a particular race, should be promptly and strictly dealt with."

The discussion earlier in this petition of the situation at Camp Humphreys, South Korea, eight years later, shows starkly how the problems observed by the Committee persisted, how the solutions were never implemented.

Lest it be thought that all of these investigations were conducted so many years before the incidents at Camp Humphreys that they are of little value, it should be noted that the year after those incidents, yet another investigation was commissioned and conducted, and the same observations were made, and similar conclusions were drawn.

D. The 1972 Report—

In April 1972, less than a year after the series of riots and demonstrations in Korea,

then Secretary of Defense Melvin Laird commissioned the Task Force on the Administration of Military Justice in the Armed Forces. Their four-volume Report, issued November 30, 1972, once again investigated and discussed at length the broad issue of racism in the military. The Task Force, chaired by Lieutenant General C. E. Hutchins, Jr., First Army Commander, and Nathaniel R. Jones, Esq., General Counsel of the NAACP, concluded, not surprisingly, that "the military system does discriminate against its members on the basis of race and ethnic background." It found both intentional discrimination and systemic discrimination.

Detailed statistical studies revealed that Blacks were the recipients of all forms of military punishment—incident reports, Article 15 non-judicial punishments, pre-trial confinement, courts-martial, confinement at hard labor, and administrative discharges, in numbers vastly disproportionate to their ratio in the services. Where the statistical information was available, it was confirmed that the disparities remained even when educational levels and aptitudes were similar: "The disparity," the Task Force noted, "cannot be explained by aptitude or lack of education." The primary, the overwhelming reason for these disparities, the Task Force explained, was racism. As they explained, "the overall problem of racial discrimination in the military and the effect of that problem on military justice is not a Negro problem, a Mexican-American problem or a Puerto Rican or a white problem. It is the problem of a racist society. To view it other than what it is will be a mistake of serious proportions."

Here, in 1972, the Task Force found many of the same problems which had been discussed and noted in the '40s, in the '50s, and in the '60s. For example, "the racial segregation of off-base housing is a persistent problem which has not been dealt with satisfactorily by existing military practices . . . base commanders, especially overseas, are not effectively coping with the problem of segregated housing."

Off-base recreational facilities continued to be a prime source of trouble:

"Off-base recreational and leisure facilities such as clubs and bars continue to be closed to minority service men, especially blacks, in many areas. This form of racial discrimination seems to be more prevalent overseas."

Indeed, the Task Force observed that whites-only bars tended naturally to lead to Blacks-only bars: "Some black men, for so long forced to patronize black-only establishments, have come to feel comfortable in them. They are resisting desegregation on the grounds that command concern comes pretty late in the day. . . ."

Two other practices, common in the early '70s, were described and criticized. One involved "dapping," a practice "current among many young blacks, in the service and out, of slapping and grasping one another's hands in a complicated greeting symbolic of racial solidarity." The practice was so irritating to some whites, including some commanders, that dapping was forbidden in certain locations, notably mess lines, on the grounds that it slowed the line up. But, as the Task Force pointed out, prohibiting dapping on mess lines, rather than prohibiting slowing up mess lines in general, was an example of intentional discrimination. Another was the language question. It was common for commanders to forbid the speaking of Spanish on base, and several instances are known of persons who were charged and convicted of disobedience of direct orders not to speak Spanish. As the Task Force explained, "there is no acceptable reason for prohibiting the use of languages other than English among men and women who speak them."

Finally, and most significantly, the Task Force concluded that selective, discriminatory punishment was a reality. The Task Force "became convinced that the black or Spanish-speaking enlisted man is often singled out for punishment by white authority figures where his white counterpart is not. There is enough evidence of intentional discrimination by individuals to convince the Task Force that such selective punishment is in many cases racially motivated." The analysis of the various forms of punishment possible throughout the military justice system demonstrate the end result of this discrimination: more punishment, more courts-martial, more prison, and more bad discharges for blacks.

E. Other Reports—

The reports discussed above are not the only investigations which have been conducted. A similar study was made for the Congressional Black Caucus. Another was conducted by the NAACP. But all of the investigations described above were conducted for the United States government. They were accomplished by distinguished members of the military, governmental and civilian sectors. They have invariably and consistently, over the years, drawn the same conclusions, that there is a pervasive problem of racially motivated discrimination throughout the military, and it has devastating effects on Black and other minority servicemembers.

They demonstrate that the issues Marty Dixon and Johnny McRae raised were real and serious, and they demonstrate that what happened to Marty Dixon and Johnny McRae as a consequence of the raising of the issues has been all too common a reaction to challenges to that racism.

Moreover, things have not been quiescent since the publication of the Task Force report. There have been riots and demonstrations motivated by racial discrimination throughout the military and around the world. There were riots on the Constellation, on the Kitty Hawk, on the Sumpter and on the Little Rock. There were riots at several bases in Germany and in Japan. These incidents have continued to the present, with reports that there have been race riots among the Marines stationed in Okinawa during the past few months. The horrendous situation at Camp Pendleton, which has only begun to be revealed since the exposure of the Ku Klux Klan activities there, is but the tip of the iceberg. The protestations of the Marine Corps that they knew nothing of this Klan activity within the Corps border on the scandalous. There have been documented cross-burnings by U.S. troops on at least three continents over the past several years.

Many things must be done on many levels. Righting to some extent the wrongs done to Marty Dixon and Johnny McRae is just one small step in a long process, but it is as necessary as all the other steps.

IV. PETITIONERS' BACKGROUNDS

A. Marty B. Dixon—

Marty B. Dixon was born in Brooklyn, New York, on October 3, 1952. He attended public schools in New York City, where he was enrolled in honors classes. He left Thomas Jefferson High School in the tenth grade in the hope of alleviating his family's difficult financial situation. Finding that jobs for untrained Black youths were scarce, Dixon decided to enlist in the Army, hoping to receive the training and experience necessary to break the cycle of ghetto poverty.

Dixon enlisted in the Army on October 24, 1969, shortly after turning seventeen. His scores on the military aptitude tests were high and qualified him for training as a helicopter maintenance apprentice, which he successfully completed. In addition, Dixon earned a high school equivalency diploma in 1970. Prior to the incidents described in this petition, his conduct and efficiency marks were both excellent.

Following his release from Fort Leavenworth, Dixon returned to Brooklyn to rebuild his life. He found marginal employment as a carpet installer and as an upholsterer (in which he had received training while incarcerated). However, due to the nature of his discharge, Dixon was offered only the most meager jobs and the lowest pay. Since April 1975 he has been employed as a security aid for the New York City Department of Health.

In civilian life, both prior and subsequent to military service, Dixon has no record of criminal convictions. In April 1975, as a member of the Auxiliary Police, Dixon received a Certificate of Accomplishment and a Certificate of Scholastic Achievement from the New York City Police Department. Dixon presently lives in Brooklyn; he is engaged and plans to marry in two months.

B. Johnny W. McRae—

Johnny W. McRae was born in North Carolina on May 8, 1952. He lived in North Carolina and attended public school there until 1967, at which time his family moved to New York City. After two more years of school at Franklin K. Lane High School in Brooklyn, McRae enlisted in the Army, expecting that military service would improve his prospects for the future.

McRae entered the Army on May 16, 1969. His high aptitude and good performance led to extensive military training as a helicopter maintenance apprentice. His conduct and efficiency marks prior to the incidents described in this petition were both excellent. While incarcerated at Fort Leavenworth, McRae earned a high school equivalency diploma.

Upon returning to Brooklyn, McRae sought whatever employment he could find, consistently finding that he was denied certain jobs as a result of his military record. At various times he has worked as a building demolition helper, shoe repairman (in which he received training while incarcerated), dishwasher and handyman. For the past two years, he has been employed as a security guard by a New York City firm.

In civilian life, both prior and subsequent to military service, McRae has no record of criminal convictions.

McRae lives at present in Brooklyn with his wife, Valerie, and their two-month-old daughter, Annarie.

V. CONCLUSION

For all the reasons set forth above, because it is clear that on so many levels Marty Dixon and Johnny McRae were the victims of racism, both institutionalized and personalized, and because justice requires it, it is submitted that the relief sought should be granted at once.

TAX CUTS, INFLATION, AND UNEMPLOYMENT

(Mr. CONYERS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. CONYERS. Mr. Speaker, the American economy is both prosperous and impoverished, growing and stagnating, inflated and deflated, depending on the group or region involved. Some areas are experiencing impressive growth, while others are in deep recession. Certain economic sectors and labor market segments are operating near full capacity, while others operate far below capac-

ity. The distribution of unemployment across this country is the most uneven economic condition of all. In 1977 overall, white males, between the ages of 25–55, experienced an unemployment rate of 3.7 percent; during this same period the jobless rate among black adults was 11.1 percent, among black teenagers, 39.5 percent. These are the official figures, which exclude subemployment rates, and they are very conservative for those at the bottom of the employment ladder.

These enormous economic disparities argue for a stimulus policy that efficiently targets effects to the worst-hit areas and the hardest-hit groups in society rather than spreading benefits, and inflationary costs, haphazardly across the entire economy, as a general tax cut does. The tax cut, as proposed by the President, has quite the opposite effects to a policy of targeted stimulus:

A large portion of tax spending goes into saving, rather than consumer spending, thereby canceling out the stimulus effect altogether;

Tax cuts favor higher-income groups, who are already spending at historically high levels, and favor segments of the labor force already close to full employment and, therefore, general tax cuts are inflationary;

General tax cuts, as compared to direct Federal spending on job programs or even revenue sharing, are the least efficient means to create new jobs, in fact, capable of creating three to four times fewer the number of jobs that are created at a comparable level of direct spending;

There is no way to target the stimulus effect of tax cuts to the urban areas and regions that are most in need of economic stimulus and no way to prevent tax cuts from overheating areas and regions least in need of economic stimulus.

Dr. Charles C. Killingsworth, the noted economist and manpower expert at Michigan State University, has recently published one of the few in-depth analyses of the impact of tax cuts on the economy, in particular on the creation of new employment. Ever since the 1964 tax cut, the first of its kind, economists and economic policymakers have routinely espoused tax cuts as the best medicine available for a sluggish economy and high unemployment. Tax cuts have, of course, the virtue of relatively simple administration. Needless to say, they also enjoy the reputation for being a prime source of constituent satisfaction, and in an election year this is no small advantage.

Yet Professor Killingsworth shows, contrary to the received wisdom about tax cuts, that such policy is the least efficient method of cutting unemployment and targeting economic stimulus. The most impressive aspect of his analysis is the refutation of the idea that tax cuts, particularly the 1964 tax cut, are responsible for the reduction in unemployment. The jobless rate dropped more than 2 percentage points between 1963 and 1968, from 5.7 to 3.5 percent. Economists mistakenly assumed the 1964 tax cut was largely responsible, and the good reputation that subsequent tax cuts have enjoyed stems from that erroneous and, until recently, unchallenged conclusion. Dr. Killingsworth shows, to the contrary, that the reduction in unemployment during that period flowed mainly from changes in labor force participation, the Vietnam war and, resulted from changes in the official definition and accounting of joblessness, rather than from the tax cut of 1964.

