SENATE—*Tuesday, June 13, 1978*

(Legislative day of Wednesday, May 17, 1978)

The Senate met at 8:30 a.m., on the expiration of the recess, and was called to order by Hon. PATRICK J. LEAHY, a Senator from the State of Vermont.

PRAYER

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

Our Father God, we thank Thee for all that is old but precious:

The freedom of man,
The Holy Scriptures,
The moral law,
The ancient values that endure all change.

We thank Thee too for all that is new and helpful:

The new inventions,
The new explorations,
The new institutions,
The new spiritual insights.

Help us to preserve all that is holiest in heritage and to welcome all that is healthiest in innovation that we may have continuity amid all change.

O Thou who changest not, abide with us now and always. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., June 13, 1978.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable PATRICK J. LEAHY, a Senator from the State of Vermont, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. LEAHY thereupon assumed the Chair as Acting President pro tempore.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

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

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized for not to exceed 2 minutes.

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

The ACTING PRESIDENT pro tempore. Under the previous order, the minority leader is recognized for not to exceed 2 minutes.

Mr. BAKER. Mr. President, I have no requirement for my time, and no request for it, and I yield it back.

SPECIAL ORDER

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Kansas (Mr. DOLE) is recognized for not to exceed 15 minutes.

MEAT IMPORTS AND THE CATTLE INDUSTRY

Mr. DOLE. Mr. President, during the next 1 hour and 30 minutes, or some such time, a number of Senators from both sides of the aisle will be participating in a colloquy on meat imports. In addition, other Senators will be submitting statements.

The Senator from Kansas is not quite certain what spurred the President to increase import quotas. I assume that it was probably well intentioned. I assume that there was some evidence that by increasing meat imports the price of meat would be reduced in the supermarkets. But I believe the record will show in the next 2 or 3 months the only impact will be to damage further the American farmer. This administration's record for damaging the American farmer is extremely good.

Candidate Carter campaigned to the farmer. He told farmers in my State and States all over this country, "Vote for me and your worries will be over."

There is good reason for many farmers, Republicans and Democrats, and some who really do not care about politics, to wonder what happened to all the promises made. I know the administration, of course, is concerned about agriculture. They have said as recently as several months ago, "Give us the chance to let it work."

Well, it is working. Farmers are losing money, whether they be wheat producers or livestock producers, because of actions by this administration.

On Saturday I attended a livestock auction at the Ottawa Sale Barn in Ottawa, Kans.

There was no doubt about it, prices are down to the farmers. Meat prices have not gone down to consumers, but cattle prices are down for farmers. Once again our farmers are bearing the brunt of President Carter's action against inflation.

In his own statement he does not make any prediction of a drop in hamburger prices, just that it might slow down the increase while the farmer absorbs all the loss. It is fair to say, based on my own observation last Saturday, that farm prices of cattle are down about $10 per hundredweight right across the board.

I do not know how we can expect the American cattleman to continue to produce or to expand his production as long as they are forced to accept this type action from any administration. Every time the farmer starts to make a profit the Government interferes. We talk about the free enterprise system, we talk about letting farmers make it on their own, and then when the cattle producers, for the first time in a number of years, start to make a profit, the Government increases meat imports.

Mr. President, the cattlemen of this Nation are being confronted by economic disaster as a result of the action taken by President Carter last Thursday to increase meat import quotas by 200 million pounds. Nationwide, cattlemen have lost money on their cattle operations for 7 of the last 11 years. The last 3 years have been particularly bad and resulted in the liquidation of investments in feeder cattle and the selling off of cow herds since it costs the cattleman more to raise the animal than he can sell it for in the market.

At this time, the cattlemen of this Nation are trying to decide whether or not to expand their production, and some are trying to decide whether or not to stay in business. I am concerned with the future of this industry and for the ample supply of high protein food they furnish for our consumers. As I have indicated, I am not alone in this concern, for I am joined by many of my fellow Senators in this colloquy to discuss the importance of this matter. Twenty-three Senators have indicated they will join me in this colloquy and several others expressed their interest, but prior commitments made it impossible for them to be here this morning. I am sure they will make separate, supportive statements individually, as many already have, because of their great concern. Some have spoken as recently as last evening.

This is not a partisan concern, but a concern about cattle producers and their families who are trying to make a living.

Several of my colleagues on the Committee on Agriculture, Nutrition, and Forestry have joined me in requesting this special time to emphasize the critical impact that the President's action of increasing imports will have on the cattle industry. They are Senator YOUNG, Senator CURTIS, Senator MCGOVERN, Senator CLARK, and Senator ZORINSKY.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

We want to urge all our colleagues to join us either in this colloquy or some expression of concern and support for the American cattle producer, yes, and for the American consumer.

Mr. President, some of my consumer friends have asked me why the supply of beef takes so long to change—longer than the supply of pork, for example, and a lot longer than poultry.

The answer, of course, is simply one of biology. From the time a producer decides to increase the size of his basic cow herd until extra beef resulting from that decision reaches the supermarket may take as long as 4 years.

For example, if a rancher decides that a female calf born today should become part of his basic cow herd, it will take a year and a half to 2 years before that calf can grow up and be mature enough to breed. Once bred, there is a 9-month period before the calf is born. After that, figure at least another year and a half for the calf to grow and be fed out and "finished" for the market.

This long beef cycle is a major reason beef prices are now at a record high and still climbing.

For the past 4 years, the U.S. cattleman has been in desperate circumstances. We have had severe winters that took a heavy toll of cattle on the range, and cut heavily into the birth rate at normal calving time.

We have experienced a couple of years of back-to-back drought conditions in the West and South that have forced producers to liquidate entire herds, because there was no grazing and too little water.

We have seen producers go deeply into debt trying to refinance their livestock operations. Feed costs are higher; farm machinery costs are up; interest rates have increased, and in some areas producers report they are unable to find adequate credit at any cost.

This liquidation of breeding stock temporarily builds up an oversupply of beef in the market, causing additional problems for the producer forced to sell at low prices, but the consumer has benefited with low hamburger prices.

Eventually, the cattle numbers are reduced—the oversupply is worked through the market—and prices start to rise again. That is what is happening now—the beef cattle industry is just emerging from the liquidation phase of the latest cattle cycle. In this case, it has been a 4-year period, and most cattlemen have been losing money during those 4 years. They are just now deciding whether or not to expand their production by selecting more females to breed, or to feed them out for slaughter.

If we expect these cattlemen to make the necessary investment over the next 2 or 3 years to expand their herds, they must have confidence that the market will continue stable. In fact, their bankers will insist the future prospects are good before they will finance such expansion.

Pork and poultry, on the other hand, can respond to demand and increase production at least 10 times as fast as cattle. This is because hogs have litters of six to eight pigs, and they can have two litters a year. Poultry expands even faster. Cattle production, therefore, takes far more future planning.

Mr. President, there is nothing wrong with the cattle industry that commonsense, and a little faith in supply-demand economics will not cure.

The worst thing we possibly could do would be to disrupt the cattle cyle, as the administration did last week, by bringing into this country an additional 200 million pounds of foreign produced beef. It will destroy the cattlemen's incentive for expanded future production.

Our U.S. beef producer deserves our support, not our competition. He is willing to compete in his own market against other producers and other commodities. But it is asking too much of him to ask the cattleman to compete with the White House, with the President of the United States, and with this administration.

Mr. President, the Nation is more aware of the economic stress all our farmers are facing this year more than any year in recent history. Members of Congress are particularly aware due to the efforts of many farmers earlier this year to assist in passing new legislation to restore some economic soundness to agriculture. Agriculture is still the economic foundation of this Nation and further jeopardy to its well-being could signal another general depression far worse than we have ever seen.

We are concerned with the present administrations position on all agricultural matters indicated by the Senate's passage of the flexible parity concept. But this measure was defeated in the House, due to the administration's lobbying efforts and a threat of a veto.

Administration officials have been making a similar effort applying pressure to increase meat imports. Evidence of these officials' efforts were reported on March 14 in the Washington Post, quoting a memorandum from Barry Bosworth, Director of the President's Council on Wage and Price Stability, indicating:

> Carter could expand meat imports in order to hold down meat and livestock prices which have risen at an annual rate of 19 percent retail in the last 3 months and 33 percent at the wholesale level.

Mr. President, Mr. Bosworth's reference to increasing cattle prices at this time is accurate, but he neglects to point out that the 19-percent increase was up from market prices far below the cost of production.

Average farm production costs have continued to increase, while cattle prices have fluctuated down as well as up. The average price of choice steers in the first 4 months of 1978 was up 33 percent from 1972. The average of prices paid by farmers was up 79 percent.

Choice steer prices more recently have been $50 to $60 per hundredweight, but prices still were lagging behind the production cost increases.

Mr. President, I ask unanimous consent to have printed in the RECORD a table reflecting these figures.

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

FED CATTLE PRICES AND INDEX OF PRICES PAID BY FARMERS, 1972-78

Year	Choice steers, Omaha [1] (dollars per hundredweight)	Index of prices paid [2] (1967=100)
1972	35.78	125
1973	44.54	149
1974	41.89	170
1975	44.61	187
1976	39.11	199
1977	40.38	208
1978	47.60	224

[1] Annual averages, except 1st 4 mo, 1978.
[2] Annual averages, except Apr. 15, 1978—Prices paid by farmers for production items, interest, taxes, and wage rates.

Source: USDA and Cattle-Fax

Mr. DOLE. Mr. President, it is important to note that inflation continued in 1976 when cattle were bringing only $39.11 per cwt. inflation continued at a rate of 5.8 percent. In 1977 when cattle were bringing only $40.38 inflation continued at a rate of 6.9 percent. Since 1972, cattle prices have remained at relatively low prices, but the administration did not take steps to reduce import quotas to bring prices up. Cattlemen did not expect that, nor did they want it. Cattlemen do not want Government interference in their business. They ask only to let the system work, and they will take their chances.

When cattle prices commenced to increase due to their reduction in beef production, the Government started talking about increasing meat imports in order to reduce cattle and beef prices.

Further, administration officials' pressure for increased meat imports is evidenced in an April 19 letter from G. William Miller, newly appointed chairman on the Federal Reserve System, indicating that recent price increases are not in the long-run interests of either the consumers or producers. He makes that statement after just admitting in the prior paragraph that cattlemen have liquidated their cattle numbers due to a lack of profit.

Therefore, this administration feels that when cattle prices increase 33 percent in 4 months. that is too much increase. When, at the same time, the costs the cattlemen paid for their stock, supplies and equipment increased 79 percent since 1972. Consistent low prices indicate these increases are necessary and justified if we expect these cattlemen to continue producing beef.

Mr. President, I ask unanimous consent to have printed in the RECORD figures on the prices received by cattlemen for calves and fed steers compared to their production costs.

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

AVERAGE PRICES AND AVERAGE COSTS—STEER CALVES, 1ST QUARTER, 1972-78

[In dollars per hundredweight]

Year	Average price, choice 400-lb steer calves [1]	Average production costs [2]
1972	46.79	43.75
1973	60.36	45.00
1974	40.85	46.25
1975	32.55	47.50
1976	41.56	50.00
1977	43.60	52.50
1978	58.00	55.00

[1] Average prices received in 1st quarter each year, choice steer calves.
[2] Average cost of producing calf—including feed, interest, labor, overhead, management, supplies, other costs.

Source: USDA and Cattle-Fax.

Mr. DOLE. The average cow-calf operator showed a profit in the first quarter of 1972, 1973, and 1978, but a loss in the first quarter of 1974, 1975, 1976, and 1977.

The data on both average prices and costs are conservative. For example, the average prices shown in the chart and table are for steers only; heifer prices are lower. Similarly, actual costs in many instances would be considerably higher than shown, depending on land and other costs. I ask unanimous consent that the table reflecting this be printed in the RECORD.

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

AVERAGE PRICES AND AVERAGE COSTS—CHOICE STEERS 1ST QUARTER, 1972-78

[In dollars per hundredweight]

Year	Average price choice steers Omaha [1]	Average production costs [2]
1972	35.69	31.50
1973	43.28	39.60
1974	45.46	50.20
1975	35.72	39.50
1976	38.71	41.00
1977	37.88	38.65
1978	45.92	42.00

[1] Average prices received in 1st quarter each year.
[2] Average breakeven prices or costs—including feed, labor, interest, feeder cattle, other costs.

Source: USDA and Cattle-Fax.

Mr. DOLE The average feeder showed profits in the first quarter of 1972, 1973, and 1978, but a loss in the first quarter of 1974, 1975, 1976, and 1977. The data on both average prices and costs are conservative. For example, overall prices of cattle marketed—including heifers as well as steers—average less than for choice steers alone.

I ask unanimous consent to have those figures printed in the RECORD.

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

FOOD EXPENDITURE COMPONENTS, 1974-77

[In billions of dollars]

	1974	1975	1976	1977
Consumer food: Expenditures	149.2	161.4	172.3	180.0
Farm value	56.0	54.9	56.3	56.0
Marketing bill	93.2	106.5	116.0	124.0
Labor	44.8	49.1	54.3	58.8
Packaging	12.1	13.4	15.0	16.0
Transportation	7.2	8.3	9.5	10.4
Other items	29.1	35.7	37.2	38.8

Source: USDA.

Mr. DOLE. Mr. President, from 1974 to 1977, the farm value of U.S. food expenditures showed little change, while the total marketing bill rose 38 percent (see table). Labor costs alone, which have risen along with or ahead of the inflation rate, accounted for 40 percent of the increase in food expenditures in the 1973–77 period.

Last year, for the first time, the cost of labor involved in processing and marketing food exceeded the basic farm value of the food. In other words, a bigger share of the average food dollar now goes to workers in the food industries than goes to farmers and ranchers.

Rising marketing costs are the major reason for the uptrend in food prices. The components of the marketing bill are shown in the table.