One finding, in particular, is as relevant today as it is for the 1960's: Reductions in the unemployment rate often mask reductions in labor force participation. Dr. Killingsworth found, between 1962 and 1969, that for the male population 18 years and older and who had 8 or fewer years of schooling, there was a 25 percent drop in labor force participation besides a more than 17 percent decline in population. Even though the overall unemployment rate dropped a few percentage points, the actual employment of men in the least-educated group declined even more substantially. Unfortunately, current accounting methods of unemployment fail to include on a monthly basis the numbers of jobseekers who stop looking for work out of discouragement and drop out altogether.

As we take up the President's tax cut proposals, I urge my colleagues to review a recently published article on the economic impact of tax cuts, "Tax Cuts and Employment Policy," written by Dr. Killingsworth. It appears in a larger study entitled, "Job Creation: What Works," available from the National Council on Employment Policy in Washington. Because of its length I divided the article into two parts. The first part presents the first major systematic examination of the 1964 tax cut ever undertaken to my knowledge. The second part, which will appear in the subsequent RECORD, provides a cost-benefit analysis of the stimulus effects of tax cuts versus direct jobs spending. Dr. Killingsworth demonstrates that tax cuts have just a minimal impact on job creation and economic opportunity for the groups and areas most vulnerable. A far better alternative is direct, targeted Federal spending on employment and community investment.

PART 1

I. TAX CUTS AND EMPLOYMENT POLICY

(By Charles C. Killingsworth and Christopher T. King)

The Keynesian Revolution in economic thought produced, among other things, the concept of employment policy. Before Keynes, economists generally believed that the only equilibrium condition of the economy was full employment, and that when unemployment occurred it was, almost by definition, voluntary. Keynes taught that the economy could be in equilibrium at any level of employment. The Keynesian analysis led to the conclusion that the achievement of full employment could depend in substantial measure on the development of appropriate government policies, particularly fiscal and monetary policies to correct any shortfall in aggregate demand. The gradual acceptance of Keynesian doctrines led to governmental activism with regard to the level of employment. One of the landmarks along the way, of course, was the Employment Act of 1946 with its declaration that it is the "continuing policy and responsibility of the Federal Government . . . to promote maximum employment, production, and purchasing power." For many analysts, the appropriate manipulation of the spending and taxing powers of the Federal government—that is, fiscal policy—became the essence if not the entirety of employment policy.

In the early 1960s, the concept of employment policy was further narrowed. The Kennedy Council of Economic Advisors inherited a problem of creeping prosperity unemployment which had emerged in the 1950s. In each of the recovery periods from recession after 1953–54, the prosperity level of unemployment was substantially higher than it had been during the preceding prosperity period. Thus the reported rate rose, in a kind of stair-step progression, from around 3 percent in 1951–52 to nearly 6 percent in 1962–63. The CEA persuaded President Kennedy to support a large tax cut for business firms and individuals as the remedy for this unemployment problem. The tax cut was passed in 1964, and this bold initiative in fiscal policy was soon proclaimed a brilliant success by most economists. For a time, tax cuts and employment policy seemed to be almost synonymous terms. Many economists asserted that tax cuts could reduce the unemployment rate to any desired level. Then, in the late sixties and early seventies, inflation emerged as an apparent cost of low unemployment. Economists began to search for alternatives to tax cuts to reduce unemployment. Manpower training programs, public service employment, public works, subsidies and other employment incentives for private employers got increased attention as possibly less inflationary instruments of employment policy. However, the implicit assumption of many economists appeared to be that these instruments are no more than second-best substitutes for the preferred instrument, which is tax cuts.

One remarkable aspect of this assessment of the relative effectiveness of the instruments of employment policy is that there has been no careful analysis of the employment-creating effects of tax cuts. There has been a multitude of assertions based upon extremely simplistic analysis of the experience of the 1960s. The national unemployment rate in 1963, the year before the great tax cut of 1964, was 5.7 percent; in five years after the tax cut, the rate dropped to 3.5 percent; therefore, the tax cut had been proved to be highly effective. As will quickly become obvious, we regard that "proof" as worthless. Until quite recently, as far as we have been able to determine, there has been no analysis of the effects of tax cuts on employment which has gone beyond the simplism just described. On the other hand, the other instruments of employment policy—public service employment, job training, employment subsidies, public works, and so on—have been subjected to rigorous examination in scores of studies. Perhaps predictably, such close examination has revealed shortcomings and weaknesses in these other instruments; and some economists have concluded that these shortcomings and weaknesses provide further proof of the superiority of the tax cut instrument, which has remained essentially unexamined.

THE 1960'S RECONSIDERED

The generally-accepted interpretation of employment and unemployment developments in the 1960s cannot be fully understood without some grasp of the controversy which preceded the adoption of the tax cut. The Administration, with the Council of Economic Advisors as its spokesman, argued during 1961–64 that all of the creeping increase in the prosperity unemployment rate had been caused by a chronic deficiency of aggregate demand, and that a sufficient stimulus to aggregate demand would reduce the unemployment rate at least to the 4 percent level and perhaps lower. Another group of analysts argued that some of the increased unemployment since the early 1950s resulted from structural maladjustments in

the labor market, and that exclusive reliance on the recommended tax cut would solve only part of the problem.

The "aggregate demand" group of economists did not wait very long to claim victory in the foregoing debate. As early as 1966, Walter Heller (chairman of the CEA in the early 1960s) wrote as follows:

"Employment developments in 1965–66 rendered a clear-cut verdict on the structural-unemployment thesis: the alleged hard core of unemployment lies not at 5 or 6 percent, but even deeper than 4 percent—how deep still remains to be ascertained."

At about the same time, Gardner Ackley (Heller's successor as CEA chairman) wrote the following:

"It is as clear today as it can possibly be that, in the situation of 1961, the inadequate demand camp was right and the structuralists were wrong."

Some years later, in 1976, Arthur Okun (Ackley's successor) offered the following comment:

"In retrospect the basic Council strategy [the tax cut] worked amazingly well and achieved full utilization of resources on a macroeconomic basis."

James Tobin, a CEA member in the early 1960s, wrote in 1974 as follows:

"One of the first tasks we set ourselves at the Council was to refute this [structural] diagnosis. Our refutation . . . was gloriously confirmed by the ease with which new jobs were created and unemployment diminished in the subsequent expansion of aggregate demand."

Others who were less directly involved in the debate of the early 1960s rendered similar verdicts. R. A. Gordon stated as one of the conclusions of a lengthy review of unemployment developments the following:

"At the time this was being written [1968], the national unemployment rate had been at or below 4 percent for two and a half years and close to 3.5 percent for the preceding six months. This low an overall figure was the result of a rate of expansion in aggregate demand that brought in its wake a rise in prices that has proved to be unacceptable to our policymakers [emphasis added]."

Paul Samuelson presented as one of the lessons of the 1960s the following:

"Charles Killingsworth, Norbert Wiener, Michael Harrington and other prophets of an automation revolution were sure ten years ago that 'structural unemployment' was America's main problem. Robert Solow and other Kennedy advisers made econometric estimates to show that expansionary fiscal and monetary policies would melt the hard core of unemployment and that little of the excess unemployment that prevailed in 1961 was structural and new. Again, events proved that macroeconomics can, black youths aside, achieve full employment."

The point was made clearly and simply by Lester Thurow as follows:

"The history of the 1960s demonstrated that the American economy can reach unemployment rates of close to 3 percent through the use of simple fiscal and monetary policies."

Four of the seven individuals who are quoted above are past presidents of the American Economic Association. All of the seven are scholars in excellent standing in the academic community. The collective sense of their statements, it seems fair to say, is that the great reduction in the national unemployment rate which occurred from 1963 to 1969 was due entirely to the stimulation of aggregate demand by the tax cuts of 1964–65. Since the tax cut instrument alone achieved this unemployment reduction, its efficacy should be forever beyond doubt—even though we now see that its practical usefulness is constrained by the danger of inflation. In a profession noted for disagreements among its practitioners, on few matters is there such strong agreement among most of the leaders as on the efficacy of tax-cutting as a weapon against unemployment. Possibly this remarkable consensus has suggested to researchers that to try to measure the effectiveness of tax cuts in job creation would be as pointless as an effort to prove that the earth is round, or that night follows day.

The trouble with the consensus judgment is that its cornerstone is a false premise. The implicit assumption of the generally-accepted interpretation of the 1960s is that nothing except the tax cuts had any effect, or any substantial effect, on employment and unemployment. The fact is that other factors had a combined effect on the reported employment and unemployment statistics which was far greater than the effect of the tax cut. With a few trivial exceptions, the consensus analysis deals these other factors by ignoring them. We propose to deal with them in some detail and to provide some indications of their effects on the employment and unemployment statistics. The significant factors are the following:

(1) Two changes in the official definitions of employment and unemployment—one in 1965, the other in 1967

(2) Selective change in labor force participation rates and employment

(3) The Vietnam War, with three areas of impact:

(a) the draft;

(b) college enrollments; and

(c) war production

CHANGES IN DEFINITIONS

In 1965 and 1967, two sets of changes were made in the official definitions of employment and unemployment which had substantial effects on the reported figures. Early in 1965, the decision was made to count enrollees in certain manpower programs as "employed." Enrollees in substantially similar programs in the 1930s were and still are counted as "unemployed" in the official statistics. Nevertheless, this change in definition was never officially announced, and its discrete effects on the reported employment and unemployment totals after 1965 have been generally ignored by analysts dealing with this period. However, at least two published articles have dealt in detail with the effects of this change; and one of the authors of this paper has repeatedly called attention to the change in Congressional testimony. At one hearing, a spokesman for the Bureau of Labor Statistics confirmed the change and accepted as reasonable the estimate of its effect on the unemployment rate.

We need not linger here over the methodological difficulties involved in measuring the effect of this change in definition on the reported labor market statistics. A conservative estimating procedure has been followed by three analysts. The methodology of these estimates suggests that, by 1968 and 1969, these manpower programs and the definition change of 1965 had reduced the reported unployment rate by about five-tenths of a percentage point.

The 1967 change in definition involved dropping persons less than 16 years old from the labor force and tightening the definition of "seeking work," among other things. The Bureau of Labor Statistics has estimated that these changes reduced the reported national unemployment rate by two-tenths of a percentage point.

The combined effect of both definition changes is 0.7 percent. And that is approximately one-third of the reported decrease in the national unemployment rate between 1963 and 1969.

SELECTIVE CHANGES IN LABOR FORCE PARTICIPATION AND EMPLOYMENT

During the debate of the early 1960s about the "best" way to reduce excessive unemployment, proponents of the tax cut predicted that an economic expansion achieved by means of this form of fiscal policy would yield its greatest benefits in terms of more employment and less unemployment to those groups in the labor force that were the most disadvantaged at that time. For example, Walter Heller testified to that effect in 1963 before a Senate Committee. Several years later, the Automation Committee offered a somewhat fuller statement of the thesis in the following terms:

"We have found it useful to view the labor market as a gigantic 'shape-up' with members of the labor force queued in order of their attractiveness to employers. . . . The total number employed and unemployed depends primarily on the general state of economic activity. The employed tend to be those near the beginning of the line and the unemployed those near the end of the line. Only as demand rises will employers reach further down the line in their search for employees. . . . And because workers of low educational attainment are the least desirable to employers, nonwhite and older workers are concentrated at the rear of the line, not only because of their lower educational attainment, but also because of direct discrimination."

In 1976, viewing the matter in retrospect, Arthur Okun asserted that events had fully substantiated the validity of the "hiring line" thesis. He wrote:

"When the returns [from the tax cut of 1964] were in, it became clear that, as the CEA had predicted, the overall reduction in unemployment had strongly benefited those who had been at the back of the hiring line and viewed by the structuralists as 'hard-core.' Unemployment fell most among black adults, the less educated, the low-skilled and those in depressed regions."

The "hiring line" thesis may be restated in more contemporary terminology, as follows: Although job creation by tax-cutting cannot be "targeted" by specifying who is to be eligible for the newly-created jobs, the labor market will compel employers to draw additional workers for the new jobs from the previously disadvantaged groups in the labor force; so that the labor market *indirectly* performs the targeting function without the need for bureaucratic application of eligibility rules.

Superficially, the behavior of unemployment rates in the late 1960s appears to provide some support for this thesis. From 1962 to 1969, the overall unemployment rate for males 18 years of age and older declined by about 56 percent. The rate for the least-educated males (8 or fewer years of education) declined by about the same percentage, while the rates for males with one or more years of college declined by somewhat less than the overall average. The details are shown by Figure 1. Some analysts apparently concluded, from inspection of this unemployment rate behavior, that the least-educated males got a little more than their share of the additional jobs that were created during this period. But this superficial analysis is greatly mistaken. The actual *employment* of men in the least-educated group *declined* substantially from 1962 to 1969. The group held 2.6 million fewer jobs in 1969 than in 1962 (Table 1). The decline in employment was more than offset, however, by a decline of 3.4 million in the number of men in this group who were in the labor force. Some of the labor force decrease was obviously caused by the population decrease in this group (there were more deaths than additions to the group). However, the decline in the labor force was larger in both percentage terms and in absolute numbers than the decrease in population. Expressed in slightly different terms, the labor force participation rate of this group declined sharply during the 1962–1969 period despite the declining overall unemployment rate and the declining unemployment rate for this particular group. Conventional economic analysis tells us that

lower unemployment rates generally induce higher participation rates. In the case of these least-educated men, however, it seems clear that a major factor *causing* the lower unemployment rates was the lower participation rates.

TABLE 1.—LABOR FORCE STATUS OF THE MALE POPULATION 18 YEARS AND OLDER, 8 OR FEWER YEARS OF EDUCATION, MARCH 1962 AND MARCH 1969

[In thousands of persons]

	1962	1969	Absolute change, 1962–69	Percent change, 1962–69
Population [1]	18,348	15,156	−3,192	−17.4
Not in labor force	5,039	5,201	+162	+3.2
Labor force	13,309	9,955	−3,354	−25.2
Employed	12,196	9,604	−2,592	−21.3
Unemployed	1,113	351	−762	−68.5

[1] Civilian noninstitutional population.

Sources: See footnote 16.

Among the better-educated men, the labor market dynamics were quite different. Employment increases were quite substantial—exceeding 30 percent—for males 18 years of age and older with 12 or more years of education. Employment grew more rapidly than the labor force in this group, so that the substantial decrease in the unemployment rate for this group was obviously caused by economic expansion. The labor market did indeed "target" the jobs created by economic expansion. But the targeting was the reverse of what the Automation Commission and others had predicted. Employers did not "reach further down the line in their search for employees." Instead, they ignored those at the far end of the line; as the least educated men died or retired or were fired from their jobs, employers replaced them with better-educated men.

The least-educated group of males is, on the average, considerably older than the better-educated group. This fact suggests the possibility that the large declines in labor force participation may have been caused largely by voluntary retirement and, in the case of employment decreases, by death as well as voluntary retirement. But the same trends—even though, understandably, somewhat less pronounced—are observable even in the central age group, ages 35–44. As shown by Figure 2 (not printed), between 1962 and 1969, participation rates fell sharply for each of the three lowest educational attainment groups (0–4 years, 5–7 years, and 8 years of education); and employment among this group also declined, from 2.6 million in 1962 to 2.0 million in 1969, or 23 percent. Among better-educated men (those with 12 years, 13–15 years, and 16 or more years of education), in the same age bracket, there were no significant changes in their already high participation rates, and there were substantial increases in employment from 1962 to 1969 (from 6.0 million in 1962 to 6.7 million in 1969).

Two further points deserve emphasis before sumarizing this aspect of the analysis. The manpower programs described in the preceding section offset to some degree the "natural" forces of the labor market, in the sense that the programs were targeted to a large extent on the less-educated and the young. Furthermore, the following section (on the effects of the Vietnam War) will show that war also tends to favor the less-educated and less-skilled workers. If there had been no manpower programs and no war during the 1962–69 period, it seems plausible to infer that the less-educated males would have lost an even larger number of jobs than they did.

Several significant conclusions can be drawn from this aspect of the analysis. One is that the mere examination of unemployment rates for various groups in the labor force, without consideration of other magnitudes, can be quite misleading. Anyone who looks solely at the reported unemployment rates for the least-educated men is likely to conclude (and several analysts have concluded) that their labor market conditions had improved markedly from 1962 to 1969. However, when population changes, employment changes and participation rate changes are taken into account, the opposite conclusion must be accepted—despite the tax cut, despite the Vietnam War, and despite manpower programs, labor market developments in the 1962–69 period were highly adverse to the least-educated males.

A second conclusion is that the massive withdrawal of least-educated males from the labor force—3.4 million between 1962 and 1969—contributed substantially to the decline in the national unemployment rate. Some of these withdrawals were caused by death; some were caused by voluntary retirement; but a substantial number were caused by adverse labor market conditions, particularly disappearing employment opportunities. If the overall participation rate for this group had been stable from 1962 to 1969, there would have been about one million more of these least-educated men in the total labor force in 1969. The one million figure is an admittedly crude approximation. It simply serves the purpose of illustrating that we are not dealing with trivial magnitudes. It is ironical that even the unemployment rate reduction which was caused by this large withdrawal from the labor force should be widely attributed to the tax cut.

Finally, we re-emphasize the basic point that this evidence seems to show beyond a reasonable doubt that the tax cut of 1964 created jobs exclusively for the labor force groups that had the least serious employment problems in the early 1960s. Employers did not reach further down the alleged hiring line; they intensified their competition for those already at the head of the line (in terms of educational qualifications), and the number at the end of the line decreased only because of death, retirement and discouragement. Some analysts accept the value judgment that one purpose of employment policy should be to redress the imbalances growing out of normal operations of the labor market. In other words, one aspect of employment policy should be the provision of job opportunities for those who cannot find such opportunities in the regular labor market. The evidence presented in this section strongly suggests that tax cuts do not significantly redress the imbalances of the labor market.

THE VIETNAM WAR

Wars change the structure of employment—that is, the kinds of jobs available—and they retard the normal growth of the civilian labor force by drawing adults into the armed services. The larger the war, the larger the effects. For an extended period, the Administration tried to present the Vietnam War as a "little" war. Even the current expenditures on the war were grossly understated. Perhaps this partially explains why so many analysts have ignored the labor market effects of the Vietnam War when analyzing the late 1960s. In any event, the data are available a decade later to support the statement that the Vietnam War had substantial effects on the job mix and unemployment.

1. *The Draft.* The active duty strength of the U.S. Armed Forces increased by approximately one million persons during the Vietnam War. During FY 1966, accessions increased to 878,000, which was about double the number of accessions in FY 1965. Separations, of course, reflected the lower accession rates of early years. Thus, in FY 1966, total separations were 507,000. In short, the draft drew substantially more persons from the civilian population than were being discharged from the Armed Forces. Almost all of those who entered the Armed Forces were young males (mainly 18–24 years of age). About 60 percent of those inducted had 12 years of education (i.e., simply a high school diploma), although only 40 percent of the male civilian population reported this level of educational attainment.

We have scarcely any records of the pre-service and post-service labor force status of those who were in the Armed Forces at some time during the Vietnam War. It is possible, however, to develop estimates based on the labor force status of civilians in the same age group with the same education. If these estimates are reasonably accurate, then it follows that the Armed Forces expansion during the Vietnam War had only a small *direct* effect on the national unemployment rate. The number of men who had been unemployed prior to induction was only slightly larger than the number who were unemployed several months after separation.

The *indirect* effects of Armed Forces expansion were more substantial. It seems self-evident that the Armed Forces expansion *per se* did not affect total employment in any significant way. When an employed person left for the Armed Forces, he would normally be replaced by his employer. Most of the replacements presumably would be persons with equal or lesser educational attainment. Some of the replacements would come directly from other jobs, and their employers would then replace them; some would come from the unemployed; and some would come from outside the labor force. Our analysis of the replacement process and our estimates of the sources of replacements suggest that the net *indirect* effect of the Armed Forces expansion was substantially larger than the direct effect described above; however, the opening up of vacancies undoubtedly induced many persons to enter the labor force, and this partly offset the indirect effect on the unemployment rate.

2. *College Enrollments.* During the early Vietnam War years, student deferment policy was fairly liberal. Full-time college enrollments of males 18–24 years of age jumped sharply in the fall of 1965 and remained significantly above previously projected levels until the deferment system ended. No such change occurred among females in the same age group. The "excess" male enrollments remained at the level of about 300,000 to 400,000 during this period.

Some of the young men who enrolled in colleges to escape the draft were able to attend classes on a full-time basis and also to hold jobs. We estimate, however, that about 160,000 young males left the labor force as a result of the above-trend college enrollments. Most of these would have been employed if they had not enrolled. Therefore, as was true of Armed Forces expansion, the main impact of student deferment policy on the labor market was indirect: The higher rate of college enrollments generated job vacancies which were filled ultimately either from the unemployed or, to a lesser degree, from persons who had previously been outside the labor force.

We estimate that the cumulative *direct* effect of Armed Forces expansion on unemployment was to reduce the reported rate by 0.4 percent by 1969. We estimate that the combined *indirect* effect of Armed Forces expansion and the temporary increase in college enrollments by draft-age males would have been a reduction of 0.7 percent in the reported unemployment rate if we ignored the induced response in labor force participation rates; adjusting for this response, we estimate a net effect of 0.5 percent on the reported unemployment rate by 1969. Adding together the direct and indirect effects, we

conclude that the expansion of the Armed Forced reduced the national unemployment rate by 0.9 percent by 1969.