Labor's share of the food dollar is now 33 cents; the farmer receives only 31 cents. I do not fault labor for their share of this dollar. As long as the consumer is willing to pay for more food processing and marketing services, labor's share of the food dollar will continue to grow. What it amounts to is that consumers no longer prepare their own food. They buy the services of others in processing, marketing and distribution instead of performing those services themselves. They have to pay for them in convenience foods, and that means more labor input to the product the consumer buys. Of course, a major factor in these costs is the growing amount of meals eaten away from home.

Mr. President, I should now like to comment on President Carter's justification for his action in increasing meat imports at this time.

In his official announcement he listed five items as the current situation:

The U.S. cattle industry is subject to cycles of about 10 years in duration. The cattle herd reached a record high 132 million head at the beginning of 1975. It has fallen to 116 million head as of January 1, 1978, and will decline further this year. The rebuilding phase of the cattle cycle will soon begin but several years are required for increased domestic beef supplies to reach consumers.

Since 1974, many livestock producers have experienced losses. For 15 for the past 23 quarters feeders have suffered net losses. However, returns to producers are now above cost and prospects for the next 2 to 3 years are for a continuation of this situation.

Retail meat prices, stable for the past 3 years with record meat supplies, have increased about 10 percent during the first 4 months of 1978. This price increase is in response to the reduced cattle inventory and adverse winter weather, combined with strong demand stemming from record employment levels and increased earnings.

Retail beef prices declined in 1976 and remained about the same in 1977 due to record beef supplies. However, choice beef prices have risen about 14 percent during the first 4 months of this year alone. These higher prices have contributed to the 5.9-percent increase in the Consumer Price Index for food during the first 4 months of 1978.

Meat production for 1978 will total approximately 51.1 billion pounds. About 1 percent below year earlier levels. Although beef production is expected to be down 4 percent, pork production will be up 2 percent and poultry output will expand about 7 percent.

His comments concerning the rebuilding phase taking several years to accomplish are very true, since a cow can have only one calf in a little over a year. Other livestock have multibirths and a far shorter gestation period. Cattlemen, therefore, have to plan ahead for long term investments in facilities, feed and supplies until they can sell their cattle. At this present time, cattlemen are assessing whether or not to increase the number of cows, or to sell off their females as beef. This is the breeding season and President Carter's announcement, at this time, will have a negative effect on their decision to expand their cow herds. We will have to wait until next year for any meaningful expansion.

His second point that cattlemen have been losing money for 15 out of the past 23 quarters is true. How many other segments of American business would accept such losses and continue to produce? Now, as we see a change from loss to profit in cattle prices, the President announces he is taking action to control those profits. All the time during those 23 quarters, cattlemen have had to absorb continuing increased costs of doing business.

His third point, that meat prices have been stable the past 3 years, is typical of this administration. In Kansas, we find when Washington Government officials talk about stable prices, they mean low prices, and these "stable" prices the past 3 years have been "loss" prices as indicated by prior statistics. The President now wants to continue "stable" prices and that means a continuation of "loss" prices to our cattlemen.

His fourth point, that increased cattle prices of 14 percent the past 4 months have contributed to inflation during that period, may well be valid.

But so were the recent increases in steel prices. So were the recent increases in union wage negotiation. So was the increase in minimum wage. So were the increases in fuel costs. We have had general increases in everything we buy. They all contribute to inflation, but his action to increase meat imports will reflect on one of the few ingredients to inflation that dropped and remained lower in 7 of the past 11 years. The announcements on inflation each month last year did not indicate the drops in meat prices during the period, and how the lower prices were regularly offset by inflation in other segments of the economy.

His final point that meat production is down and expected to continue through this year, is also true. But his action to increase meat imports will not stop that anticipated decline. If anything it will increase it.

Earlier last week, before the President's announcement, his economic advisers and counselors had indicated to interested groups that the increased imports would lower the price of hamburger from 2 cents to 7 cents per pound. There was considerable disagreement among his

staff on this matter. The result was that when the announcement was made, he conceded that the economic impact would be that "hamburger prices could be held to 5 to 6 cents per pound below what they otherwise would be." I guess that means it will not lower prices. They will continue to increase and they can claim it would have increased more. Needless to say, we will not be able to notice any difference in the stores. But cattlemen have reported to me that during the week prior to the announcement, the price of Australian beef went up 8 to 9 cents per pound in anticipation of the announcement and the prospect of selling an additional 200 million pounds. It is obvious that this announcement not only did not help to control inflation, but may have contributed to expediting it.

Mr. President, the economic impacts as outlined in the President's announcement are as follows:

The economic impacts of increasing the supply of meat by 200 million pounds during the second half of the year (July–December) will not be large for either retail meat prices or cattle prices.

The retail price impacts will be reflected primarily for convenience meats and the less expensive cuts such as hamburger. Hamburger prices could be held 5 to 6 cents per pound below what they would otherwise be.

The net savings to consumers could be $500 million or more—income that can be directed to other goods and services.

Domestic cattle prices are not expected to be materially affected. Impacts will be largely on utility cow price which could decrease $2 to $3 per hundredweight.

I ask unanimous consent that a table of average monthly prices be printed in the RECORD.

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

AVERAGE MONTHLY PRICES, RETAIL BEEF AND CHOICE STEERS, 1973–78

Year/month	USDA Choice beef average (per pound)	Choice steers Omaha (per hundredweight)
1973:		
January	$1.22	$40.65
February	1.30	43.54
March	1.35	45.65
April	1.36	45.03
May	1.36	45.74
June	1.36	46.76
July	1.36	47.66
August	1.44	52.94
September	1.45	45.12
October	1.36	41.92
November	1.35	40.14
December	1.34	39.36
Average	1.36	44.54
1974:		
January	1.43	47.14
February	1.50	46.38
March	1.42	42.85
April	1.36	41.53
May	1.35	40.52
June	1.32	37.98
July	1.38	43.72
August	1.43	46.62
September	1.42	41.38
October	1.37	39.64
November	1.34	37.72
December	1.32	37.20
Average	1.39	41.89
1975:		
January	1.33	36.34
February	1.29	37.74
March	1.27	36.08
April	1.34	42.80
May	1.48	49.48
June	1.58	51.82
July	1.61	50.21
August	1.56	46.80
September	1.53	48.91
October	1.52	47.90
November	1.51	45.23
December	1.51	45.01
Average	1.46	44.61
1976:		
January	1.49	41.18
February	1.43	38.80
March	1.35	36.14
April	1.42	43.12
May	1.42	40.62
June	1.41	40.52
July	1.41	37.92
August	1.38	37.02
September	1.36	36.97
October	1.34	37.88
November	1.34	39.15
December	1.36	39.96
Average	1.39	39.11
1977:		
January	1.38	38.38
February	1.35	37.98
March	1.33	37.28
April	1.34	40.08
May	1.38	41.98
June	1.37	40.24
July	1.38	40.94
August	1.39	40.11
September	1.39	40.35
October	1.42	42.29
November	1.42	41.83
December	1.45	43.13
Average	1.38	40.58
1978:		
January	1.48	43.62
February	1.51	45.02
March	1.55	48.66
April	1.61	52.41

Source: U.S. Department of Agriculture.

Mr. DOLE. Mr. President, last Thursday, I released a statement commenting on the anticipated action by the President to increase meat imports, since it was general knowledge at that time. I ask that that statement be printed in the RECORD at this point.

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

RAISING MEAT IMPORTS COULD BOOST MEAT PRICES

WASHINGTON, D.C.—"The expected announcement by President Carter to re-negotiate higher import quotas to allow an additional 200 million pounds of beef into the United States could trigger a new round of higher meat prices and inflation throughout the world," Senator Bob Dole said today.

Responding to reports that President Carter will announce that he will allow more meat imports as a means to fight inflation, Dole indicated that there is not sufficient meat available to import to accomplish any real reduction in meat prices.

"Australia is reported to have about 250 million pounds of beef available, half of which they have been trying to sell to Russia. It is possible that following the expected announcement Russia may buy this beef, setting off more worldwide inflation."

"Meanwhile, our cattlemen will not increase their production as long as this Administration takes such actions against them. Cattlemen have lost money 7 out of the past 11 years and are just now beginning to recover from disastrously low prices the past four years. They have been selling their cows due to low prices the past three years. The present time is the cow breeding season and cattlemen are considering whether or not to start rebuilding their herds as prices rise. Since this rebuilding takes from 24 to 30 months to realize any additional production of beef, they are hesitant to invest more money when the government takes actions designed to lower increased prices. Cattlemen need positive action by the Administration that will give them confidence in the future of the beef market. Then they will expand their beef production.

Long range, overall beef prices will continue to climb until we can expand production or until consumers slow down their purchases.

Two long range problems such action could cause:

Australia would expand production in hopes that they can further expand their sales into this market the next time we have a similar situation.

Our farmers could continue to hesitate to invest in expanded herds.

Consumers are justifiably concerned about higher beef prices, but that concern has not been seen as yet in the grocery store. Consumers can and should determine the price of beef and all foods at the grocery store by what they purchase. They have a wide range of protein foods to purchase at competitive prices if they feel they cannot afford beef steak. Government intervention to lower or control prices does not work. Consumer preference through their purchases is the proper way to determine prices.

If we allow this preference to be effective without government intervention, then farmers can make plans and expand production of the agricultural commodities the consumer wants. They can expand their cattle herds according to the demand, and the current climbing beef prices will respond, higher or lower.

This expected action is just another band aid approach in accordance with the cheap food policy we have seen demonstrated by this Administration against farmers. This "quick fix" approach the President is expected to take will inhibit expansion of beef production, and if Russia should buy Australian beef it could result in higher beef prices.

Regardless of what the Council of Economic Advisors tells us, higher meat prices are not the major reason for inflation. It seems inflation has continued at a pretty good pace the past three years when farmers were getting a third to a half less than they are getting for their cattle today (1975: $37.00/cwt; 1978: $60.00/cwt choice Omaha steers).

Several other Senators will join me in a discussion of this problem next Tuesday on the floor of the Senate.

Mr. DOLE. Mr. President, it was known that Australia was negotiating to sell Russia 50,000 tons of beef (110 million pounds). They were reported to have 250 million pounds available, and some rumors indicated they had already had in transit to the United States, amounts in excess of their present voluntary quota, in anticipation of the pending increase. I predicted at that time, and repeat here, that if Russia does buy Australian beef, it can trigger additional inflation worldwide. If reports are true that Australian beef prices increased 8 to 9 cents per pound last Monday and Tuesday, any predicted benefit from this action was wiped out before the announcement and increased prices will

stimulate increased inflation at the same time.

Mr. President, such increased costs to consumers cannot be justified, but even worse are the factors that it can delay increased beef production for as much as a year and prolong the increase in cattle prices until sufficient production can be generated to level off prices due to availability of beef.

Meanwhile, our cattle producers are being forced to bear the brunt of President Carter's fight on inflation after 4 years of continued backbreaking prices. We must have renewed support for the cattlemen to give them the confidence to stay in business and expand production.

We have the same story in a different way so far as sugar legislation is concerned; another group of farmers who are having difficulty making it and getting no cooperation from this administration.

I do not suggest that this is the only administration that has ever caused the American farmer difficulties. I remember the previous administration's embargo policy, which, in effect, cut the farmer's prices. It seems to this Senator, and I am certain to several others, whether they be Republicans or Democrats, that when they ask the farmers to produce, the farmers have some right to expect that the Government will not interfere when the prices start to rise.

Mr. President, I ask unanimous consent to have printed in the RECORD the letter I referred to earlier from G. William Miller at this point.

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

BOARD OF GOVERNORS
OF THE FEDERAL RESERVE SYSTEM,
Washington, D.C., April 19, 1978.

Mr. ORVILLE K. SWEET,
President, American Polled Hereford Association, Kansas City Mo.

DEAR MR. SWEET: Thank you for your recent letter regarding meat imports and the Nation's cattle industry. I recognize that profits in the industry have been quite low for a number of years. Droughts, rising costs, and low prices resulting from abundant meat supplies have all contributed to the profit squeeze on producers. However, profits in the industry are now improving. Cattle producers have been reducing their herds, and the U.S. cattle inventory is now lower than in any year since 1971. As a result, cattle prices have been rising for several months and many agricultural analysts feel that the long-run profit outlook for cattlemen is relatively favorable.

Unfortunately, the trend toward lower domestic beef production has also been pushing consumer meat prices higher. In recent months these price increases have been especially sharp and are currently adding considerably to inflationary pressures in the economy. While higher beef prices appear necessary in order to restore profitability to the industry, I believe that abrupt price increases are not in the long-run interests of either consumers or producers. Since increases in meat imports might help in moderating inflationary pressures, I feel that we should consider revising our current import policies.

Of course, this is only one of the many actions which must be taken in our battle against inflation. We must also act to moderate the upward spiral of wages and prices in both the farm and nonfarm sectors of our economy. You may rest assured that the Federal Reserve will conduct its policy in a way which will help restrain inflationary pressures.

Thank you again for your letter. I appreciate having your views.

Sincerely,

G. WILLIAM MILLER.

Mr. DOLE. Mr. President, since March 14 when administration officials first started threatening to raise meat import quotas I have received thousands of telephone calls, telegrams, letters, and personal visits in my office protesting the proposal of this action at such a critical time to the cattle industry.

I have selected a few samples of these comments and ask unanimous consent that they be printed in the RECORD at this point.

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

Governor Robert Bennett Thursday sent the following telegram to President Carter:

TELEGRAM

TOPEKA, KANS.,
June 8, 1978.

DEAR MR. PRESIDENT: I am appalled at your administration's decision to increase meat import quotas. This action is a kick below the belt for our nation's cattlemen and once again indicates your administration's callous disregard for farmers and ranchers and the agricultural sector of the economy.

This action comes at a time when cattlemen were just ending an extended period of severely depressed prices and true financial hardship.

Mr. President, I am quite frankly amazed that the defense of this decision is based on the false notion that higher import quotas will somehow lower prices for consumers. Higher import quotas could very well have the opposite effect. American cattlemen at this moment are making decisions that will affect cattle—and meat—supplies in the 1980s. They are in the expansion phase of the production and economic cycle. The message they are receiving from this action, however, is that your administration intends to play cheap food politics with meat imports in a vain attempt to convince consumers that meat prices will fall. Thus, a reduction of livestock numbers is likely to occur, meaning the law of supply and demand will trigger higher and higher prices at the meat counter in the future.

On behalf of the Kansas livestock industry, I strongly protest. Mr. President, this mauling of the American farmer has got to stop. You and your administration must face up to the economic realities that face American farmers and ranchers and ultimately the American consumer.

Please, Mr. President, tell your misguided bureaucrats to wash the peanuts out of their ears and listen to reason.

ROBERT F. BENNETT,
Governor of Kansas.

DAVID LARGENT,
Wilsall, Mont., June 2, 1978.

Hon. BOB DOLE,
Senate Agriculture Committee, Washington, D.C.

DEAR MR. DOLE: Here we go again! Good ole beef is the scapegoat for all our country's woes.

No more furor could have been created by our invasion of Russia, or the beginning of a third world war, than was the inflation index reported by radio and TV media on May 31st. Everything was discussed from price freezes to unrestricted imports.

Why doesn't someone report the truth? Why doesn't someone tell it like it really is? Please, Bob, at the first opportunity you have, tell your fellow Senators and Representatives, tell the news media, tell the consuming public the real facts.

Tell them only 20 percent of America's producers have realized any benefit from higher beef prices. Our production business, for the most part, is a once a year marketing situation that only happens in the fall and as yet, the majority haven't had the opportunity to realize one thin dime's benefit from the stronger markets.

Tell them that beef was one of the very, very few items that didn't increase but decreased in price from the year 1973 and 1974 until the end of 1977.

Tell them that the 5 cent candy bar is now 20 cents; that the cost of housing has doubled, that medical care has tripled, that the 6 cent postage stamp of a few years ago now is 15 cents.

Tell them that the cattlemen's indebtedness has reached the ultimate limit. That if we, as producers, are not allowed a profit, not only for this year, but for several proceeding years, that large corporations, foreign investments or possibly the government itself, will be producing our food. No question, then food would triple in price overnight.

Tell them the beef industry has to have a chance to pay off some of this indebtedness created over the past several years of financial losses, or at least hold the line. And, due to drastic increases in cost of expenses, the price of beef simply has to rise in order to survive.

Tell them that based on income, most families are spending a smaller percentage for food than 90 percent of the countries of the world and today a smaller percent than at anytime in the past. Also, tell them that hundreds and thousands of small businesses in towns and cities of our nation depend on the livestock industry for its existence, and in many instances, the town itself depends on agriculture and beef production in particular for its survival.

Tell them the cattle business is one of the few that have never asked for nor received government help or support prices. Even the wheat people have to have consumer tax dollars to survive.

Tell them the administration and news media are creating the most problems. No one is forcing people to buy beef. At such time, when and if the price is absolutely prohibitive, the price situation will stabilize in line with demand.

Tell them that the government, with its increased payrolls, its wage scale increases, red tape and regulations imposed upon people, are the worst offenders of our inflation problems.

Please tell them that only a few short weeks ago, the beef industry had a firm committal from high administration officials and Agriculture Department officials alike, stating nothing would be done, at least for the remainder of this year, to depressed beef prices. If we cannot believe these people, who have been placed in high authoritative positions to represent our nation's people, is there any hope left for you and me?

Yes, please tell them.

Sincerely,

DAVID S. LARGENT.

Hon. JIMMY CARTER,
President of the United States, The White House, Washington, D.C.

DEAR PRESIDENT CARTER: The Board of Directors of the American Farm Bureau Federation in session today at Point Clear, Alabama, went on record as opposing any attempt by the federal government to control domestic beef prices by allowing an increase in meat imports.

Such action would be counterproductive. It would lead to lower production and higher prices to consumers in the future.

Renegotiation of the existing voluntary quotas on foreign beef or a complete suspension of the Meat Import Act would be very costly to U.S. cattle producers and feeders who have sustained tremendous financial losses. Hundreds of millions of dollars of debt have been incurred by cattlemen due to the loss position of the cattle industry over the past four years. They are just beginning to recover some of these losses. This recovery is necessary if cattlemen are to continue to operate.

Prices of almost all goods and services have been increasing and are continuing to do so. Increases in beef prices are long overdue.

The beef industry is rebuilding. It has the ability to meet the needs of consumers and will do so if given an opportunity to recover from the adverse conditions of recent years.

We will appreciate your favorable consideration of our views on this matter.

Signed:
Allan Grant, President.
Robert B. Delano, Vice-President.
Hugh M. Arant, Ruleville, Miss.
Harry S. Bell, Wade, S.C.
Carrol Chaloupka, Waco, Tex.
James Graugnard, St. James, La.
J. D. Hays, Huntsville, Ala.
Walter J. Kautz, Gainesville, Fla.
James Putman, Columbia, Tenn.
H. Emmett Reynolds, Arabi, Ga.
John Sledge, Raleigh, N.C.
J. Robert Wade, Franklin, Ky.
John Junior Armstrong, Manhattan, Kans.
Donald Haldeman, Madison, Wis.
Dean Kleckner, Rudd, Iowa.
Elton R. Smith, Caledonia, Mich.
Harold B. Steele, Princeton, Ill.
Marion Stackhouse, Indianapolis, Ind.
Dave Flitner, Greybull, Wyo.
Bernard Harkness, Dell, Mont.
Cecil Miller, Jr., Phoenix, Ariz.
Richard McGuire, Cambridge, N.Y.
Arthur H. West, Trenton, N.J.
Mrs. Chester Smith, Chairman, Farm Bureau Women's Committee.
Tom Buck, Chairman, Young Farmers and Ranchers Advisory Committee.

TELEGRAMS

ROBINSON, KANS.,
June 3, 1978.

Senator ROBERT DOLE,
U.S. Senate,
Washington, D.C.:

Urge President Carter to let the beef situation level itself out in the next 60-90 days as Secretary Bergland has suggested.

MAX E. OLTJEN.

UNIONTOWN, KANS.,
June 4, 1978.

Senator ROBERT DOLE,
U.S. Senate,
Washington, D.C.:

Respectfully asking you to urge President Carter to follow Secretary Bergland's plan to delay beef imports. It's important to me.

Mr. and Mrs. JOSEPH G. O'BRYAN, Jr.

BAXTER SPRINGS, KANS.,
June 2, 1978.

Senator ROBERT DOLE,
U.S. Senate,
Washington, D.C.:

This is to notify you of the approaching death of the American livestock industry due to ill-advised, misguided efforts of the administration to fix meat prices.

L. B. MOCK.

QUINCY, KANS.,
June 3, 1978.

Please urge President Carter not to lift beef import. Listen to Agricultural Secretary Bergland.

Mr. and Mrs. JACK LINDAMOOD.

CUBA, KANS.,
June 7, 1978.

Senator ROBERT DOLE,
Dirksen Senate Office Building,
Washington, D.C.

The following is a copy of message sent to President Carter, Washington, D.C.:

We of the cattle industry are shocked at your consideration of allowing more imports of beef at this time. Cattle prices must move even higher during the next year to make the entire business profitable. Surely, Mr. President, you understand inflation has taken its toll while cattle people have suffered catastrophic losses during the last 4 years. We have waited for improved prices to repay loans incurred by these losses. The industry has tried to make it on its own. Please, Mr. President, let us try.

GLEN MATOUSEK,
Director, Kansas Livestock Association.

Mr. McGOVERN. Mr. President, will the Senator from Kansas yield?

Mr. DOLE. Yes, I yield.

Mr. McGOVERN. First, I want to say I share the concern of the Senator from Kansas expressed here today. I do not know of any Senator or Representative from a beef-producing State that can accept this relaxation of the quotas on beef imports with any happiness. The Senator understands that the cattle cycle is one that can be grievously disrupted by arbitrary actions of this kind.

I want to ask the Senator, is it not a fact that beef producers, who, over the last few years, have been faced with drought, faced with severe winters, faced with drought, faced with severe winters, faced with low prices that have forced them to liquidate their herds, are going to have to go through a period over the next several years of rebuilding those herds, and it may require as much time as 3 or 4 years? In order to do that, they are going to have to have some assurance of a firm market. In other words, beef prices are good today, but is that not a necessary compensation to offset the losses that beef producers have taken in recent years?

Is it not also essential to give them the assurance they need to make the investment to rebuild these herds?

Mr. DOLE. The answer is yes. As the Senator from South Dakota knows, it takes a while to build up a beef herd and it takes a while because of the cycle I have just explained. I think that, sometimes, maybe there is a misunderstanding. Maybe there is a feeling that we just turn it off and on; that when prices level off, farmers will expand, in any event. I do not find that to be the case.

I was in my State on Saturday visiting a sales barn and talked to a couple of irate producers, except for one who would not talk to me. He thought I was just as bad as everyone else because he had lost some money. He was frustrated.

There is no doubt that the Senator from South Dakota has put his finger on the problem. We cannot ask the people to expand if they do not have some confidence that they are going to have a chance to make some profit.

Mr. McGOVERN. The Senator and I represent consumers as well as beef producers. Does the Senator from Kansas see any basis to believe that this lifting of the import quota restrictions is going to be to the long-term benefit, or even the short-term benefit, of the American consumer?

The ACTING PRESIDENT pro tempore. The time of the Senator from Kansas has expired. Does the Senator from Kansas ask unanimous consent that the time of the Senator from South Dakota begin at this point?

Mr. DOLE. Yes.

Mr. McGOVERN. I so request, without prejudice, Mr. President.

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

The Senator from South Dakota now has 15 minutes under the previous order.

Mr. DOLE. Let me say, in response to that question, that I do not believe there is going to be any benefit to the consumer. There may be a cent a pound; I am not certain. It has had very deep psychological impact on the market, on the production side. Saturday, cattle prices were off about $10 a hundred across the board, on the average, in my State of Kansas. That is a big loss for farmers to take.

If there were some compensating benefits to consumers, there might be some way to rationalize it, but I have not been able to determine that there is going to be any benefit to consumers in the first place. In the second place, I do not think that is the right way to proceed.

Mr. McGOVERN. Is it not true that if the beef producer, who is now in the process of rebuilding his herds on the hope that prices are going to remain firm for a time, offsets profits and decides that he is the victim of arbitrary changes in the level of imports and decides that it is not in his interest to go ahead with the rebuilding of herds—if that decision is made by a sizable number of producers, that can very well mean a long-term threat to the beef supply of this country and, therefore, to the consumer, could it not?

Mr. DOLE. Mr. President, again, I agree with the Senator from South Dakota, that is just what could happen.

Now, I do not know what farmers or cattle producers will do, but it would seem to me if they are in a position now, after having 7 bad years out of the last 11, of being asked to make a decision in concert, I might add, of whether or not they should expand their herd, and there is not much assurance of any profit, or no confidence they will be left alone, then they could make the decision the Senator refers to and there could be a loss of production down the road.

Mr. McGOVERN. I thank the Senator for yielding to me.

I have some remarks of my own that I want to develop at this point, but I am grateful to the Senator from Kansas, not only for what he said, but for responding to the inquiries.

Mr. DOLE. Will the Senator yield me just 1 minute?

Mr. McGOVERN. Yes.

Mr. DOLE. Mr. President, I ask unanimous consent that the statements of the distinguished Senator from South Carolina (Mr. THURMOND), the distinguished Senator from South Dakota (Mr. ABOUREZK), and the distinguished Senator from Wyoming (Mr. HANSEN) be

made part of the RECORD following the colloquy this morning.

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

Mr. DOLE. I thank the Senator.

CATTLEMEN BELIEVE IN FREE MARKETS

● Mr. THURMOND. Mr. President, instead of stirring housewives and consumers up unnecessarily over the current price of beef in the supermarket, a more proper role for the Secretary of Agriculture and other administration spokesmen would be to help consumers understand the economics involved.

Consumers and cattlemen ought to be together on the beef price issue—and would, I am sure, if they had access to and understood the facts.

Some people in my own State of South Carolina do not realize that cattlemen advocate, believe in, and want to operate under free market conditions. When I discuss the beef price issue with them, they say: "Haven't the cattlemen been asking the Government for guaranteed prices and other assistance?"

The answer is a flat "No."

It is true that the Congress authorized drought assistance to the livestock industry last year, along with other farmers and rural communities suffering water-related problems. But that assistance was in the form of loans, with payback to the Government as a condition of each individual loan.

Cattlemen have always believed in the market regulating supply and demand with price being a function of the marketplace.

My hat is off to the U.S. cattlemen who were caught between escalating costs and declining prices for the past 4 years. Most of them lost money. Many went bankrupt. The rest tightened their belts, borrowed more money, and looked ahead to the time when their business would once again offer opportunity for profit.

During those 4 years beef prices were low and consumers reaped the benefits at the supermarket checkout counter. This year, all of us are acutely conscious of beef price increases. However, we conveniently overlook the fact that beef prices go down as well as up. During the past 4 years there have been as many downs as ups.

The real story of beef prices that every consumer should know is that beef prices have gone up less than the prices of other products. The Consumer Price Index report for selected beef cuts in April was 188.0, yet the all-food index was 205.6. The overall CPI was 191.3.

Consumers use less of their take-home pay to buy the same amount of beef than they did 4 years ago. The average price of choice beef in April of this year was $1.61 per pound. That is only 20 percent higher than the cost of the same cut in April 1974. The take-home pay of American workers increased 41 percent in those same 4 years.

Now, at long last, cattlemen are seeing a bit of light at the end of their economic tunnel. The market forces are working. Cattle that went to slaughter because of bad weather, poor range, high production costs, inadequate credit and other forced liquidation conditions have moved through the market.

Consumer demand is still strong. This signals cattlemen to rebuild their herds because there is a chance for profit. Increased beef supplies in the future are assured and with them will come a leveling off of beef prices for consumers.