3. *War Production.* Wars change the structure of employment by changing the patterns of demand for products and services. In peacetime—such as the period from 1955 to 1963—military procurement emphasizes "sophisticated" material such as aircraft, missiles, electronics gear, and communications equipment. During wars—such as the 1965 to 1968 period—the emphasis shifts to "'conventional" equipment, such as weapons, ammunition, uniforms, shoes, vehicles, and so on. During the 1955–1963 period, only about 18 to 20 percent of military purchases involved "conventional" materiel. In the late 1960s, more than 50 percent of military procurement was for the "conventional" items. The "conventional" products create a job mix that is significantly different from the job mix needed to produce the "sophisticated" materiel. War production benefits durable goods manufacturers and semi-skilled blue collar workers.

From FY 1965 to FY 1968, defense-related employment increased by 1.3 million persons. That was roughly 25 percent of the total increase in employment during that period. Blue collar employment increases has been less than 40 percent of the total civilian employment increases in the preceding five years; but the blue collar share of the increase in defense employment was 60 percent after 1965. Another way of expressing the matter is that, during the FY 1965 to FY 1968 period, defense employment increases contributed only about 15 percent of the new white collar jobs, but nearly 50 percent of the new blue collar jobs.

We may assume that, if there had been no Vietnam War, the federal government would have contributed the same amounts to aggregate demand, either by direct purchases or by further tax cuts. But we may not reasonably assume that the same kinds of jobs would have been created, especially by tax cuts. The production of defense material disproportionately benefited the less-educated and less-skilled workers. There is a basis for speculation that these benefits may have gone mainly to the high school dropout category (9 to 11 years of education). This group shows a small population increase, a small labor force decrease, and a small employment increase from 1962 to 1969—a combination which adds up to a large decrease in the unemployment rate for the group. It seems possible that, if war production had not created a large number of semi-skilled blue collar jobs, this group might have suffered a substantial net loss, instead of a small gain, in employment.

Analysis of the job mix created by defense production suggests another important consideration. If the same increase in aggregate demand had occurred as a result of tax cuts rather than direct government purchases for defense, the job mix would have shifted to the detriment of less-skilled and less-educated workers. Civilian patterns of employment increase would have been augmented; or, in simpler terms, the demand for more-educated and higher-skilled workers would have been greater. In view of the quite low unemployment rates for better-educated workers during 1968 and 1969, and the further important fact that these low rates were achieved by high levels of employment, a shift of demand away from the kinds of workers favored by defense production would have created—or tightened—supply bottlenecks in the upper levels of the labor markets.

SUMMING UP THE SIXTIES

In 1963, the national unemployment rate was 5.7 percent. In 1969, the national unemployment rate was 3.5 percent. Thus, the decrease was 2.2 percent. The 1965 definition change, plus the expansion of certain manpower programs, accounted for a reduction of 0.5 percent in the reported rate. The 1967 definition changes reduced the rate by 0.2 percent. The direct and indirect effects of Armed Forces expansion and draft deferment policies reduced the reported rate by 0.9 percent by 1969. In the absence of these factors, the reported rate would have been 5.1 percent rather than 3.5 percent. By this analysis, no more than 0.6 percent of the total reduction in the unemployment rate from 1962 to 1969 should be attributed to the tax cuts of 1964 and 1965. The conventional wisdom exemplified in the opening paragraphs of this paper seems to attribute *all* of the decrease in the unemployment rate to the tax cut, or fiscal policy, or macroeconomics. The manpower programs, the expansion of the Armed Forces and draft deferment policies were not related to the tax cut, or to fiscal policy as usually understood, or to macroeconomics. Asserting or implying that the sole reason why the national unemployment rate decreased from 5.7 percent to 3.5 percent was the tax cut, or, more broadly, macroeconomic policy, imputes to this one factor three to three and one-half times the effect that it actually had.

Hence, the conventional wisdom greatly exaggerates both the size and the nature of the effects of fiscal policy on unemployment in the 1960s. If only the dead past were involved, this lengthy post-mortem would not be justified. But the conventional wisdom about the sixties lives on in contemporary estimating procedures, in policy discussion and in policy decisions about the seventies and later. Two examples will illustrate the point.

In a celebrated article in 1962, Arthur M. Okun promulgated what has become known as "Okun's Law." On the basis of an analysis of data for the period from 1947 to 1960, Okun concluded that, on the average, "each extra percentage point in the unemployment rate above four percent has been associated with about a three percent decrement in real GNP." This statement can be reformulated—and commonly is—to say that, at least with an unemployment rate above 4 percent, each 1 percent increase in real GNP reduces the unemployment rate by about 0.3 percent. This relationship has come to be widely used in economic forecasting. Many of the best-known forecasting models incorporate some version of Okun's Law. However, the law is usually updated by incorporating data from the post-1960s period. Implicitly, all of the decrease in the unemployment rate in the late 1960s attributed to the increase in real GNP during that period. This procedure therefore assumes a greater effect on unemployment rates from a given increase in GNP than did the original version of Okun's Law. For example, the estimating model currently used by the Congressional Budget Office assumes that a 1 percent increase in real GNP reduces unemployment by 0.39 percent, rather than the 0.3 percent of the original Okun's Law.

In 1975, the Administration recommended and Congress passed a large tax reduction, with a net total of about $23 billion in tax cuts, rebates and special payments. This total was close to the size of the 1964 tax cut as a percentage of GNP. The 1964 tax cut was a little less than 2 percent of GNP, and the 1975 tax cut was about 1.5 percent of GNP. However, the 1975 measure emphasized immediate impact much more heavily than the 1964 reduction had. The latter was effectuated primarily by a reduction in income tax withholding rates, which meant that the total was fed into the economy over a number of months. The 1975 cut provided that about 43 percent of the total should be paid to the recipients immediately in the form of rebates and special payments. It seems clear, in retrospect, that the results were disappointing to many people, including some of the Senators and Representatives who voted for the 1975 tax cut.

When Carter Administration spokesmen appeared before the House Ways and Means Committee in early 1977 to advocate an $11 billion tax rebate which was then a major part of the Carter economic stimulus package, these spokesmen were asked to evaluate the efficacy of the 1975 tax reductions. The Administration spokesmen were unable to present any such evaluative studies, and one official said that, so far as he knew, none were in existence. (The authors of this paper have found none themselves.) Apparently the 1975 tax reduction was rationalized by the conventional wisdom about the 1960s; and apparently the hope that the same conventional wisdom would support the new tax cut proposal of 1977. When President Carter withdrew his tax rebate proposal in April, 1977, he said that it was no longer needed. But there were some who suggested that the conventional wisdom had been so weakened by recent experience that it no longer was sufficient to persuade Congress to vote for another multi-billion dollar tax cut as a primary instruments of job creation.

FIRST-STRIKE CAPABILITIES

(Mr. CARR asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. CARR. Mr. Speaker, about a month ago my Armed Services Committee colleague, Congressman SAM STRATTON, directed a member of the committee staff to perform a study of the relative first-strike capabilities of the United States and the Soviet Union. Mr. STRATTON courteously permitted me to examine the study prior to release. I found the study to have used as its raw data source a chart from an article written by Congressman TOM DOWNEY. Since the staff member who prepared the chart for Mr. DOWNEY is now employed jointly by Mr. DOWNEY and me, I then asked him to examine the committee study. This reexamination yielded results dramatically different from those reported by Mr. STRATTON, particularly regarding the near-term situation. I sent a copy of this reexamination to Mr. STRATTON, and then released it to the press.

On January 23, Mr. STRATTON inserted his study into the RECORD, pages 434–440. Today, at the conclusion of my remarks, I shall insert my critique of his study. I urge everyone with an interest in national security to read both the study and the critique.

In his January 23 remarks Mr. STRATTON attributed the discrepancies between our results to subsequent information. That is, instead of following the Downey chart to the letter, he has in some instances substituted later information delivered to the committee by the Chairman of the Joint Chiefs of Staff. As a general principle, we can all agree that later information is better, and we can agree that hard numbers from the Chairman of the Joint Chiefs are the best information of all. But have these

numbers in fact been given to us by the Chairman? I do not recall them. Specifically—

First. Have the Joint Chiefs told us all Soviet silos, even the antique SS–11's, are hardened to 3,500 pounds per square inch as the Stratton study assumed? I assumed 2,000 psi for new-generation silos and 300 psi for old silos, and I find it striking that Congressional Budget Office, in a study of the same subject released subsequent to and entirely independently of both my study and Mr. STRATTON's, used 2,000/600 psi, which is quite similar to my assumptions.

I invite Mr. STRATTON to supply, for the RECORD, the Joint Chiefs of Staff claim of present universal 3,500 psi Soviet silo hardness.

Second. Have the Joint Chiefs of Staff given testimony to the effect that the Minuteman II accuracy upgrade will not be in place until the 1980's? I invite Mr. STRATTON to supply this for the RECORD.

Third. Has there been testimony by the Joint Chiefs to support the probability that the Soviets will deploy the very high numbers of ICBM reentry vehicles with the very high yields assumed by Mr. STRATTON, as contrasted with the numbers and yields predicted by the Downey chart? The problem here is that, for a given throwweight and given level of technology, numbers of warheads per missile and yielded per warhead are related inversely. That is, one can increase the numbers of warheads on a missile by making each one smaller, or one can use bigger warheads if one uses fewer. But as I understand it, the Stratton study has taken the high range of possible warhead deployment and the high range of yield per warhead, and proceeded on the assumption that both would occur simultaneously, which is impossible. In addition, fraticide effects have been neglected.

I invite Mr. STRATTON to submit supporting arguments in behalf of these assumptions.

Fourth. Mr. STRATTON claims that, after a successful countersilo strike by the Soviets, we would not retaliate with the tremendous destructive power of our remaining forces. On what is this assumption, which I find inconceivable and unacceptable, based? I invite him to submit for the RECORD any statements by the Joint Chiefs which would support this assumption.

Fifth. The U.S. attack strategy proposed by the Stratton study is extremely inefficient, for at least two reasons. First, it concentrates our attack on a portion of the Soviet targets, striking them many times while leaving other targets unattacked. Since successive attacks on a given target produce ever-diminishing increments of kill probability, a more effective attack is one which seeks more or less equal kill probability against all targets. This error in the Stratton study stems from the calculation method used. Second, it is wasteful to throw Poseidon warheads at hard targets, since they were not designed for this purpose; the same can be said of older Soviet ICBM's and all Soviet SLBM's.

I invite Mr. STRATTON to recalculate his study with these considerations in mind. Even without changing his quantitative assumptions, I believe he will find this strategy gives the United States considerably better results.