This is the story we must help farmers and ranchers tell consumers.

Now is the time for plain, unvarnished facts—not a time for so-called panaceas, such as opening the floodgates to let in huge amounts of imported beef, as President Carter has proposed. Such a short-term benefit to consumers would quickly turn into a nightmare as livestock producers, seeing no chance for profit, once again cut back their herds. This would only set in motion the market forces that would lead to another round of shortages in the supermarket and higher prices at the checkout counter.●

PRESIDENT'S MEAT IMPORT DECISION WILL HURT FARMERS

● Mr. ABOUREZK. Mr. President, the decision of President Carter to increase beef imports is another sign of the Government's continuing insensitivity to farmers. Naturally, we are all concerned with stopping inflation, but the President's decision will have only the most negligible impact on prices, while having a potentially serious impact on ranchers and future consumers.

The relaxation allowed by the President will, at best, cause hamburger prices to go down a few cents. The hamburger will mostly be purchased by fast-food chains, according to news reports, and it is, I believe, very unlikely that fast food chains will lower their prices—or would have raised their prices—if the decision were not made in response to this decision. The cost of beef is not the major part of the chain's cost calculation for a hamburger. The consumer, therefore, will not notice any difference at all.

The rancher raising beef cattle will not be so fortunate. He must now wonder whether the President's strategy is to keep imports up to keep prices down. For the last few years, prices have been very low—for many ranchers below the cost of production. Serious droughts forced many cattle producers to thin their herds just to keep their heads above water. Finally, after these very difficult years on the brink of failure, ranchers are facing reasonable prices, and, in response, are building their herds once again. If they believe, however, that the administration is going to try to force prices back down, their incentive to increase their herds will be gone. In a few years, when the Nation would have had an ample supply of beef, we will instead have a reduced supply. That, of course, means higher prices again. The increase in prices from a herd reduction or even a failure to build herds now would be much greater than the minimal savings the President's recent decision on quotas could possibly provide.

In essence, the decision will trade a trivial reduction in beef prices for the very real risk of a substantial rise later. That may sound like a good political bargain, since politics is concerned only with the present and the immediate future, but it makes no economic sense.

We cannot continue to blame inflation on the farmer. The farmer has provided us with remarkably cheap food, and even if prices for farm products do rise significantly, we still would pay much less for food than people anywhere else. The farmer deserves a good price for his efforts, and if we do not give it to him, he cannot stay in business. Failure to assure a reasonable price will only force continued farm consolidation and eventual control of the food producing industry by large factory farms.

The real problem in inflation is energy costs. It is indeed a sad commentary that the administration considers cutting inflation at the expense of the farmer, or at the expense of the environment, as has been proposed, while supporting energy policies that will only accelerate most serious inflationary problems.

Mr. President, I join with my colleagues from both parties in urging the President to reconsider his unsound decision.●

A HOAX ON THE CONSUMER

● Mr. HANSEN. Mr. President, when he was running for President of the United States in 1976, then-candidate Jimmy Carter issued a news release in which he promised American cattlemen that he would, if elected, "enforce vigorously" the meat import quota law and work to "tighten quotas to provide greater protection against foreign imports."

Candidate Carter's pledges were, at the time, encouraging to an industry caught in the middle of the worst economic crisis since the Great Depression.

But President Jimmy Carter did not keep his promise to protect the domestic cattle industry from foreign imports. Instead, he acted last week not to tighten import quotas, as he had said he would do, but to increase by some 200 million pounds the amount of foreign meat that will be allowed into this country during 1978. In so doing, the President singled out an industry which is itself beleaguered by inflation to serve as the scapegoat in his symbolic war against inflation.

It is an unfortunate thing when the highest elected official of the land reneges on a promise, but what is equally unfortunate in this particular case is the cruel hoax being played on the American consumer, who is allegedly the beneficiary of the President's action.

The administration has portrayed its action to import more foreign beef as having the effect of lowering meat prices, and, hence, inflation. But the whole thing is a smokescreen, Mr. President, because if meat prices are lowered at all, it will be only by a couple of cents for a brief period of time. And the action has nothing whatsoever to do with the fight against inflation. That problem is far deeper and wider and more troublesome than any increase in meat prices, and I think most consumers know that.

As for the cattlemen, the President's action has served to confirm their belief that the Federal Government is their enemy, and that the Carter administra-

tion has no qualms about using them as pawns in a scheme to try to make people think something is being done about inflation when in fact it is not.

The current higher prices being received by domestic cattlemen follow 4 years of the worst prices in decades. For example, net income per farm family in my State of Wyoming plummeted from over $14,000 in 1973 to a miserable $241 in 1976, with depressed livestock prices accounting for most of the decline.

American cattlemen have more than earned every cent of any higher return they are now getting. During the tough years when they were losing money, they did not ask for or get any subsidy from the Government, and now that they are starting to get a better return, the last thing they deserve is for their own Government to deliberately try to depress their prices again by inviting in more foreign competition.

The livestock industry is a victim of inflation, not the cause of it. The cause, as consumers well know, and as the administration may soon discover they know, is too much Government spending.

The citizens of California demonstrated dramatically last week their understanding of the root cause of inflation when they voted overwhelmingly for Proposition 13. It will do the President no good to point the finger of blame at the cattlemen or at any other segment of the economy, because the people know excessive Government spending is the real culprit. As Pogo might say if he were in the White House, "We has found the enemy and he is us!"●

Mr. McGOVERN. Mr. President, the Senator from Nebraska (Mr. CURTIS) was actually slated to speak ahead of me this morning. If the Senator is on a tight schedule and would like me to yield at this time, I would be more than happy to do it.

Mr. CURTIS. I thank my distinguished friend, but it is not necessary. As a matter of fact, it will suit my convenience a little bit better.

Mr. McGOVERN. All right.

UNDERSTANDING THE BEEF CYCLE

Mr. McGOVERN. Mr. President, most consumers have no idea why the supply of beef takes so long to adjust—longer than the supply of pork, for example, and a lot longer than poultry.

The answer is simply one of biology. From the time a producer decides to increase the size of his basic cow herd until extra beef resulting from that decision reaches the supermarket may take as long as 4 years.

I think this is something that a great many people who are not familiar with livestock production are not aware of. They think these decisions on the level of beef supply income can be turned on and off overnight.

But we are actually talking about a cycle that could run for as much as 10 years, in any event, 3 to 4 years, in changing the overall supply of beef in the country.

If a rancher decides that a female calf born today should become part of his basic cow herd, it will take 1½ to 2 years before that calf can grow up and be mature enough to breed. Once bred, there is a 9-month period before the calf is born. After that, figure at least another 1½ years for the calf to grow and be fed out and finished for the market.

This long beef cycle is a major reason beef prices at the moment are high in relation to what consumers have become accustomed to over the last several years.

For the past 4 years, the U.S. cattleman has been in desperate circumstances. We have had severe winters that took a heavy toll of cattle on the range, and cut heavily into the birth rate at normal calving time.

We have experienced a couple of years of back-to-back drought conditions in the West and South that have forced producers to liquidate entire herds because there was no grazing and too little water. During the drought of 1976, many cattle counties in South Dakota were forced to reduce basic breeding herds by 60 to 70 percent.

We have seen producers go deeply into debt trying to refinance livestock operations. Feed costs are higher; farm machinery costs are up; interest rates have increased and in some areas producers report they are unable to find adequate credit at any cost. Many have simply gone out of business.

This liquidation of breeding stock temporarily builds up an oversupply of beef in the market.

In other words, just at the time when the beef producer might be forced to liquidate his herd, we get a great rush of beef into the market. It tends to depress the price at the same time that that producer is under the most difficult financial circumstances.

Producers are forced to sell cow herds at low prices, below the cost of production, but the consumers may benefit temporarily from low hamburger prices.

Eventually, the cattle numbers are reduced—the oversupply is worked through the market over a long, painful period of adjustment—and prices start to rise again. U.S. cattle numbers have been reduced from 142 million to 116 million. That is what is happening now—the beef cattle industry is just emerging from the liquidation phase of the latest cattle cycle. Cattlemen are just now deciding whether or not to expand their production by selecting more females to breed, or to feed them out for slaughter.

The basic beef cycle is a 10-year economic phenomenon. Low cattle prices have bottomed out. Both ranchers and feeders are now beginning to make money and recouping losses that have run into billions of dollars over the last 4 years. Recent Omaha prices for 1,000-pound, fed steers were $61 a hundredweight against disastrous prices of $37 several years ago.

During the low side of the beef cycle, producers complained bitterly about foreign imports allowed to enter this country under the 1964 Beef Import Act. Extensive hearings were held before the International Trade Commission. Under the 1964 act, which allowed imports to rise in proportion to domestic production, imports of fresh, chilled, and frozen meat reached 1.3 billion pounds.

Earlier this year the Senate reacted by passing legislation which was generally accepted in the cattle country imposing a countercyclical formula on imports. Very simply, this proposition would allow more imports when domestic production was low and limit imports when domestic production rose. The House is now working on its version of this bill.

Mr. President, with this legislative situation in mind, the recent announcement of the President to renegotiate voluntary agreements to allow an additional 200 million pounds of imported meat was a disaster. In the first place, it will do the consumer no good at all because it will not lower beef prices; it is less than 1 pound for every man, woman, and child in this Nation.

More importantly, it has had a bad psychological effect on live cattle prices as well as the futures market. Some might claim this to benefit consumers. Those who know more about the meat trade know that cattle prices will go right back up and continue to rise. For a short-range publicity hit, the administration has played a cruel hoax on consumers and slapped the producer in the face just at a time when he was starting to make money and become a taxpayer for the first time in 4 years.

Secretary of Agriculture Bob Bergland is a farmer. He understands the nature of the cattle cycle. He advised the President to do nothing because he knew that the available world beef supply was low—other countries follow our own beef cycle—and there is little beef available for import from either of the traditional sources, Australia and New Zealand. Unfortunately, the advice of the Secretary of Agriculture was tossed aside in favor of advice from less informed sources.

Mr. President, the cattle industry needs the support of this administration and it needs it now. President Carter should reverse his position on additional imports and lend his support to the legislation pending in the House of Representatives. The beef cycle will work its will in its historical tradition and hopefully a new and better import law will level off the highs and lows of meat prices. Both producers and consumers will be better off.

Mr. President, in connection with the remarks I have made here, I ask unanimous consent that an article from the New York Times, June 2, 1978, edition, entitled "Cattle Futures Slump Amid Beef Import Fears," along with a table from the respected Washington Farmletter, June 9, 1978, entitled "Price Boosts Everywhere," indicating that sirloin steak in Washington, D.C., is still not a bad buy in terms of prices elsewhere in the world, and an article in the Sioux Falls Argus-Leader of June 1, 1978 by Kim Ode be printed in the RECORD at this point.

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

[From the New York Times, June 2, 1978]

CATTLE FUTURES SLUMP AMID BEEF IMPORT FEARS

CHICAGO, June 1.—Cattle futures plummeted the daily allowable limit today as

speculators reacted to the threat of increased beef imports and fears of consumer antagonism to high prices.

All live cattle contracts lost 1.5 cents, while feeder cattle on the Chicago Mercantile Exchange toppled the same amount for most months.

Although wholesale beef and cash steers continued to fetch top dollar at some terminals, one broker said, "Everybody wanted out. The warehouses were lining up to sell. Even the roaring bulls, who were still talking about higher prices, tried to sneak out when nobody was looking."

Aside from widespread anxiety about consumer resistance to expensive beef, a livestock analyst said the massive liquidation stemmed from "real worries that the government is fixing to open the door on imports."

DIVISION ON BEEF IMPORTS

He said Agriculture Department economists and the Carter Administration "seem to have divided opinions on the import issue. The administration appears to want to do it now. But the economists are saying that more imports won't be a big deal in hauling down prices, except psychologically."

"They think the market will pull back by itself, and it doesn't need the overhanging threat of increased imports," the analyst continued. "They want to wait until the end of summer, when supplies are traditionally tighter. So the biggest question is timing."

The fact that surging beef prices contributed greatly to a sharp rise in consumer prices also proved a psychological depressant, analysts said.

And recent gains in corn prices, culminating in life-of-contract highs earlier this week in those futures, had an especially negative impact on feeder cattle. An analyst explained that as corn prices increase, it becomes less profitable to place cattle in feedlots. Consequently, the demand for feeder cattle diminishes.

CATTLE FUTURES SLUMP

Feeder cattle futures slumped to three-week lows. The August delivery closed at 62.32 cents a pound, more than 5 cents under the record high posted last week.

Live cattle futures, which also set contract highs last week, hit two-week lows and finished at 59.47 cents in the spot contract.

Despite the heavy selling in cattle futures, live hog contracts ended mixed and pork belly deliveries were higher.

The relative strength in the pork complex was influenced by better cash markets, as well as the belief that shoppers might buy more pork if they cut back on beef purchases.

June-delivery hogs rose 0.69 cents a pound to 53.55 cents, although other months posted moderate losses. Pork bellies climbed 0.6 to 1.47 cents, mostly due to profit-taking after recent sharp declines.

Grain and soybean futures prices receded on the Chicago Board of Trade. Clear skies and warm temperatures that enabled good planting progress in the Midwest contributed to selling in the corn and soybean pits.

Analysts said that traders who felt that sizable price increases which took place earlier this week were overdone, had liquidated contracts.

The Agriculture Department reported a relatively small increase in the number of farmers signed up to participate in Federal programs to take cropland out of production.

Although land to be idled totaled 22.3 million acres, the amount was only slightly larger than a week earlier.

Weaker cash market prices also contributed to the downturn.

Final soybean quotes were 2¼ to 11¼ cents lower, with July contracts quoted at $7.32½ a bushel. Wheat was 4 to 5¼ cents lower, July $3.26¼; corn was 3¼ to 5 cents lower, July $2.65½; and oats were 1 to 2¼ cents lower, July $1.47.

[From Washington Farmletter, June 9, 1978]

PRICE BOOSTS EVERYWHERE

If you don't like food prices here it won't do much good to get out of the country. The outlays for putting food on the table have been going up all over the world—but at a decelerating pace in most places. Only five of the 15 countries recently surveyed by the Foreign Agricultural Service still measure inflation in double digits. Between February and March retail food prices increased in 14 of the world capitals surveyed and dropped in two—Belgium and Sweden.

Here are prices consumers were paying in grocery stores for some items as of early May (in U.S. dollar per kilogram or units as indicated. A kilogram=2.2046 pounds; a liter=1.0567 quarts):

City	Sirloin steak	Pork chops	Dozen eggs	Liter milk	Bread	Potatoes
Bonn	12.43	4.56	1.29	0.49	0.76	0.16
Brasilia	2.02	2.90	.83	.28	1.27	.49
Brussels	11.22	5.26	1.33	.56	.94	.15
Buenos Aires	1.17	1.70	.89	.25	.46	.24
Canberra	4.58	4.53	1.10	.45	.86	.41
Copenhagen	14.08	7.73	1.85	.52	1.86	.81
London	8.53	4.06	1.15	.39	.65	.30
Mexico City	2.60	2.60	.71	.29	.51	.41
Ottawa	5.43	4.59	.82	.54	.76	.17
Paris	8.11	5.75	1.34	.44	1.93	.12
Pretoria	3.70	2.68	.68	.35	.31	.35
Rome	8.65	4.61	1.41	.45	.79	.29
Stockholm	12.32	6.01	1.68	.42	1.89	.51
The Hague	10.77	5.85	10.8	.46	.85	.14
Tokyo	35.09	9.31	1.01	.89	1.38	1.21
Washington	4.81	3.90	.73	.54	1.17	.53
Median	8.32	4.58	1.09	.45	.86	.33

[From the Sioux Falls, S. Dak., Leader, June 1, 1978]

EEEF IMPORT DOWNPLAYED

(By Kim Ode)

The loosening of beef import restrictions that is being considered by the Carter Administration would lower beef prices "only by about 1 or 2 cents," an official of the National Cattlemen's Association said today.

Lauren Carlson, first vice president of the association, said there are only about 250 million pounds of beef in the world market not already committed for 1978. And in the face of an estimated import of 1.3 billion pounds into the U.S. this year, the effect of that extra tonnage "becomes negligible," Carlson said.

Chief Carter inflation fighter Robert Strauss said today that the country "can't live" with the 6.6 percent increase in beef prices recorded in April, and that raising import quotas on less expensive foreign beef would bring prices down.

Carlson is in Sioux Falls for the state Stockgrower's Convention, substituting for President Dick McDougal who had to remain in Washington, D.C., to fight against greater imports.

McDougal is meeting with Strauss and Secretary of Agriculture Bob Bergland this afternoon to convince the administration that raising import quotas is not the answer to inflation.

"We don't deny that beef prices are up, very precipitously, in fact," Carlson said. "However, when you compare the Consumer Price Index of beef with the CPI of all food, beef still is lagging behind."

Prices for fresh vegetables, which declined in March, rose 9.7 percent in April, according to figures released by the Labor Department Wednesday.

"I think the administration is grasping at straws to fight inflation and it's utterly ridiculous for the beef industry to be used as a scapegoat," Carlson said. "We're not the cause of inflation; we're victims, too. Our costs have risen over 50 percent, too."

Acknowledging the possibility that Carter may increase beef import quotas to appease consumers on the homefront and thus build up a sagging domestic image, Carlson said such action would only be a short-term solution at best, and may make the long-term situation even worse.

"Cattlemen are just starting to build up their herds up now after the drought and the incentive to increase lies in prices they can get," Carlson said. "How can a man justify starting to increase if the government starts to meddle and drive prices down?"

Carlson said his organization has been holding press conferences with economists and editors to get the story in front of the people, an action he says has been successful.

"I think consumers understand what's going on behind food prices—more than they did back in 1973 when prices rose," Carlson said, explaining that those "rabble-rousers" now are in government positions and understand the situation.

"I've talked to consumer leaders and they said they're not talking boycott like back then," Carlson said.

Strauss, too, said he would not urge consumers to boycott beef. "I would say this though," he told reporters in Washington, "I would urge that when the consumer goes to the grocery store, instead of looking at T-bone steaks . . . that they look at those cheaper cuts."

Jim Webster, acting director of the office of governmental and public affairs with the U.S. Department of Agriculture, warned consumers not to be taken in by the face value of the price tag alone.

"Sure the average retail price of choice beef is about $1.51 a pound and that looks a lot higher than the $1.41 in 1973," Webster said, referring to the year of consumer boycotts of beef. "But taking inflation into account, the consumer is only paying about 82 cents in 1967 dollars compared to $1.05 in the third quarter of 1973. We're still about 20 cents behind where we were then."

Carlson said the National Cattlemen's Association will continue to campaign against increased imports, "but that the cattlemen out in the country have to get involved. Write your congressman, anyone. Let them know you're finally getting the prices you deserve."

Whether they can prevent an opening up of imports remains to be seen, but Carlson said the organization's drive to eliminate a President's executive authority to lift import

restrictions from the Meat Import Act of 1964 may be a start.

"It's ridiculous that a President can sit down with a yellow legal pad and lift import quotas," Carlson said. "That power should be restricted."

He added that should increases be granted for imports, consumers won't notice any reaction in prices for at least 60 to 90 days since the price indexes reflect prices of a month ago.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Nebraska (Mr. CURTIS) is recognized for not to exceed 10 minutes.

Mr. CURTIS. Mr. President, it is important that the people of the country, particularly the consumers, understand a little more about agriculture. Farmers are risk takers. There is moisture, wind storms, hail storms, drought, and floods of all manner. And then some years that are free from disaster just are not good crop years.

This means that farmers go through periods of very low prices and take losses. Then when the cycle turns a little and prices start to move up so they can pay their debts and stay in business it is absolutely wrong for the Government to step in and take action to hold down that price. It is wrong. It is sheer political demagoguery.

Out of every 100 people in the country, only four have anything to do with producing food, and it is wrong for politicians and office holders to cater to the other 96 if it means an injustice to the four.

Mr. President, it was my privilege to author the Meat Import Act known as the 1964 act. It originated in the Committee on Finance. I say I authored it; it was my privilege to introduce it. It was written by the American National Cattlemen's Association. It was a good proposal. It passed the Senate overwhelmingly.

We got to conference. At that point the State Department interfered. Some compromises that were made in conference were bad.

The original bill provided that as our country grew and the market for meat grew the importers could have some share in it. But it carried a provision that imports could not increase in any year when the beef prices were less than 90 percent parity. In the conference they took out that provision. Had it been left in there would have been no increase in meat imports in any year since 1964 except two. But it was taken out and so we have had a situation where meat imports increase at the very time that we have a surplus here.

The Finance Committee again this year has reported out a Meat Import Act of 1978. It changes that. Instead of increasing meat imports at the time of low prices and plenty of meat, it reverses it. It tightens up on imports at the time of low prices here and loosens up a bit at the time of very high prices. That will stabilize the market. It will tighten up certain other loopholes in the 1964 act, and it should be passed. The Senate has already passed it. The matter is now in the House of Representatives. It is before the Committee on Ways and Means. I am satisfied, and it is a fact that if the Carter administration would back this proposal that the Senate has already passed it would pass the House of Representatives quickly. But they are opposing it just as it was the Carter administration that loosened up the import quotas now.

In this effort to try to fool the 96 out of every 100 who have nothing to do with production of food, it was claimed to the people when they said, "We have to do this to prevent inflation." The farmers of the country have never caused inflation. The greater share of the time they sold at prices far too low. Inflation is caused in the halls of this Senate and in the House of Representatives.

One of the biggest causes of inflation is deficit financing. We spend, spend, and spend far beyond what we take in. We have deficits of $50 or $60 billion. That is the cause of inflation. That is why people who could be spending money in our own country have serious doubts about our economy. That is why the countries of the world look upon the United States and say "What about Uncle Sam?" Is he ever going to pay his bills? Or are we just going to add $50 to $60 billion to the debt year after year?

That is what is causing our money to become cheap and almost worthless and the so-called experts around the White House ought to know that. I am inclined to think they do. But it is easier to pick out a tiny minority as a whipping boy and say they are the cause of inflation rather than cut this Government down to size where it could be painful.

Mr. President, this Government has grown to such a point that it is in a critical state of obesity. And the medical world tells us that that is one of the principal causes of death.

We have too much at stake in this great country of opportunity, liberty, and freedom, where we have the highest standard of living of any place in the world, to let this country die because it is weighted down with huge expenditures, deficits, and inflation. So I beg the Carter administration to direct attention to the real cause of inflation and not pick out a scapegoat, a great portion of whom live west of the Mississippi River.

I am afraid they have been reading the election results of 2 years ago rather than bringing their own budget into order.

Mr. President, instead of increasing meat imports we should be closing the loopholes in our present law. We should be changing the operation of the cycle so that at the time of depressed prices of cattle and other livestock in this country we have fewer imports. That will help the consumer. What helps the consumer? A healthy production. If farmers make money, pay their debts, and are able to buy their machinery, paint their buildings, buy new equipment and new automobiles, and now and then build a house, it causes our whole economy to grow.

It is so elementary in economics that we do not create wealth by shuffling papers on Wall Street or LaSalle Street. Wealth is created from our forests, our mines, and the soil. When the farmers of America produce something it is something that did not exist a year ago or a few months ago. It is something that has wealth that puts people to work to transport it, care for it, process it, advertise it, wholesale it, and retail it, and our economy grows and we have jobs in this country when new wealth is produced.

Mr. President, since taking office nearly 18 months ago the Carter administration has shown nothing but ineptness in being able to handle or understand the plight and problems of farmers and rural America.

From the very first the President seemed to have no regard for farmers and cattlemen in his nominations of top level Agriculture Department officials who had little or no background in or knowledge of agriculture. The result of the Carter appointments has been the reorganization of a department that was established to represent farm and rural interest, into one which has actually taken on the posture of opposing most farm and rural interests and concerns.

The President and his administration lobbied long and hard against measures before the Senate that would help the American farmer by providing the opportunity for the farmer to have a voice in the marketplace. That was under the guise that the bill which originated in the Senate was too inflationary.

Now we have the President acting to lift the import restrictions on foreign meat under the Meat Import Quota Act. Why? Because, the President says, beef prices in the United States are too inflationary.

Mr. President, not only do these actions by the administration show utter disregard for farmers and ranchers, but they also indicate total lack of understanding of the American economy and market system.

In each action taken by the administration which has been contrary to the interests of American agriculture, the administration has cried "inflation!" The President and the administration have said that American agriculture is inflationary; that agriculture and farm prices are fueling inflation; indeed, that American agriculture is the root cause of inflation. That is the impression that anyone must get from the actions and statements of this administration to date.

I simply cannot buy the administration's charges. How are record low prices for corn and wheat and sugar and so many other farm commodities inflationary? How is it inflationary that American farmers are going broke, and that the family farm continues to be eroded by the policies of the Federal Government? How is it inflationary that livestock producers can begin to recover from devastating losses of 2 to 3 years that resulted in diminishing supplies of cattle in the United States?

What amazes me the most about the actions by the administration is that it has not said a thing about the impacts of inflation on the farmer and livestock producer. Where is Mr. Carter when it comes time to talk about the skyrocket-

ing cost of production which our farmers have incurred?

Equipment, fuel, seed, fertilizer, chemicals, repairs, maintenance, and other costs have all risen drastically in recent years, to say nothing of taxes, insurance, and other costs of operation.

Surely somewhere, someone was making profit in all of these increases in costs. Where then is the farmer and cattleman to receive his profit if not in the marketplace? Is it inflationary for the producer to recover at least his cost of production? I think not.

Mr. President, the action by the administration to raise imports of foreign meat further shows a lack of understanding of the market and the livestock industry.

Because of the severe losses of recent years, American beef herds now have 16 million fewer head than a few years ago. The reason is because many producers incurred severe losses, some went bankrupt and others went out of business. Most reduced their herds to cut their losses. So now we have a shortage of meat that has caused the market to recover.

But, it will take 2 to 3 years for a good market to result in increased production that will show up in the marketplace. And, that will only be achieved if producers have confidence in the market to encourage them to rebuild their herds.

I suggest that the actions of the administration to increase imports of foreign meat will not instill that confidence in the market that is needed. Instead it will dampen the market and only further compound the shortage.

What this shows us is that the administration does not understand the basic economics of the market system. If American meat remains in short supply and more foreign meat is allowed into the country, the domestic production will only be further depressed. Further shortages will probably lead to still more imports. The end result will be a growing share of the market by foreign meat.

If this situation is allowed to continue for too many years we may find ourselves in the not too distant future with a minimal domestic production of meat, and total dependence on foreign countries for meat. What will happen when that occurs? I can tell you.

We will be at the mercy of the foreign producers who will be able to demand and get whatever price they want for meat. They will get it because we in the United States would not have any choice but to pay it if we want the meat.

Mr. President, consider the recent astronomical price increase for coffee. The United States is not a producing country of coffee, but we are consumers. We are paying upward of $5 per pound for coffee in the supermarket when just 2 years ago we were paying only $2 per pound. But, we are paying it, because we do not have a choice if we want the coffee.

The purpose of these examples here is to point out the long-run inflationary impact that Federal actions will have on the American economy when they are contrary to the continued production of agricultural commodities within and by our own country.

And, that is where I fault this administration above all.

It is time, Mr. President, that this administration take a hard look at what it is doing to hurt American agriculture. Each blow to American agriculture is a blow to the housewife, to all consumers, and to all Americans in the future.

Mr. President, the response in the market to the President's lifting of the import restrictions should be convincing.

Mr. Carter made his announcement last Thursday. By week's end, all trading ended sharply lower. The markets reported a wait and see attitude by producers. Receipts in the country were reported down 5,000 head at Omaha. Buyers are holding back. Futures are down.