I will now insert into the RECORD my critique of Mr. STRATTON's committee staff study. I will reserve another special order next week to discuss this issue, and have so notified Mr. STRATTON. I hope all Members interested in U.S. strategic security will be able to participate.

HOUSE ARMED SERVICES STAFF STUDY CONTAINS CRITICAL ERRORS REVERSING RESULTS; SOVIET ICBM'S IN FACT MORE VULNERABLE THAN U.S. ICBM'S

WASHINGTON, D.C.—Congressman Bob Carr, a member of the House Armed Services Committee, has demonstrated that a study on nuclear first strike capabilities recently done by the staff of that committee is incorrect, and that the United States is closer to a nuclear first strike than is the Soviet Union.

The study, which had been done for Congressman Samuel S. Stratton, another member of the committee, was based on a chart inserted in the Congressional Record by Congressman Thomas Downey of New York, also a Democratic member of the committee. Congressman Carr's analysis of the committee study was performed with the assistance of the Congressional staff member who had prepared the original Congressional Record chart on which the committee staff study was based.

Specifically, Congressman Carr found that a first strike by the United States against the Soviet Union's ICBM silos at the conclusion of the current fiscal year would destroy 82 percent of the Soviet silos while expending 43 percent of the alert U.S. ballistic missile nuclear warheads. The figures remain essentially unchanged through the early 1980s, as the increasing power of U.S. Minuteman III ICBM warheads is almost exactly offset by increasing strength of some Soviet missile silos. The committee staff study had claimed that, even if all U.S. ballistic missile warheads were used in the attack, only 15 percent of Soviet silos would be destroyed through 1980, rising to a maximum of 65 percent destroyed by the mid 1980s.

Congressman Carr found that a Soviet first strike against U.S. silos at the end of the current fiscal year would destroy only 37 percent of U.S. ICBM silos while expending 71 percent of available Soviet missile warheads. The committee staff study claimed U.S. ICBMs to be "vulnerable" at the present time, but did not provide specific figures.

The committee staff study also claimed that by 1981 the Soviet Union would be able to destroy "at least 75 percent" of U.S. silos while expending 12 to 60 percent of available missile warheads. Congressman Carr calculated that it would be 1982 before an attack on this order would be possible, that it would destroy only 67 percent of U.S. silos, that it would consume 54 percent of available Soviet warheads. Alternatively, Congressman Carr calculated that the Soviets could increase the effectiveness of their attack to 81 percent by loading each MIRV ICBM with three large warheads instead of the 4 to 8 smaller warheads now used. But since this would require 84 percent of available warheads to be expended in the attack, and since the missiles thus configured would be markedly less effective against industrial targets, Congressman Carr said he did not expect the Soviets to follow this course.

"We hear a great deal of talk about the growing vulnerability of our ICBMs," Carr said. "The fact is, the Soviet ICBMs are almost as vulnerable right now as ours will be in the early 80s. Overall, they're much more vulnerable when you consider that their ICBMs make up about three quarters of their strategic force effectiveness, while ours is evenly divided among ICBMs, submarine-launched missiles, and bombers with the last two being immune to Soviet ICBM attacks."

Carr stressed that we did not regard an 81 percent-effective attack as preventing retaliation. "If you look at what either side can do to the other with only 19 percent of its missiles surviving, it's a cataclysm beyond anything in history. If you add what can be done with the submarines, bombers, and cruise missiles, it's several times beyond anything any rational human being can imagine."

Carr rejected the argument, advanced by Congressman Stratton and several years earlier by then-Secretary of Defense James Schlesinger, that a successful Soviet attack on U.S. ICBMs would preclude retaliation by U.S. bombers, cruise missiles, and submarine-launched missiles because of fear of Soviet counter-retaliation. "With ICBMs 100 percent intact or ICBMs 100 percent destroyed, the answer is the same: Either side can blow the other back to the stone age, but neither can prevent the same from being done to it in return," Carr said. "A lot of people get uptight about the possible loss of ICBMs, but when you consider that you can retaliate just as well without them, and that ICBMs only unique capability is that of taking out the other side's ICBMs quickly, the ICBM emphasis becomes circular."

Agreeing that silos would eventually become vulnerable as accuracy improved, agreeing with the staff study that SALT constraints on numbers of missiles and numbers of MIRVs would not prevent this, Carr disagreed with the staff study's claim that accuracy and yield would have to be directly limited in an arms control treaty.

"You can limit yield indirectly by limiting throwweight," Carr said, "and I hope to get that in SALT II. You can constrain accuracy indirectly by prohibiting testing and deployment of new systems; I hope to get at least a piece of this in SALT II, and the nation's military security could best be served by concluding and ratifying SALT II as quickly as possible so we can move on and get the rest of it in SALT III."

Carr found the committee staff study to contain four specific errors, all skewing the result against the U.S.:

1. The study treated the Minuteman III INS–20 accuracy upgrade program as an option of the 1980s. In fact, an Air Force spokesman confirmed that this program is already under way and will be completed by the end of the current fiscal year in September, 1978. Thus, the study understated the effectiveness of Minuteman III by a factor of 4.

2. The Congressional Record chart used as a basis for the study listed 3,500 pounds per square inch as the hardness of Soviet ICBM silos in the late 1980s. But the staff study credited all Soviet silos with this level of hardness today.

3. The staff study apparently assumed present-day Soviet ICBMs to have 1,250-foot accuracy, although this will not be the case until sometime in the 1980s.

4. The study did not attempt to use Walsh's Law to calculate the probable yields of Soviet missiles with the throwweight expected to be available. Instead, it hypothesized a range of yields, most of which were unachievably high for the throwweight and numerical MIRV loadings it assumed.

A detailed critique of the staff study is attached.

CRITIQUE OF HOUSE ARMED SERVICES COMMITTEE STAFF STUDY ON FIRST STRIKE

1. Study places Minuteman III INS–20 accuracy upgrade program sometime in the 1980s, when in fact it will be completed at end of FY '78. The Library of Congress M–X issue brief describes accuracy obtainable by this program as .1 nm. Thus, the study underestimates MM III accuracy by a factor of 2, and underestimates MM III hard-target lethality by a factor of 4.

2. Study credits Soviet silos with 3500 psi. This figure was cited in the Congressional Record chart as possible for the Soviets in the *late* 1980s, but the study has assumed it for all silos *today*, including those for the SS–7 and SS–11 Soviet ICBMs first deployed in the early 1960s! Even for the late 1980s, 3500 psi was cited in the chart as the ultimate theoretically achieveable. It is very difficult to achieve, and there is no more reason to assume the Soviets will do it than that we will do it. More realistic to assume 2000 psi for MM upgrade (850 silos by end of FY '78) and 4th-generation Soviet silos; 300 psi for Titan, old Soviet missiles, and non-upgraded Minuteman.

3. Yield for Soviet ICBMs suggested by study is in some cases (including all references to a 9MT MIRV RV) unrealistically high and unachievable by any known ICBM with throwweight available.

4. The study is not specific on the assumed level of Soviet ICBM accuracy at the present time. But it appears to imply—and its results can only be justified by—the assumption that the Soviets have 1250 ft. accuracy today, when in fact there is no basis for assuming this at this time.

5. Putting all the above together, a U.S. first strike against Soviet silos would destroy 82% at end of FY '78, using 43% of available ballistic missile warheads. By 1982–5, increased Soviet deployment of new-generation missiles in hard silos would almost exactly offset the effect of Mk. 12A, and kill would be 81%.

6. Similarly, applying the above to Soviet ICBM numbers based on Nitze's 1985 projections, IISS 1977 estimates, and the HASC study's deployment rate estimates, we find a Soviet first strike at end of FY '78 destroying 37 percent of U.S. silos, expending 71 percent of available ballistic warheads. By early to mid 1980s, improvement of Soviet accuracy to the 1250-foot level used in the HASC study, plus deployment of Soviet ICBM MIRVs to the reported SALT II limit, would provide a 67 percent silo kill using 54 percent of available warheads, asssuming Soviet MIRV loadings of 4 to 8 warheads per missile are continued, and rather generously assuming they achieve Mk 12A yield-to-weight technology. Alternatively, the Soviets could raise their kill level to 81 percent if they dedicated their entire MIRV ICBM force to a first strike by placing three large warheads on each missile. But this would significantly decrease the capability of their missiles against industrial targets, and would raise the percentage of warheads expended in the attack to 84 percent. (This assumes fratricide permits only two warheads to be used against any single target. All calculations of possible yields are based on Walsh's Law.)

7. Inclusion of air-breathing weapons in the above calculations would increase the number of reserve nuclear weapons available to the U.S. by a much greater amount than it would increase the weapons available to the Soviets.

8. The study's SALT discussion is, therefore, based on an assumption of U.S. inferiority which does not exist. In fact, a freezing of capabilities at present levels would tend to preserve U.S. superiority.

9. This SALT discussion assumes accuracy cannot be constrained by prohibition of flight-testing, and yield cannot be constrained by limits on throwweight. The first proposition is most probably incorrect; the second is certainly incorrect.

10. The claim that after a Soviet first strike against our silos we would be afraid to retaliate is not plausible, even if we assume no launch-under-attack and even if we assume 19 percent of the U.S. ICBM force to be insufficient for effective retaliation (neither of which the Russians can assume). The fact is, a countersilo strike changes nothing. Both sides remain afraid to strike cities because of fear of a retaliatory counter-city strike. But we can certainly use our SLMs to strike Soviet economic targets in low-population areas, destroying several times the value of our destroyed silos and placing the Soviets in the position of being the loser on the exchange. Note particularly that the reasoning in the third paragraph of page 435 of Congressman Stratton's statement is equally valid whether the effectiveness of the Soviet countersilo strike is 100 percent or 0 percent.

11. The statement by the "unidentified" U.S. official to Aviation Week, quoted on page 435 of Congressman Stratton's statement, is intended as an argument for counterforce capability. But it is more valid as an argument against a weapon-wasting counterforce attack, and for full dedication to counter-value retaliatory capability.

12. Note on calculations: The HASC staff study first established the kill criterion (75 percent on most cases) and then determined the number of RVs required to meet that criterion. This is valid methodology for a war planner who must meet a requirement given to him, but for a predictive study such as this it creates certain problems. First, in some cases differences between weapons are radically exaggerated. For example, a weapon with SSKP of 76 percent would be considered twice as capable as a weapon with SSKP of 74 percent. Second, in other cases much more substantial differences between weapons are arbitrarily minimized. For example, in Table IV (page 439) of the study, one megaton appears to have the same effect against 1000 psi as does 3 megatons, although this is obviously not the case. The problem is that once the desired criterion is obtained, the methodology cannot discriminate further. For example, the footnotes to Table II (page 439) of the study can only say "at least" so many silos will be destroyed; we cannot tell how much more than the given number will be destroyed. Third, this approach leads to targetting strategies which produce less than optimum results. Therefore, a better approach is to project an attack against the targets by whatever weapons are available, and then to predict what damage level will be achieved. My calculations use this method, as did the Downey article referenced. However, for an apples-to-apples comparison I attach the HASC staff study's Tables I and II using the HASC methodology but with input figures corrected. Thus, for example, the number of FY '78 MM III RVs needed for 75 percent kill drops from 9 to 2.