The response by the markets since the President's announcement were predictable. While the result may be a lowering of 5 to 6 cents per pound for hamburger in the supermarket, as the White House has said, it will also diminish the chances of rebuilding at the domestic industry for future supplies.

I am chagrined at this action and attitude of the Carter administration. If American agriculture is to survive, and if Americans are to be guaranteed an adequate supply of food at a reasonable cost in the future, we had better have more responsible actions by the Federal Government.

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

Under the previous order, the Senator from North Dakota (Mr. YOUNG) is recognized for not to exceed 15 minutes. The Senator from North Dakota.

Mr. YOUNG. Mr. President, I share the deep concern of cattle producers over the President's action last week to permit increased beef imports by 200 million pounds over the already large import quotas in effect.

This action was a severe blow to cattle producers, who have suffered huge financial losses over the past 3 or 4 years due to very low cattle prices. Most have borrowed to the limit and others have gone broke and had to quit.

The cattlemen of this Nation have been providing ample supplies of beef, at far below their cost of production and, in effect, have been subsidizing the consumers in recent years. They are entitled to the present better prices to recover at least some of their heavy losses.

It is just recently that cattle prices have increased and have now become the subject of considerable publicity. For the past 3 years, or more, the only fluctuation in cattle prices was usually downward. Even then the beef prices over the counter did not always reflect the low cattle prices. Consumers benefited from these large beef supplies and resultant very low prices as cattle producers sold off their herds. Due to the liquidation of entire herds of beef cattle, and severe culling in other cases, beef production has declined sharply.

The President's action to increase beef imports may help consumers temporarily, but over the long run, will result in decreased domestic production and higher consumer prices.

Cattlemen are only now beginning to make the profits which would repay them for heavy losses sustained in recent years and make it possible for them to expand their herds, which will result in more adequate beef supplies.

During the past 4 years beef prices were exceptionally low, when compared to other items. According to the National Cattlemen's Association, recent beef price increases are not the cause of inflation, and cattle producers do not consider themselves as causing inflation but rather are victims.

I ask unanimous consent to have included as a part of my remarks a letter to the editor of the Minot Daily News, Minot, N. Dak., written by Mr. Brooks J. Keogh of Keene, N. Dak., a former president of the American National Cattlemen's Association; an editorial from the Forum, Fargo, N. Dak.; and an editorial which appeared in the Bismarck Tribune, Bismarck, N. Dak., yesterday. All are critical of President Carter's action in increasing beef imports.

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

CARTER VERSUS CATTLEMEN

Editor, the News:

The decision of the Carter administration to lift import quotas on beef, as provided in the 1964 import law, is just one more "slap in the face" of the citizens of North Dakota and the Western states.

It is difficult to understand the reasoning back of this move. The current price is hardly sufficient to provide a cost of production to the cattle producer. The farmer and the rancher now receive only 37 cents of the food dollar.

This move will further demoralize the cattle industry and will certainly not encourage additional production. The cattle industry since 1973 has suffered one of its worst depressions. During this time the industry never asked for any federal help, but preferred to allow the free enterprise system to function and live by one of its basic rules—supply and demand. It seems to me this administration needs an education in how this system functions.

It would be my recommendation to President Carter, Bob Strauss and the rest of the administration advisers that they become prepared to tell the consumer why retail prices of meal have not gone down as a result of their action and why the only result has been the chaos caused within this important industry.

As Governor Wallace has said so often, "Send them a message." I can hardly wait for November to do just that; and 1980 will especially be important to me, when I can send a message to the top man.—Brooks J. Keogh, Keone.

CARTER'S ACTION TO LOWER BEEF PRICES UNJUSTIFIED

Just as President Carter was at least holding his own among the farm families of this nation in their opinion as to how well he is doing his job, he dealt them another rap across the knuckles.

Cattle prices, after taking a severe drubbing in the last four years, had just returned to the level they reached five years ago. As a result, the price of beef on the retail counters and in restaurants began to rise.

In the last few months the cost of beef went up about 35 percent. So President Carter proclaimed that the consumers were being hit

in the pocketbooks. He hurriedly lifted the restrictions on beef imported from abroad. The president has opened the American market to the import of 200 million pounds of beef. He claims most of it will go for hamburger and reduce the price to consumers by about 5 cents a pound, saving them collectively $500 million. The savings, if there are any, of course, will apply to every pound of beef sold, not just to the imported variety.

Cattle raisers feel the president is putting all the blame for inflation on this one segment of the farm community.

Some facts to remember:

At the urging of the president Congress raised the minimum wage in all affected industries by 44 percent. The administration said not a word about inflation then.

The coal miners negotiated a contract for a 38 percent wage increase over three years. Only after that contract was safely signed did the president become concerned about inflation, but he didn't ask the coal miners to give back any of their new benefits.

Among others, Rep. Mark Andrews, R.N.D., criticized the president for his quick action to boost imports. In a speech in the House Thursday, the North Dakotan asked:

"Why does the American farmer always have to expect that the administration will insist on opening our markets to all comers, but give no assistance to opening markets in Western Europe, Japan, and other parts of the world for our farm producers.

"Another factor that needs to be considered is that we in Congress have just enacted a farm program designed to bring fair prices to our grain farmers. It takes 13 pounds of grain to make a pound of beef. So, what the president is doing, in effect, is authorizing the import of 64 million bushels of grain."

We agree with the congressman. That doesn't make much sense when the Department of Agriculture is asking the grain farmers to reduce planted acreage by 10 percent or more.

The critical fact is that farmers get only 37 percent of the food dollar, but are asked to bear 100 percent of the costs of the program which the administration jumps into in order to gain political standing with the consumers.

Every nickel that is saved on a pound of hamburger will come out of the cattle raisers' share of the food dollar. The transportation agencies, the processors and the retailers won't contribute a fraction of a cent to the cost holddown.

MEAT IMPORTS NO REAL HELP

Cattlemen are up in arms at President Carter's decision to try to push the price of beef down by allowing more beef to be imported into the country.

If consumers knew what would be good for them, they should be upset, too.

Those who raise cattle, which includes farmers who produce calves for feedlot operators and then those operators who fatten them for the butcher, have a right to be disturbed at the President's action.

There was woeful little concern for them when beef on the hoof brought a poor price; indeed, there may have been joy in Washington inasmuch as poor live beef prices helped keep the cost of steak on the platter from rising more than it did.

Now that prices have risen sharply—though perhaps not as much as they might have risen had they escalated regularly at the same rate as other prices have inflated—the President wants to erase the benefits.

The free market is allowed to work when it works against the producer; when he starts getting some benefit from it, its wheels are jammed by government action.

There is no guarantee, of course, that a change in political control in Washington would make the slightest difference; quite the contrary. When wheat prices rose during the Ford Administration, and Big Labor embargoed wheat exports to "keep bread prices down," President Ford caved in just like President Carter today. Ever since then, wheat growers have paid a price for the Ford capitulation to George Meany—the same George Meany, incidentally, who now wants to make his grip upon the nation tighter by making it easier to force workers to join unions.

Wheat, however, is quite a different economic story from cattle. Given favorable world-wide production conditions, we can easily go from a shortage of wheat one year to a glut the next—and back to a shortage just as quickly when conditions cut production.

Beef doesn't respond as quickly. It takes 2½ to 3 or more years to start a calf and get him to the consumer. It takes double that, and more, when it comes to increasing the number of calves brought to market, because the calf started in the spring of 1978 won't become a mother for at least two years—and until she does there's no way to boost the pounds of beef produced.

Americans can't be sure there will be enough meat on their tables unless they can be sure that American farmers can produce it. They can't rely on Australian or South American growers, whose herds (and production) go up and down, too. If we hold meat prices down by importing more meat, we force domestic producers to keep their herds smaller, which in turn leads to lower production and higher prices. This is why consumers may regret, over the long haul, the President's action.

Mr. YOUNG. I yield the remainder of my time to the distinguished Senator from Montana, who represents one of the big cattle States.

Mr. MELCHER. Mr. President, I thank my friend from North Dakota, Senator YOUNG, for yielding to me.

I would like to make some comments on where the 200 million pounds of increased beef imports will be coming from. We should be looking at their source.

The greatest nation in beef production in the world, the United States of America, with average consumption of beef that far outstrips 90 percent of the rest of the population of the world, producing the largest amount of beef, is going to be looking at all sorts of other countries to send us some more beef. I do not know why that makes any sense. I do not think it does.

But let us look at the plants where that beef might be coming from. Let us ask pertinent questions. Have these plants been inspected by our veterinarians to ascertain and to assure our consumers that those slaughterhouses meet U.S. standards for wholesomeness and sanitation?

Have they even been looked at by U.S. inspectors in the last 3 months to ascertain that? Have they even been looked at in the last year to make sure that American consumers will have sanitary and wholesome beef products when that imported beef reaches here?

Of the 12 nations that have sent us beef in 1978. Australia and New Zealand shipped us the largest amounts, with Canada the third largest amount. There will be little, if any, additional beef coming from there, because Canada had higher beef prices than ours when I last checked a couple of weeks ago and they are likely still higher.

So then we have to look at the Dominican Republic, Guatemala, Honduras, Panama, Costa Rica, El Salvador, Belize, Haiti, Mexico, and Nicaragua for much of that extra 200 million pounds. There are supposed to be 200 million pounds more, over and above almost 1.3 billion pounds slated to come into the United States from these countries. They are supposed to dig up an additional 200 million pounds to send us.

There are other countries that sell small amounts of beef to the United States, other than those I have named, and we will be looking to them to send some more. We will be scraping the bottom of the beef barrel. Exporters will be literally picking up the beef off of their slaughterhouse floors to make up that extra 200 million pounds to be sent to this country.

We are taking that beef away from people in most of those countries who need it far more than do the consumers here in the United States, who consume four, five, six and seven times more meat yearly than the people of those countries. We will be sending food for peace foods for the poor and malnourished in some of those countries while we are buying away from them protein and calories their own people need.

It is a power play by beef exporters from those countries, in cahoots with meat importers in this country, manipulating to make profits for themselves. It may be good for some soup and sausage and TV dinner company profits, but it is no favor to U.S. consumers, particularly with many of those plants not having been inspected recently. Little of it gets on retail meat counters where our consumers can buy it at bargain prices, or inspect it themselves for cleanliness and wholesomeness.

We have a bill in a subcommittee of the Senate Agriculture Committee, S. 2343, in the subcommittee chaired by the distinguished Senator from Vermont (Mr. LEAHY), the present occupant of the chair, and he has agreed that we will hold hearings on the bill to ascertain just what is the current status of inspection of foreign slaughterhouses. The bill is intended to insure that foreign plants shipping to the United States are inspected by a U.S. inspector at least every 3 months.

The foreign plants are licensed to slaughter beef and send it to our country but we are not even sure they have been inspected for U.S. standards during the past year. There was a period last fall when our foreign review officers—inspectors of foreign packing plants—were not allowed to travel abroad to do their work. Obviously our foreign plant inspection is behind on its normal schedule.

We are deeply indebted to Senator LEAHY for his agreeing to schedule hearings on S. 343, because it is most timely and most significant for consumers so they will know whether the beef that is going to be coming in from some of these countries actually has had the benefit of inspection by our veterinarians to make sure it meets our standards.

The same week that proposition 13 passed in California, the beef import tonnage was increased. It probably has some relevance and relationship to what the Californians told us in that vote. They are tired of State and local governments taking too much in higher taxes. If there is anything we need throughout all America, for all of our people, it is some control over taxes. The California message comes through to us here in Washington, too, and we are going to have a Federal tax reduction, as we should this year, for individual income taxpayers.

This country needs a sound economy that requires less imports to establish a stronger dollar that is part and parcel of what the American people are tired of enduring—a constant erosion of their dollars. They are tired of taxes that are too high; they are tired of too much importing into this country of all the goods and commodities that we import unnecessarily, and they are anxious—they are demanding—that we pay more attention to our domestic industries here in the United States. Helping U.S. industries and U.S. business helps U.S. people and U.S. taxpayers. The people are demanding that we cease being an Uncle Sugar to foreign countries.

I think the increase in beef imports is another indication of our lack of concern about the strength of our own industries and, in the case of more meat imports, a lack of concern about our American beef industry and the welfare—both short term and long term—of our consumers.

There is already a movement toward cow selloffs developing in the Middle West and West among discouraged cattlemen. They have reduced our cattle herd from 132 million head to 116 million as a result of bankruptcy prices the last 3 years. They were just starting to rebuild herds a little when they were slapped with this 200-million-pound increase in meat imports. Now the talk is of cow selloffs again.

The increase in beef import quotas was a mistake from every point of view—cattle industry, national economy, and consumers themselves. I sincerely hope that hearings and consideration of S. 2343 will help avert lowering our meat quality standards.

I thank the Senator from North Dakota for yielding to me.

Mr. YOUNG. Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. The Senator from North Dakota has 5 minutes remaining.

Mr. YOUNG. I yield the remainder of my time to the Senator from Utah (Mr. HATCH).

BEEF IMPORT QUOTAS—ANOTHER ADMINISTRATIVE ANOMALY

Mr. HATCH. Mr. President, the American cattle industry has been in a loss position for the last 4 years. Literally hundreds of millions of dollars of debt have been incurred by cattlemen across the western United States. Many of them are just now beginning to recover some of the losses they have had to bear over the past few years. The beef industry is in a rebuilding stage. It is a crucial time, because cattlemen across the West must decide, in the next few weeks, whether to sell their cattle for slaughter or expand their herds. It is unfortunate that at such a critical decisionmaking time for cattlemen, the Carter administration should interfere.

The President's decision to increase beef import quotas by 200 million pounds is just another example of the administration's total disregard for the Western States. It is further proof that the President it literally writing off the livestock industry of the West, including the cattlemen themselves. The President has succumbed to short term pseudo consumer pressures at the expense of the cattlemen of this country. They have the ability to meet the needs of consumers and will do so if the Federal Government will discontinue its efforts to manipulate the beef market by adjusting quotas. At a time when the price of beef would normally decline anyway due to consumer use and market demands, the President by his quota juggling actions will appease many consumer groups and take full credit for any drop in beef prices.

Mr. President, the beef industry is recovering from a near disastrous situation. When cattlemen were hurting from low prices, they did not ask for Federal assistance. Now that prices are getting in line with inflation they do not want Government interference. I am worried, not so much from what may happen as a result of the additional 200 million pounds of imported meat but rather from the psychological effect that it has produced on the cattlemen in Utah and across the West. Cattle producers are under very heavy pressure to liquidate their loans. When they see a total disregard for their industry by the President's actions and feel that Washington no longer cares about them, many of them will give up. Rather than increase their herds, they will sell out. Secretary of Agriculture, Bob Bergland, has said that renegotiations of existing import quotas or suspension of the import restrictions would be a "tragic mistake." He also apparently agrees with my thinking that cattlemen will be forced to liquidate large portions of their herds in order to pay off their notes and, further, has said that this could cause the supply of beef to be held down even longer. Consumers would then pay higher prices for meat over a longer period of time.

Mr. President, the long-term impact of this decision will be monumental. Indeed, due to the psychological repercussions I have discussed it could reduce beef production in the United States drastically. I strongly urge the President to reconsider this decision and ask that beef imports be continued under the present policy.

Mr. President, how much time do we have remaining?

The ACTING PRESIDENT pro tempore. The Senator has 1½ minutes remaining.

Mr. HATCH. I yield the remainder of my time to the Senator from Wyoming.

Mr. WALLOP. Mr. President, in view of the time situation, I ask unanimous consent that I might be yielded 2 or 3 minutes off the other side's time.

The PRESIDING OFFICER (Mr. MELCHER). Neither of the other two Senators who have time allotted to them appear to be on the floor at this time.

Mr. BENTSEN. Mr. President, if the Senator will yield, would he advise how much time the Senator has requested?

Mr. WALLOP. Approximately 3 minutes.

Mr. BENTSEN. I seek recognition also.

Mr. BELLMON. Mr. President, will the Senator from Texas yield the Senator from Oklahoma 3 minutes also?

The PRESIDING OFFICER. The time has been charged to Senator CLARK and Senator ZORINSKY. Neither are on the floor at the present time. A unanimous-consent request, however, is always appropriate.

Mr. BENTSEN. Mr. President, I ask unanimous consent that I be yielded 5 minutes, if the other two Senators have not arrived by the time the Senator from Wyoming has finished, to use a part of their time.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered. Does the Senator from Wyoming seek unanimous consent?

Mr. WALLOP. Yes. Should either of the other Senators appear, I will reinitiate the request for time.

The PRESIDING OFFICER. How long is the Senator asking for?

Mr. WALLOP. The Senator asks for 3 minutes.

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

Mr. WALLOP. I thank the Chair, and I thank the Senator from Texas.

Mr. BENTSEN. Mr. President, I ask unanimous consent that I may follow the Senator from Wyoming.

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

Mr. WALLOP. Mr. President, I join with other Senators in expressing outrage at the administration's action in allowing this additional 200 million pounds of beef to be imported. They build a straw man call it a cow-calf man, call it a feeder, call it America's beef producer, and then they stand back and throw darts at him, stick swords in him, and everything else, posturing in front of the American public, trying to make the consumers think this administration has courage when it attacks less than 4 percent of this country's producing men and women.

The result of what they have done in my State has been to cut approximately $4 a hundred off the real price of cattle, right now. To translate that for those who do not know what this business is all about, it means the feeder is going to have to feed for 30 days free, to satisfy the Carter administration's desire to have a public media campaign that will not do anything for the cost of living.

It means the grass man will graze 40 days without a profit, and the cow-calf man will graze for 50 days. The result will be, guess what? More inflation, not less.

That 200 million pounds was afloat on the world market. That is all there is left in the world market, and it was the one thing that kept the world market competitive. I think we will see that the world meat price rises directly to meet the demand here. It will do nothing for the American consumer; but they have put us, the cow and calf men, the beef producers of America, in a position of confrontation with our customers. They make us look like the bad guy in the situation, when we are trying to supply a customer who has been satisfied with the product we have produced.

Mr. President, it is absurd, it is cruel, it is undignified, and it is unworthy of the President of the United States to take an action which does only harm. There is no compensating good. There will not be a drop in price except momentarily, but there will be discouragement and a long-term desire on the part of the people in the producing end of this business to get out of it.

The President might well take a look at the people who produce his own product, the peanuts. They have a tariff and an import quota. Why was that not included? If we are going to whip people in this country, why not whip everybody who produces in America?

It is like saying we are going to awaken from the great American dream and find too few Japanese alarm clocks to get us up. Maybe we ought to have an increase in Japanese alarm clocks, Japanese television sets, Japanese automobiles, Italian shoes, and every other kind of import.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BENTSEN. Mr. President, I share the disappointment of my colleagues at the recent administration decision to raise the beef import quotas. This is the same shortsighted policy which has been followed by past administrations. The results of such policies are remembered to this day—meat prices so high that a consumer boycott was organized, followed by cattle prices so low that the last 3 years were the worst in the history of the American cattle industry. And now we are once again seeing consumer meat prices whipped rapidly upward by this exaggerated boom-and-bust cycle which the current meat import law and administration decisions have fostered.

Mr. President, I have just returned from some of the negotiations on GATT. I am a member of the Finance Committee, and our committee will have jurisdiction concerning those negotiations. In Geneva, I met with our negotiators to talk about our being able to resist some of these beef imports.

Ours is the only major beef producing nation in the world that does not have sharp restrictions on the importation of beef. Year after year, the Meat Import Act of 1964 has been violated. The quota has been lifted year after year. It has been a political decision and a Presidential decision.

While I was in Geneva speaking with people negotiating on GATT, I had the opportunity to meet with the Australian and New Zealand negotiators. They are very upset with any kind of quotas in this country. I can understand that from their viewpoint. They want to take care of whatever increase there is in this country in the consumption of beef. They want to sell New Zealand beef and Australian beef in the American market, because it is one of the major markets in this world. And they are being allowed to do that at the expense of our producers and our consumers.

What we ought to be doing is saying to the Japanese, as I said in Geneva to their negotiators, "You are either going to buy more from us or we are going to buy less from you. This idea that you are going to import some 10,000 metric tons of beef is a mere pittance indeed when you have about a $9 billion surplus in trade to us." The Japanese today do not import as much as one thin hamburger pattie per person per year.

When they talk to us in this country, they say, "The kind of beef you are going to be receiving today, this extra 200 million pounds, is lean beef or is hamburger meat." The idea that we do not produce hamburger meat in this country makes no sense at all. Any time you are liquidating herds, what are you selling off? You are selling off bulls. You are selling off old cows. That is lean meat and much is used to make hamburger meat.

The decision to allow in an extra 200 million pounds of beef will have little impact on prices in a 25-billion pound consumption market, but it is a tremendous psychological blow to the cattlemen. The small cattle producer has been hanging on by his fingernails for the last 3 years, and many have slipped away into bankruptcy. During this period of low prices and forced herd liquidation he has had no help from the Government and asked no help from the Government. In fact, his Government has actually hurt him by using a meat import formula which allows more price-depressing imports in response to this same forced liquidation.

At a time when consumer beef prices are once again increasing, at a time when demand is again outstripping supply, we are now telling the American cattleman to use extreme caution in rebuilding his herd, because the Government is once again ready in an instant to suspend the quotas set by law, to change the rules in the middle of the game.

Mr. President, the United States now has no real policy on beef imports. In the last 7 years quotas were called for under the law, despite the administration's "voluntary restraint agreements," six times, and in each case the administration immediately suspended the quotas. Do you wonder that our cattlemen are nervous about increasing their production in the face of competition from foreign beef? We must limit the arbitrary suspension of quotas, reassuring the American cattleman that he will not be victimized by a political decision whenever he tries to meet the demands of the American consumer for a dependable supply of high-quality meat.

Mr. President, our current policy is wrong. I have stated this point before, both here on the floor and directly to President Carter, and I will continue to state it until the message is heard. We are not being honest with either the cattlemen or the consumers in continuing the present policy. I have introduced legislation to put our policies back on a fair and honest course which is beneficial to both consumers and producers. This legislation, now designated H.R. 5052, easily passed the Senate, but is now bottled up in the House by administration opposition.

The Bentsen bill will help stabilize the price of beef in this country. It helps people stay in the business of producing beef, and lets them make the long-term investments which have to be made to bring about economies in the production of beef which can be passed on to the housewife. It allows some of the modernization which has to be accomplished.

This bill would get rid of the boom-and-bust cycles we have seen in cattle production in this country. The large rancher can often carry himself, with credit, through the bottom of that cycle; but the small rancher is wiped out of business.

Each time we see this roller-coaster effect, when the price starts back down again for the cattleman, it never goes quite that far down for the housewife at the meat market. That is about the time the retailer decides he is going to make up some of his profits on beef. The next time the cycle starts up again, you find the price for the consumer starts at a much higher level. The retail price continues to rise and the housewife and the rancher are the losers in this process.

Those opposing my bill have said that it is inflationary and that it restricts imports.

Mr. President, those people have not done their homework. I have in my hand a detailed study done by the Library of Congress which concludes that the countercyclical formula I introduced would result in a reduction in consumer meat prices over the short term, and that over the long term it would provide benefits to both cattle producers and consumers. This study is based on USDA figures and USDA estimates. The USDA analysis indicates slightly lower prices for choice beef in 1979 and 1980 with the Bentsen bill than with the current law.

Mr. President, is this inflationary? No, it is not, and the USDA itself says it is not.

Again, I quote:

> Through 1984 the Department model projects that, compared to current policy, the countercyclical formula of the Bentsen bill would result in greater total beef and veal imports.

Again, Mr. President, USDA itself denies that my bill is more restrictive than current law. Over the current 10-year cattle cycle, this bill woud actually allow more imports than does the existing law.

This bill will help cattle producers as well as consumers. Again, I quote the USDA conclusion:

> Through 1984 the Bentsen bill would have a slight moderating effect on rising prices for cattle and choice beef. For the years 1985 through 1987 the countercyclical formula, compared to the present law, would result in slightly higher cattle and retail choice beef prices.

This will stay the whip that has lashed out at cattle producers for the last 3 years. These extreme price cycles are ruining our small farmers, because in many years only large producers have the financial resources to withstand a siege of very low prices.

Mr. President, when these small farmers disappear there is no one to take their place. The large farms merely get a little larger.

We can no longer tolerate the vicious extremes of these price cycles which are amplified by our current law. The small farmer is being driven out of business, but what of the consumer? How can anyone prepare a budget to meet long-term payments on a house mortgage, a car, a life or health insurance policy, savings for a child's college education when they do not know within 75 cents per pound what hamburger meat will cost next year? The American consumer needs this stability in prices just as much as the American cattleman does.

Mr. President, there is an overwhelming preponderance of hard evidence from all sources that the Beef Import Act of 1978 will vastly improve the current meat import law, with significant benefits to both producers and consumers.

At this time I ask unanimous consent to insert into the RECORD a copy of my letter of June 9, 1978, to President Carter on the beef import decision. I also ask unanimous consent to insert and commend to the House and to the administration a copy of the Congressional Research Service Study dated June 9, 1978 and entitled, "An Economic Impact Analysis of the Beef Import Act of 1978."

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

JUNE 9, 1978.

Hon. JIMMY CARTER,
President of the United States, The White House, Washington, D.C.

DEAR MR. PRESIDENT: I want to express my disappointment with your announcement that an additional 200 million pounds of beef will be allowed to be imported into the United States this year. I understand and appreciate your concern about the current price of beef in retail outlets across the country. However, I must point out that the American cattleman has had to cope with extremely low prices for his product the past several years, forcing a severe herd liquidation. For the first time, the cattleman is able to receive a price in the marketplace which will allow him to continue his operation, and begin a buildup of cattle which will benefit the American consumer.

I believe the additional meat to be imported by renegotiating voluntary agreements with exporting countries will not benefit the consumer in either the short or long run. The delay in herd rebuilding caused by additional imports will only add to the problems which consumers are currently encountering at the supermarket.

The American people consume 25 billion pounds of beef every year and the idea that increasing beef imports by 200 million pounds—less than one percent of consumption—will have any appreciable effect on the price of beef at the supermarket is wrong. This action will, however, have a serious psychological impact on the ranchers who provide the vast bulk of the beef that the American people enjoy each year. These ranchers have struggled through some lean times in recent years, years when it cost them more to raise cattle than they could sell them for. During those years when rock bottom prices were forcing many ranchers out of business government didn't step in with an offer to help. Now, though, their government has made a symbolic gesture these cattlemen view as hostile to their interests and they are rightfully disturbed. The only result from increasing the beef import quota will be to increase the belief among cattlemen that their government is against them and I would urge you to reverse this action.

Mr. President, I have been working to resolve this serious problem which affects all Americans. My legislation, known as the "Beef Import Act of 1978" (H.R. 5052), which passed the Senate on May 5, will correct this problem.

My bill will add a countercyclical formula to the Meat Import Act of 1964, which will have a stabilizing effect on the market for both consumers and cattlemen. It would automatically allow more imports into the United States when our domestic supplies are low, and it will decrease imports when domestic supplies are high. This bill would reduce the roller-coaster effect at the market, and assure the American consumer that sufficient quantities of red meat will be available at reasonable prices. With the enactment of my legislation, it would not be necessary for the President to raise the import limits because sufficient beef will always be available.

I believe we must add stability to our beef supply. I hope you will seriously consider my legislation which will accomplish your desire to help the American consumer.

Sincerely,

LLOYD BENTSEN.