COMMENTS ON CONGRESSMAN STRATTON'S NINE POINTS

Point 1: The study does not support this conclusion, since it does not appear to have calculated the number of RVs which can be carried at each of the yields considered. If these calculations had been done according to Walsh's Law, it would have been determined that, at projected deployment rates, a Soviet first strike at the specified level of success could be achieved, but only under the following conditions:

A. 1982 time frame.

B. Soviets having Mk. 12A yield-to-weight technology.

C. MIRV loadings reduced to 3 RVs per missile. (See critique No. 6.) Note that this extreme dedication to counterforce significantly reduces capability against softer targets.

D. Dedication of the full Soviet MIRV ICBM force to the attack. Thus, instead of taking out 75 percent plus of U.S. silos by expending 12–60 percent, the Soviets would have to dedicate 84 percent of their land-based RVs to take out 81 percent of our silos.

E. If, alternatively, the Soviets were to maintain the load of 8 RVs for the SS–18, 6 for the SS–19, and 4 for the SS–17—this is a more realistic scenario—they would be able to bring less force to bear because fratricide would limit them to 2 RVs per target. In this case, they would destroy only 67 percent of U.S. silos, but they would use only 54 percent of their RVs. If you accept the Nitze standard that the side with the most remaining forces wins, this attack is a winner. On the other hand, if you look at what our 33 percent remaining can do to the Soviet economic base, the attack is a loser.

Point 2: Just not so! See critique items 1, 2, and 4. In addition, the use of SSBNS against Soviet silos is an inappropriate straw-man tactic similar to using U.S.-based rifle bullets against Soviet silos: By using an inappropriate weapon, our capability is run down to no effect. Corrected Statement: This year and through 1980, if 2068 (43 percent of the U.S. land and sea-based ballistic missile forces on alert) were dispatched against USSR silo targets, approximately 1050 out of 1300—slightly more than 80 percent—Soviet silos would most probably be destroyed.

Point 3: The most important part of the MM III improvement package referenced is the accuracy upgrade, which is already on the way and will be in place by the end of the current fiscal year. Combining this with the more plausible silo hardness input, we have 82 percent U.S. silo kill capability at the end of this year, with this capability remaining essentially constant if Mk 12A is added.

Point 4: Correct. But why was it not pointed out that Soviet SLBMs likewise have negligible hard target capability? (Incidentally, if one looks about ten years down the road for the U.S. and 15–20 for the Soviets, SLBMs can become silo-busters (this is the plan for Trident II), particularly if homing MaRV is used. Because of their shorter warning time, SLBMs will ultimately be the preferred first-strike weapon.)

Point 5: Correct, unless SALT can constrain Soviet hard-target lethality.

Point 6: Correct, just as we have used SALT to maintain our position of superiority with respect to accuracy and numbers of warheads.

Point 7: It is correct that numerical limitations alone are meaningless. But "asymmetry" (which today favors the U.S.) has nothing to do with it. The issue is survivable retaliatory capability for the U.S. Since we are not planning a first strike, Soviet survivable retaliatory capability is of no significance to us except to the extent that it reduces the probability of a Soviet launch on warning.

Point 8: A sufficiency comprehensive and restrictive limit on missile flight testing should provide the verifiable accuracy constraint desired. A throwweight constraint or volume constraint can, by inference, provide the yield constraint desired. If the agreement were to be violated by the Soviets to any significant degree, presumably it would be denounced and abrogated by the U.S.

TABLE I.—SINGLE AND MULTIPLE SHOT PROBABILITY OF DESTROYING A SILO HARDENED TO 2,000 PSI [1]

System	Yield (KT)	Lethal radius (FT)	CEP (FT)	Single shot P_k	Number of RV's for at least the desired kill probability		
					0.50	0.75	0.90
In place:							
Poseidon	40	320	1,824	0.02	[3] 35	69	114
Polaris [2]	600	900	3,040	.05	14	27	45
MM–II	1,000	1,050	1,824	.30 (0.70)	3 (1)	5 (2)	9 (2)
MM–III	170	600	1,216	.55 (.92)	1 (1)	2 (1)	4 (1)
Titan II	9,000	2,200	3,040	.46 (.87)	2 (1)	3 (2)	5 (2)
1980's:							
MM–III/MK 12A	350	730	608	.73 (.98)	1	2 (1)	3 (2)
Trident	100	450	1,520	.07	10	19	32

[1] Derived using the GE missile effectiveness calculator.
[2] Any number greater than 3 is highly impractical.
[3] Assumes yield from 3 RV's in a fixed triangular pattern.

TABLE II.—OVERPRESSURE KILL OF SOVIET SILOS HARDENED TO 2000 PSI (300) (SLBM'S NEGLECTED)

System	Number of missiles	RV's	Total RV's	Availability (percent)	Reliability (percent)	RV's available to target	Number of SLBM's that can be attacked and the probability of destroying each silo is at least 0.75
In place:							
Titan II	54	1	54	0.85	0.80	46	15 (23)
MM–II	450	1	450	.90	.85	405	81 (202)
MM–III	550	3	1,650	.98	.90	1,617	808 (all)
Polaris [1]	160	1	160	.55	.95	88	3
Poseidon	496	10	4,960	.53	.90	2,629	35
Total	[2] 1,710		7,274			4,785	[3] 904 (all)
Early to Mid-1980's:							
MM–III/MK–12A [4]	550	3	1,650	.98	.90	1,617	808 (all)
Trident [1]	240	8	1,920	.53	.90	1,018	
Titan II	54	1	54	.85	.80	46	15 (23)
MM–II	450	1	450	.90	.85	405	81 (202)
Poseidon	496	10	4,960	.53	.90	2,629	35
Total	[5] 1,790		9,034			5,715	[6] 904 (all)

[1] Some tradeoff may occur between Polaris and Trident; Polaris is considered dropped by mid-1980's.
[2] Only 1,206 are MIRV'ed.
[3] Of these 904 (all) silos, at least 678, or 52 percent of the Soviet silos, would be expected to be destroyed. 1,079 silos, or 82 percent destroyed.
[4] MM–III is expected to be converted to MM–III/MK 12A by mid-1980's.
[5] Only 1,286 are MIRV'ed.
[6] Of these 904 (all) silos, at least 678, or 52 percent of the Soviet silos, would be expected to be destroyed. 1,051 silos, or 81 percent destroyed.

MISSOURI SUPPORT FOR ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SEIBERLING. Mr. Speaker, the Interior Committee's Subcommittee on General Oversight and Alaska Lands is continuing its markup of H.R. 39, the proposed Alaska National Interest Lands Conservation Act, authored by our distinguished colleague, the gentleman from Arizona (Mr. UDALL). As a result of the subcommittee's deliberations, to date, the total acreage that would be added to the national conservation systems in Alaska would be reduced from the 114 million acres in the original Udall bill to slightly less than 100 million acres.

On September 15, the St. Louis Post-Dispatch reviewed the issues involved in this proposal and concluded that H.R. 39, as shaped by the knowledge we have gained in our very extensive and Alaska field inspections and from the recommendations of the administration, should be enacted. For the benefit of all Members, I am offering for printing in the RECORD at this point the Post-Dispatch's thoughtful analysis of the issues involved in this, likely the most important piece of conservation legislation which will come before the House during our lifetimes.

[From the St. Louis Post-Dispatch, Sept. 15, 1977]

BATTLE FOR ALASKA

Congress must decide before the end of 1978 how much of the Alaskan wilderness will be withdrawn from potential development and put into four systems: national parks, forests, wildlife refuges and wild and scenic rivers. The coming battle between conservationists and developers threatens to make the dissension over the Alaskan pipeline seem mild by comparison.

The 375,000,000 acres of Alaska contain no fewer than seven major mountain ranges, marshlands that serve as the breeding grounds for 12,000,000 waterfowl, 3,000,000 lakes, a unique wildlife population, 10,000 free-flowing streams and 41 active volcanoes. Until the 1959 statehood act, almost all this land was owned by the Federal Government, but, following statehood, claims were made by the state and by native groups. The 1971 Alaska Native Claims Settlement Act resolved these competing claims by ceding 148,000,000 acres (Missouri contains less than a third as much) to the two groups. It also authorized the Department of the Interior to review Alaskan lands and to select suitable tracts for conservation.

In 1973 then-Secretary of the Interior Rogers Morton proposed that 83,000,000 acres be put under federal protection. But environmentalists protested that the total was too small and, even worse, too much of the land would be put in the least restrictive federal system and thus be subject to mining and logging. Representative Morris K. Udall, working with environmental groups, introduced legislation that would cover 114,000,000 acres and protect most of it from development. For its part, the Alaskan government, in conjunction with mining and logging interests, supports a bill introduced by Alaska Senator Ted Stevens under which only 25,000,000 acres would be in the park and refuge system with 55,000,000 acres more under federal-state control for future classification. Due to the sharp divisions in the debate, the Carter Administration's recently released recommendation covering more than 90,000,000 acres, with protection near the Udall levels, may be accepted as a compromise.

But is a compromise desirable? As Al Henson, chief of professional services for the Alaska parks, has said, "The Arctic is extremely delicate; it doesn't recover quickly from misuse or overuse." To maintain the life systems that exist in the proposed park areas, the acreage involved must be vast. The rugged appearance of the land belies its weakness, the sparseness of its vegetation. In a year, a caribou travels more than 11,000 miles to find adequate forage, and an Arctic grizzly needs 100 square miles to live. So if the increased park lands are going to be effective for conservation the acreage cannot be trimmed by much.

As to the argument put forth by Alaskan officials that the Udall proposal would lock up Alaska's riches and deny the country needed minerals, the facts do not support that contention. The Udall proposal includes about 27 per cent of the state's highest grade mineral lands; 7 per cent of the best oil

lands and 3 per cent of the choicest forest lands. This leaves the vast majority of the resources open to development, development that has been slow to come because of the enormous costs involved in extracting the riches from the frozen Arctic. Also, inclusion of land in the refuge system, for instance, does not mean that mining is forever prohibited. It is just heavily restricted.

The 382,000 citizens of Alaska should be able to obtain sufficient economic gains even if the most ambitious plan is adopted. And, even more important, they and all Americans will be assured of the protection of the irreplaceable resource of this country's last and most magnificent wilderness if Congress chooses wisely and places sufficient land under strict federal protection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows:

To Mr. PEPPER (at the request of Mr. WRIGHT), for today, on account of illness.

To Mr. BROOKS (at the request of Mr. WRIGHT), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BADHAM) and to revise and extend their remarks and include extraneous matter:)

Mr. KEMP, for 20 minutes, today.

Mr. MICHEL, for 5 minutes, today.

Mr. EVANS of Delaware, for 5 minutes, today.

(The following Members (at the request of Mr. BARNARD), to revise and extend their remarks, and to include extraneous matter:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. CARR, for 10 minutes, today.

Mr. FORD of Michigan, for 5 minutes, today.

Mr. RICHMOND, for 5 minutes, today.

Mr. ST GERMAIN, for 5 minutes, today.

Mr. BENJAMIN, for 5 minutes, today.

Mr. RODINO, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. CONYERS, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,208.

Mr. CARR, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $885.50.

Mr. DELLUMS, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,529.50.

Mr. VANIK, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,932.

Mr. KEMP, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,079.

(The following Members (at the request of Mr. BADHAM) and to include extraneous matter:)

Mr. YOUNG of Florida in five instances.

Mr. KEMP in three instances.

Mr. STEERS.

Mr. DORNAN.

Mr. MCCLORY in two instances.

Mr. DON H. CLAUSEN.

Mr. DERWINSKI in two instances.

Mr. WIGGINS.

Mr. MICHEL.

Mr. COLLINS of Texas in three instances.

Mr. CONABLE.

Mr. LAGOMARSINO.

Mr. SARASIN.

Mr. HANSEN in five instances.

(The following Members (at the request of Mr. BARNARD) and to include extraneous matter:)

Mr. HAMILTON.

Mr. FOLEY.

Mrs. MEYNER.

Mr. OTTINGER in four instances.

Mr. MAZZOLI in five instances.

Mr. ANDERSON of California in three instances.

Mr. GONZALEZ in three instances.

Mr. CARNEY in three instances.

Mr. UDALL.

Mr. MITCHELL of Maryland.

Mr. MCDONALD in three instances.

Mr. JOHNSON of California.

Mr. MINETA.

Mr. CHARLES H. WILSON of California.

Mr. MOAKLEY in two instances.

Mr. AMBRO.

Mr. LUKEN.

Mr. LEDERER.

Mr. DODD.

Mr. OBERSTAR.

Mr. BURKE of Massachusetts.

ADJOURNMENT

Mr. GINN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 43 minutes p.m.), under its previous order, the House adjourned until Monday, January 30, 1978, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3086. A letter from the President, Legal Services Corporation, transmitting the Corporation's budget request for fiscal year 1979; to the Committee on Appropriations.

3087. A letter from the Chairman, Commission on Federal Paperwork, transmitting a report on the records management program in the executive agencies, pursuant to section 3(c) of Public Law 93–556; to the Committee on Government Operations.

3088. A letter from the Chairman, Commission on Federal Paperwork, transmitting a report on information resource management, pursuant to section 3(c) of Public Law 93–556; to the Committee on Government Operations.

3089. A letter from the Comptroller General of the United States, transmitting a report on improvements needed in priority requisitioning for the Federal Supply Service system (PSAD–78–47, January 25, 1978); to the Committee on Government Operations.

3090. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b; to the Committee on International Relations.

3091. A letter from the Administrator, U.S. Environmental Protection Agency, transmitting the first annual report on the agency's administration of the Toxic Substances Control Act, pursuant to sections 9(d) and 30 of the act; to the Committee on Interstate and Foreign Commerce.

3092. A letter from the National Adjutant/Quartermaster, Veterans of World War I of the U.S.A., Inc., transmitting their financial statement for the fiscal year ending September 30, 1977, pursuant to section 3 of Public Law 88–504; to the Committee on the Judiciary.

3093. A letter from the Under Secretary of Energy, transmitting a report on the study of the existence of any tax, regulatory, traffic, urban design, rural electrification, or other institutional factor which tends to bias surface transportation systems toward vehicles of particular characteristics, pursuant to section 13(a) of Public Law 94–413; to the Committee on Science and Technology.

3094. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a draft of proposed legislation to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes; to the Committee on Science and Technology.

3095. A letter from the Administrator, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting NOAA's initial report on research and monitoring of the stratosphere during the years 1975 through 1977, pursuant to section 154 (a) of the Clean Air Act (91 Stat. 728); jointly, to the Committees on Interstate and Foreign Commerce and Science and Technology.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SISK: Committee on Rules. House Resolution 982. Resolution providing for the consideration of H.R. 8336. A bill to enhance the outdoor recreation opportunities for the people of the United States by expanding the National Park System, by providing access to and within areas of the National Park System, and for other purposes (Rept. No. 95–852). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. AUCOIN:

H.R. 10566. A bill to designate certain lands as wilderness; to the Committee on Interior and Insular Affairs.

H.R. 10567. A bill to amend title 38, United States Code, to remove the requirement that the 20 years for which a disability rating of total or permanent total disability must be in force for such rating to be preserved must be continuous; to the Committee on Veterans' Affairs.

H.R. 10568. A bill to amend title XVI of the Social Security Act to eliminate the 33⅓ percent reduction in supplemental security income benefits which is presently imposed when the recipient is living in another person's household, and to provide that support

and maintenance furnished the recipient in kind by such other person shall be disregarded in determining such recipient's income for supplemental security income purposes; to the Committee on Ways and Means.

By Mr. BRADEMAS (for himself, Mr. JEFFORDS, Mr. PERKINS, Mr. QUIE, Mr. BEARD of Rhode Island, Mr. PRESSLER, Mr. MILLER of California, Mr. KILDEE, Mr. HEFTEL, Mr. HAWKINS, and Mr. BIAGGI):

H.R. 10569. A bill to amend the Alcohol and Drug Abuse Education Act to extend the authorizations and appropriations for carrying out the provisions of such act, and for other purposes; to the Committee on Education and Labor.

H.R. 10570. A bill to amend the Environmental Education Act to extend the authorizations of appropriations for carrying out the provisions of such act, and for other purposes; to the Committee on Education and Labor.

By Mr. CARNEY:

H.R. 10571. A bill to amend the Communications Act of 1934 to require broadcast stations licensees and noncommercial educational broadcasting stations to take certain actions to insure the accuracy of statements made in connection with the broadcast of public affairs programs which permit audience participation, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. DON H. CLAUSEN (for himself, Mr. ROE, Mr. TREEN, Mr. MCEWEN, Mr. MCHUGH, Mr. SCHEUER, Mr. STANGELAND, and Mr. CORRADA):

H.R. 10572. A bill to amend the Federal Aviation Act of 1958, relating to aircraft piracy, to provide a method for combating terrorism, and related purposes; jointly, to the Committees on International Relations, the Judiciary, and Public Works and Transportation.

By Mr. COHEN (for himself, Mr. ANDREWS of North Dakota, Mr. BLANCHARD, Mr. CORCORAN of Illinois, Mr. EILBERG, Mr. EMERY, Mr. FISH, Mr. GOODLING, Mr. GRASSLEY, Mr. GUDGER, Mr. HUGHES, Mr. LAGOMARSINO, Mr. LE FANTE, Mr. LLOYD of California, Mrs. LLOYD of Tennessee, Mr. MATHIS, Mr. MCDADE, Mrs. MEYNER, Mr. MILFORD, Mr. PATTISON of New York, Mr. RINALDO, Mr. SIMON, Mr. SPENCE, Mr. TRIBLE, and Mr. YATRON):

H.R. 10573. A bill to amend the Internal Revenue Code of 1954 to provide graduated corporate income tax rates; to the Committee on Ways and Means.

By Mr. DERRICK (for himself, Mr. CORCORAN of Illinois, Mr. DUNCAN of Tennessee, Mr. EDGAR, Mr. HILLIS, Mrs. HOLT, Mr. KETCHUM, Mr. LOTT, Mr. MANN, Ms. MIKULSKI, Mr. MIKVA, Mr. NEAL, Mr. RUNNELS, Mr. SHARP, Mr. SIMON, Mrs. SPELLMAN, and Mr. SPENCE):

H.R. 10574. A bill to improve congressional oversight of Federal programs and activities by requiring greater specificity in setting program objectives, by requiring continuing information on the extent to which programs are achieving their stated objectives, by requiring periodic review of new authorizations of budget authority and tax expenditures, and for other purposes; to the Committee on Rules.

By Mr. EDWARDS of California:

H.R. 10575. A bill to prohibit discrimination on the basis of affectional or sexual preference, and for other purposes; jointly, to the Committees on the Judiciary, and Education and Labor.

By Mr. FLORIO:

H.R. 10576. A bill to amend title 4 of the United States Code to restrict the authority of any State or political subdivision to impose any income tax on any compensation paid to any individual who is not a domiciliary or resident of such State or political subdivision; to the Committee on the Judiciary.

By Mr. HEFTEL (for himself, Mr. MITCHELL of Maryland, Mr. DIGGS, Mrs. BURKE of California, and Mr. PANETTA):

H.R. 10577. A bill to amend the Small Business Act to provide graduated amounts of loan guarantees to minority small business concerns with respect to loans for the acquisition or the construction, conversion, or expansion of certain broadcast or cable facilities, and to amend the Internal Revenue Code of 1954 to provide for the nonrecognition of gain on certain sales and exchanges of broadcast or cable facilities involving minority small business concerns; jointly, to the Committees on Small Business and Ways and Means.

By Mr. JOHNSON of California (for himself and Mr. HARSHA) (by request):

H.R. 10578. A bill to improve highways and public transportation; jointly, to the Committees on Public Works and Transportation, and Ways and Means.

By Mr. JONES of Oklahoma:

H.R. 10579. A bill to amend the Internal Revenue Code of 1954 to discourage interstate bootlegging of cigarettes by increasing the Federal tax on cigarettes and to provide payments to certain States which do not impose more than a 3-cent special tax on a pack of cigarettes; to the Committee on Ways and Means.

By Mr. KEMP (for himself, Mr. ARMSTRONG, Mr. HOLLENBECK, and Mr. WAMPLER):

H.R. 10580. A bill to provide for permanent tax rate reductions for individuals and businesses; to the Committee on Ways and Means.

By Mr. MCCORMACK:

H.R. 10581. A bill to provide for the distribution of certain judgment funds awarded by the Indian Claims Commission to the Confederated Tribes and Bands of the Yakima Indian Nation; to the Committee on Interior and Insular Affairs.

By Mr. MCKAY:

H.R. 10582. A bill to amend the Internal Revenue Code of 1954 to exempt from Federal income tax a trust established by a taxpayer for the purpose of providing care for certain mentally incompetent dependents of the taxpayer; to the Committee on Ways and Means.

By Mr. MATHIS (for himself, Mr. POAGE, Mr. MOORE, and Mr. BOWEN):

H.R. 10583. A bill to require that imported palm oil and palm oil products made in whole or in part of imported palm oil be labeled, to provide for the inspection of imported palm oil and palm oil products, to require that imported palm oil and palm oil products comply with certain minimum standards of sanitation, and for other purposes; to the Committee on Agriculture.

By Mr. MATHIS (for himself, Mr. POAGE, Mr. WAMPLER, Mr. JONES of Tennessee, Mr. MCHUGH, Mr. SKELTON, Mr. WHITLEY, Mr. AKAKA, Mr. JEFFORDS, Mr. ENGLISH, Mr. FITHIAN, Mr. JONES of North Carolina, Mr. MADIGAN, Mr. THONE, Mr. THORNTON, Mr. HIGHTOWER, Mr. SYMMS, Mr. PANETTA, Mr. JENRETTE, Mr. BOWEN, Mr. JOHNSON of Colorado, Mr. HAGEDORN, Mr. SEBELIUS, Mr. WEAVER, and Mr. FINDLEY):

H.R. 10584. A bill to strengthen the economy of the United States through increased sales abroad of American farm products; jointly, to the Committees on Agriculture and International Relations.

By Mrs. MEYNER (for herself, Mr. SOLARZ, Mr. THOMPSON, Mr. STEERS, Mr. BLOUIN, Mr. LE FANTE, Mr. GEPHARDT, Mr. SIMON, Mr. HUGHES, Ms. SCHROEDER, Mr. HARRINGTON, Ms. MIKULSKI, Mr. ROYBAL, Mr. CONTE, and Mr. SEIBERLING):

H.R. 10585. A bill to establish a Commission on Proposals for a U.S. Academy for Peace and Conflict Resolution; jointly, to the Committees on International Relations and Education and Labor.

By Mr. PEPPER (for himself and Mr. COHEN):

H.R. 10586. A bill making supplemental appropriations for the Inspector General of the Department of Health, Education, and Welfare; to the Committee on Appropriations.

By Mr. RONCALIO (for himself, Mr. BAUCUS, Mr. EVANS of Colorado, Mr. JOHNSON of Colorado, Mr. LUJAN, Mr. MCKAY, Mr. MARLENEE, Mr. MARRIOTT, Mr. RUDD, Mr. RUNNELS, Mr. SANTINI, Mr. SYMMS, Mr. DUNCAN of Oregon, and Mr. ULLMAN):

H.R. 10587. A bill to improve the range conditions of the public grazing lands; to the Committee on Interior and Insular Affairs.

By Mr. ROSENTHAL (for himself, Mr. EDWARDS of California, Mr. FRASER, Mr. MOSS, Mr. RYAN, and Mrs. SPELLMAN):

H.R. 10588. A bill to amend the Truth in Lending Act; to the Committee on Banking, Finance and Urban Affairs.

By Mr. RUNNELS:

H.R. 10589. A bill to amend section 402(d) of the Federal Land Policy and Management Act of 1976; to the Committee on Interior and Insular Affairs.

By Mr. THONE:

H.R. 10590. A bill to amend the Antidumping Act of 1921, the Trade Act of 1974, and the Tariff Act of 1930 to improve procedures relating to the determination of certain unfair foreign trade practices; to the Committee on Ways and Means.

By Mr. WYDLER:

H.R. 10591. A bill to encourage homeownership by amending the Internal Revenue Code of 1954 to allow a deduction for certain contributions to an individual housing account; to the Committee on Ways and Means.

By Mr. BALDUS (for himself, Mr. WON PAT, Mr. FARY, Mr. AKAKA, Mr. KINDNESS, Mr. DAVIS, Mr. FLORIO, Mr. CORRADA, Mr. VENTO, Mr. MOTTL, Mr. CLAY, Mr. MURTHA, Mr. LAGOMARSINO, Mr. DERWINSKI, Mr. ROSENTHAL, Mr. EILBERG, Mr. FISH, Mr. PRICE, Mr. MITCHELL of Maryland, Mrs. LLOYD of Tennessee, Mr. MCCORMACK, Mr. BLOUIN, Mr. BEVILL, Mr. OTTINGER, and Mr. CHAPPELL):

H.R. 10592. A bill to amend title 38 of the United States Code to increase from $250 to $400 the maximum allowance provided for the burial and funeral expenses of certain veterans and of patients in Veterans' Administration facilities; to the Committee on Veterans' Affairs.

By Mr. BEDELL (for himself and Mr. SKELTON):

H.R. 10593. A bill to amend the meat import law in order to limit the quantity of certain prepared or preserved beef and veal which may be imported into the United States after 1976, and for other purposes; to the Committee on Ways and Means.

By Mr. BURKE of Massachusetts:

H.R. 10594. A bill to clarify section 119 of the Internal Revenue Code of 1954 by an amendment making it clear that meals provided in kind by an employer to an employee may be considered furnished for the convenience of the employer without regard to whether a charge is made or whether the employee is required to accept such meals; to the Committee on Ways and Means.

By Mr. HOLLAND:

H.R. 10595. A bill to amend title 38, United States Code, to increase from $500 to $1,000 the amount by which the annual income of certain disabled veterans may exceed the maximum annual income limitation for pensions without such veterans losing the right to continue to receive drugs and medication

from the Veterans' Administration; to the Committee on Veterans' Affairs.

By Mr. MOTTL:

H.R. 10596. A bill to regulate and restrict the use of fuel adjustment clauses by federally regulated, and State regulated, electric and gas utilities, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. BRADEMAS (for himself, Mr. QUIE, Mr. PERKINS, Mr. JEFFORDS, Mr. THOMPSON, and Mr. PRESSLER):

H.J. Res. 691. Joint resolution to authorize the President to call a White House Conference on the Arts; to the Committee on Education and Labor.

H.J. Res. 692. Joint resolution to authorize the President to call a White House Conference on the Humanities; to the Committee on Education and Labor.

By Mr. ENGLISH:

H.J. Res. 693. Joint resolution designating April 15, 1978, as National Free Enterprise Day; to the Committee on Post Office and Civil Service.

By Mr. HANSEN:

H.J. Res. 694. Joint resolution proposing an amendment to the Constitution of the United States for the protection of unborn children and other persons; to the Committee on the Judiciary.

By Mr. KEMP (for himself and Mr. NEDZI):

H.J. Res. 695. Joint resolution designating the week in each year during which Veterans Day is observed as Love America Week; to the Committee on Post Office and Civil Service.

By Mr. OBERSTAR (for himself, Mr. BENJAMIN, and Mr. KILDEE):

H.J. Res. 696. Joint resolution proposing an amendment to the Constitution of the United States with respect to the right to life; to the Committee on the Judiciary.

By Mr. ROE:

H. Con. Res. 461. Concurrent resolution expressing the sense of the Congress with regard to the disposition by the United States of any right to title to, or interest in the property of Canal Zone agencies and any real property located in the Canal Zone; to the Committee on Merchant Marine and Fisheries.

By Mr. MATHIS (for himself, Mr. POAGE, Mr. MOORE, and Mr. BOWEN):

H. Res. 983. Resolution expressing the sense of the House relative to a study by the Secretary of Agriculture on palm oil imports; jointly, to the Committees on Agriculture, and International Relations.

By Mr. THOMPSON (for himself and Mr. DICKINSON):

H. Res. 984. Resolution to provide funds for the Committee on House Administration; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

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

By Mr. CONABLE:

H.R. 10597. A bill for the relief of Saing Majaroen; to the Committee on the Judiciary.

By Mr. DAN DANIEL:

H.R. 10598. A bill for the relief of Mrs. Frances M. Butler; to the Committee on the Judiciary.

By Mr. QUAYLE:

H.R. 10599. A bill for the relief of Sylvester G. Schneider; to the Committee on the Judiciary.

By Mr. UDALL:

H.R. 10600. A bill for the relief of Thomas Joseph Hunter and Rose Hunter; to the Committee on Interior and Insular Affairs.

PETITIONS, ETC.

Under clause 1 of rule XXII,

385. The SPEAKER presented a petition of the California District Attorneys Association, Sacramento, Calif., relative to National Forgotten Victim's Week, which was referred to the Committee on Post Office and Civil Service.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1614

By Mr. HUGHES:

On page 268, immediately after line 23, insert the following new subsection.

(e) Subsection (h) of section 308 of the Coastal Zone Management Act of 1972 is amended to read as follows:

"(h)(1) There is established in the Treasury of the United States the Coastal Energy Impact Fund. The fund shall consist of—

"(A) amounts credited to the Fund under section 9 of the Outer Continental Shelf Lands Act;

"(B) any sums appropriated to the Fund;

"(C) payments of principal and interest received under any loan made under subsection (d)(1);

"(D) any fees received in connection with any guarantee made under subsection (d)(2);

"(E) any recoveries and receipts under security, subrogation, and other rights and authorities described in subsection (f).

Amounts in the Fund shall be available to the Secretary without fiscal year limitation as a revolving fund.

"(2) Amounts in the Fund received under clause (A) of paragraph (1) of this subsection shall be available to the Secretary for the purpose of carrying out subsection (b) of this section.

"(3) Amounts in the Fund received under clauses (B) through (D) of paragraph (1) of this subsection shall be available to the Secretary for the purposes of carrying out subsections (c) and (d) of this section. All payments made by the Secretary to carry out the provisions of subsections (b), (c), (d), and (f) (including reimbursements to other Government Accounts) shall be paid from the Fund, only to the extent provided for in appropriation Acts. Sums in the Fund which are not currently needed for the purposes of subsections (c), (d), and (f) shall be kept on deposit or invested in obligations of, or guaranteed by, the United States. At the end of each fiscal year, sums in the Fund which are not needed for purposes of subsection (b) shall be returned to the Treasury.".

On page 268, line 24, strike "(e)" and insert in lieu thereof "(f)."

SENATE—*Thursday, January 26, 1978*

(Legislative day of Tuesday, January 24, 1978)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable DANIEL PATRICK MOYNIHAN, a Senator from the State of New York.

PRAYER

The Reverend Andrew M. Greeley, National Opinion Research Center, Chicago, Ill., offered the following prayer:

Lord of all creation, in these winter months, when the skies are often gray, the air often cold, and our hearts often heavy with discouragement and weariness, grant us this day hope—hope in the return of spring, hope in the eventual blossoming of the cherries, hope in the strength of life over death, of good over evil, of love over hatred, of joy over discouragement. If the air is cold, make our hearts warm. If the sky is gloomy, may our faces be bright. If the grass on the Mall is brown and dry, let our voices and our spirits be filled with vitality. Despite all our problems and worries and anxieties, let us be messengers of hope and cheer to all those whom we encounter. We ask this through Jesus the Lord. May God be with all those who work in this House. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., January 26, 1978.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DANIEL PATRICK MOYNIHAN, a Senator from the State of New York, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. MOYNIHAN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

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

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of yesterday, Wednesday, January 25, 1978, be approved.

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

COMMITTEE MEETING

Mr. ROBERT C. BYRD. Mr. President, this request has been cleared with the minority.

Mr. President, I ask unanimous consent that the Foreign Economic Policy Subcommittee of the Foreign Relations Committee be authorized to meet during the session of the Senate today to conduct committee business.

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

Mr. ROBERT C. BYRD. Mr. President, I have no further need for my time at the moment.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

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