AN ECONOMIC IMPACT ANALYSIS OF THE BEEF IMPORT ACT OF 1978 (H.R. 5052)

H.R. 5052: SUMMARY OF PROVISIONS

The Beef Import Act of 1978, H.R. 5052, passed the Senate May 5, 1978, with the following provisions:*

1. A formula to adjust the annual quota for U.S. imports of fresh, chilled and frozen beef established by the Meat Import Act of 1964 (P.L. 88-482). Under current law import quotas automatically rise with increased domestic production of fresh, chilled and frozen beef ("unprocessed beef"). When domestic production of this beef declines, the import quota is lowered. The proposed adjustment would increase the import quota as domestic supplies of beef decline, and lower quotas in periods of abundant domestic supplies. "Domestic supplies of beef" are defined in H.R. 5052 as domestic commercial cow slaughter. The exact formula is given in Appendix 1.

2. Establishment of a quota for processed beef and veal. Corned beef, beef sausages, cured and pickled beef and veal, and certain other prepared or preserved beef and veal items are not subject to the import quotas of P.L. 88-482. Under the formula of H.R. 5052 average imports of these items during a base period (1973 through 1977) would be adjusted to reflect domestic commercial production of beef and veal and commercial cow slaughter. (See Appendix 1 for the exact formula). With this formula the quota for processed beef and veal items would increase as domestic supplies of beef decline. The quota would be lowered in periods of higher domestic supplies.

3. Quarterly estimates of quota items. The bill requires the Secretary of Agriculture to estimate and publish the yearly quotas set forth for unprocessed and processed beef prior to the start of each calendar quarter. Estimates of processed beef imports are not required by current law.

*The Senate Finance Committee substituted the Beef Import Act of 1978 for an unrelated bill which had previously been passed by the House.

4. Quarterly imposition or removal of quotas. If, based on the quarterly estimates, the Secretary establishes that the yearly imports of unprocessed beef will be 110 percent or more of the quota, then the President is required to impose the quota. The additional 10 percent "trigger" is the same as current law, but the use of the quarterly estimates is not presently mandated. The same mechanism is applied to processed beef items. Quotas are removed if the quarterly estimate shows the yearly quota (plus 10 percent) will not be reached, except if this happens for fourth quarter estimates when the quota has been imposed during the third quarter. In that event the quota is continued. Another section adds a new requirement that no more than 54 percent of the established yearly quota may be imported during each of the six month periods following January 1 or July 1 of that year.

5. Modified restrictions on Presidential action. Under current law the President may suspend proclamation of a quota or increase the quota quantity if he determines that:

"(1) such action is required by overriding economic or national security interests of the United States, given special weight to the importance to the Nation of the economic well-being of the domestic livestock industry;

(2) the supply of articles of the kind described will be inadequate to meet domestic demand at reasonable prices; or

(3) trade agreements entered into insure that the policy set forth in the act will be carried out."

By contrast, H.R. 5052 authorizes such Presidential action if:

"(1) during a period of national emergency declared under section 201 of the National Emergencies Act of 1976, he determines and proclaims that such action is required by overriding national security interests of the United States, or

(2) he determines and proclaims that the supply of articles of the kind to which the limitation would otherwise apply will be inadequate, because of a natural disaster, to meet domestic demand at reasonable prices."

In addition, under current law the President may suspend or increase quotas for such a period as he determines may be necessary to carry out the purposes of the Act. Under H.R. 5052, the effective period of any such suspension or increase "may not extend beyond the termination, in accordance with the provisions of section 202 of the National Emergencies Act of 1976, of such period of national emergency, notwithstanding the provisions of section 202(a) of that Act."

6. Quota shares for supplying countries. The shares of the quota for unprocessed beef are allocated to supplying nations under the present law on the basis of their respective shares of unprocessed beef imports. This procedure is continued under H.R. 5052 and is applied to processed beef and veal items as well.

7. Study of regional impacts. A new feature is a requirement that the Secretary of Agriculture shall study the regional economic impact of meat imports. The Secretary must report his findings and any recommendations he may have to the Senate Finance Committee and the House Ways and Means Committee by December 31, 1979.

BEEF IMPORTS

According to the Department of Agriculture, between 1969 and 1977 the United States imported on average 2.4 billion pounds of meat, including beef and veal, pork, lamb and mutton (not including live animals). This averaged 6.3 percent of U.S. meat consumption. A large portion (75 percent) of this meat has been beef and veal, about 85 percent of which is generally fresh, chilled or frozen and subject to import quota restrictions under Public Law 88-482. Beef and veal

imports averaged 7 percent of beef and veal consumption in the U.S. between 1968 and 1977. (See Appendix 2).

COUNTERCYCLICAL IMPORT FORMULAS AND THE CATTLE CYCLE

The features of the bill with greatest economic significance are the new formulas for determining import quotas and the establishment of a quota for processed beef and veal items. The term "countercyclical" has been used to describe the new formulas because of the relationship they would establish between U.S. beef imports and the domestic cattle cycle. Higher feed prices beginning in 1973 and lower cattle prices in 1974 and 1975 precipitated a decline in the nation's beef herd between 1975 and 1976. One result of the increased marketings resulting from this herd liquidation has been relatively low beef prices for consumers. It now appears that this liquidation phase of the cattle cycle is over. Farm prices for cattle are on the upswing, which will encourage producers to hold back cattle for fattening or breeding. As prices are expected to increase continuously for the next year or so, more cattle are expected to be retained. This will mean significantly higher beef prices for consumers until supplies become so large as to trigger larger marketings. As slaughter picks up, prices will decline, encouraging further liquidation, and so on.

The formula of existing law moves import quotas with the cattle cycle. With commercial production of beef and veal declining in the next few years, the import quotas will likewise decline if current law is unchanged. Barring suspension of the quota by the President, the result will be further restrictions in the total supply of fresh, chilled or frozen beef. If domestic commercial production begins to increase in the mid 1980's as expected, the import quotas would be raised.

By contrast, the likely affect of the countercyclical adjustment of H.R. 5052 to the current quota formula for fresh, chilled and frozen beef would be higher quotas for these items during periods of rebuilding (low commercial production) in the cattle cycle. The adjustment uses the slaughter of domestic commercial cow beef as an indicator of the phase of the cattle cycle. Cow slaughter increases during periods of liquidation in the cycle, and declines when producers retain cows for breeding purposes. The adjustment is as follows:

Average annual per capita supply of domestic commercial cow beef during the 10 calendar years preceding the year under consideration

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Average annual per capita supply of domestic commercial cow beef in the calendar year under consideration and in the preceding year

The ratio for any given period will be most strongly influenced by the two year cow beef supply average in the denominator. If these supplies decline rapidly because of herd rebuilding the denominator gets smaller and the adjustment ratio increases. Import quotas are in turn increased. This is the likely situation for the next few years in the livestock industry: retention of cows, higher farm and retail prices. On the other hand, as cows are slaughtered in larger numbers the denominator gets larger, the overall adjustment ratio gets smaller and the import quotas are lessened. This would correspond to the situation of the last few years and the expected conditions three or four years hence. It is expected that downward swings in import levels would be more abrupt and briefer under this formula. This is because slaughter (increased supply) increases more rapidly than the decline in marketing which occurs during rebuilding in most cattle cycles. Because unprocessed beef imports are generally mixed with domestic beef and then used as hamburger, the countercyclical impact would be felt most strongly with this beef product. Rebuilding removes an important source of hamburger meat from the market, namely cows. The countercyclical formula would increase imports during rebuilding periods when hamburger grade beef is in relatively shorter supply, and decrease imports when cow slaughter increases.

The effect of a new quota on processed beef items is uncertain mainly because of the fluctuation in their import levels. Processed beef has never comprised more than 19 percent of total beef imports, although it may be trending upward. Processed beef imports average, at most, 1–2 percent of current meat consumption in the United States, so a sizeable increase would be necessary before quota restrictions would significantly affect either farm or retail prices. Political difficulties with exporting nations are perhaps a more relevant consideration than domestic economic impacts.

As for the structure of this quota, the base period used in the calculation is 1973 through 1977, during which imports of processed beef were only slightly lower than for the period 1965 through 1976. The base is modified first by an adjustment reflecting commercial beef and veal production as follows:

Average annual domestic commercial production of beef and veal in that calendar year and 2 previous calendar years

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Average annnual domestic commercial production of beef and veal during the years 1973 through 1977

The average used in the denominator of this ratio is rather high by historic standards, which would have the effect of keeping the overall ratio relatively low and stable. A second (countercyclical) adjustment is identical to the mechanism used for fresh, chilled and frozen beef and veal.

ECONOMIC ANALYSIS

Long term

Because the cattle cycle may span as many as 7 to 10 years, it is especially important to look at the long term effects of policies linked to it. Using a mathematical model of the cattle industry, the Department of Agriculture projected beef imports through 1987 under the assumption that current law would be continued. This "base" solution was then compared to one incorporating the countercyclical adjustment of H.R. 5052. (See Table 1) Other long term analyses were not available for study. It is important to note that long term projections of the type used for this analysis become less reliable as the interval expands. Given the state of flux in the cattle industry at present even short term projections may be highly inaccurate. The results of the USDA analysis listed in Table 1 should be considered "best guesses."

TABLE 1.—VALUES OF SELECTED VARIABLES UNDER 2 BEEF IMPORT ALTERNATIVES, PROJECTED 1978–79

BEEF IMPORTS

[Million pounds, carcass weight]

Year	Base	Bentsen bill	Difference
1978	2,119	2,250	131
1979	2,040	2,175	135
1980	1,953	2,325	372
1981	1,918	2,443	525
1982	1,954	2,457	503
1983	2,004	2,434	430
1984	2,053	2,343	290
1985	2,134	2,030	−104
1986	2,259	1,680	−579
1987	2,363	1,560	−803

RETAIL PRICE, CHOICE BEEF

[Cents per pound]

Year	Base	Bentsen bill	Difference
1978	157.0	157.0	0
1979	166.7	166.6	−.1
1980	173.3	172.8	−.5
1981	176.6	176.0	−.6
1982	183.3	182.8	−.5
1983	189.3	189.0	−.3
1984	194.0	193.8	−.2
1985	198.4	198.7	+.3
1986	204.2	205.1	+.9
1987	216.0	217.2	+1.2

FARM PRICE, ALL CATTLE

[Dollars per hundredweight]

Year	Base	Bentsen bill	Difference
1978	42.40	42.40	0
1979	45.85	45.80	−.05
1980	48.20	48.00	−.20
1981	48.60	48.50	−.10
1982	50.30	50.20	−.10
1983	51.60	51.50	−.10
1984	51.75	51.70	−.05
1985	50.40	50.50	+.10
1986	49.80	50.10	+.30
1987	53.45	53.90	+.45

Source: U.S. Department of Agriculture.

Through 1894 the Department model projects that, compared to current policy, the countercyclical formula of the Bentsen bill would result in greater total beef and veal imports, including processed and unprocessed items.* For individual years the increases would be 7 to 27 percent above the base projection, an average of 376 million additional pounds (c.w.e.) per year. The analysis shows that after 1984 the rebuilt cattle inventories trigger increased slaughter, and the cycle swings in the other direction. Relative to the base solution, imports under the Bentsen formula are then more restricted. By 1987, the last year analyzed, the countercyclical adjustment results in import levels about one third lower than in the base solution. Because slaughter proceeds at a faster rate than rebuilding in the cycle, the countercycle adjuster in H.R. 5052 moves more abruptly on the downward side (reduced imports).

USDA also examined the effects of these alternative import levels on farm and retail prices. Through 1984 the Bentsen bill would have a slight moderating effect on rising prices for cattle and choice beef. For the years 1985 through 1987 the countercyclical formula, compared to the present law, would result in slightly higher cattle and retail choice beef prices. The Bentsen formula had no significant effect on cattle inventories over the period, but per capita beef consumption was boosted slightly through 1984 relative to the base solution.

Based on the USDA analysis and the general concept of a countercyclical formula for imports, it would appear that H.R. 5052 would mollify some of the effects of the cattle cycle, providing some long term benefits to both cattle producers and consumers.

SHORT TERM

In the next few years the countercyclical formula of H.R. 5052 for unprocessed beef and veal imports would result in higher im-

* In the study total beef imports were arrived at by increasing the projected unprocessed beef amounts by 20 percent to account for processed beef items in both scenarios. Processed beef items have made up only 10 to 15 percent of total beef imports in recent years, but USDA analysts assumed an upward trend. The ten product "trigger" levels were not used in either the base or the Bentsen solutions.

port quotas than would exist with the current law. However, since the bill would probably not take effect until 1979, and since cow slaughter data for 1978 and estimates for 1979 would be necessary to compute the new quota, it is uncertain as to how much higher the quota would be. The National Cattleman's Association estimates the quota for unprocessed beef and veal would be 2 percent higher in 1979 and 9 percent higher in 1980 with the Bentsen bill. Professor Donald E. Farris of Texas A&M estimates that the existing quota could be adjusted upward by as much as 28 percent in 1979 and 45 percent in 1980 under the Bentsen proposal. Referring again to the USDA study, total beef imports would be 7 percent higher with H.R. 5052 than with current law, and 19 percent higher in 1980.

Given these varying estimates of the exact adjustment that would take place, and the rapidly changing developments in the cattle industry, it is very difficult to make reliable estimates of even short term inmpacts of enacting H.R. 5052. The USDA analysis indicates slightly lower prices for choice beef in 1979 (— .1 cent per pound) with the Bentsen bill than with current law; the estimate for 1980 is a 0.5 cent reduction. Use of the USDA import estimate under the Bentsen bill in the Chase Econometrics, Inc. agricultural model showed the consumer price index for beef and veal would be perhaps 0.8 percent lower than with current law in 1979, and about 2 percent lower in 1980. The Chase model showed no impact on the overall CPI with the USDA import projections for H.R. 5052.

With respect to cattle prices, the USDA study showed a very slight decline in 1979 and 1980 with the Bentsen alternative, compared to current law (less than half of one percent). The Chase model indicated somewhat larger impacts. In 1979, the higher beef import levels would lower the farm price of all beef by about 1.45 percent, and by almost 3.3 percent in 1980, relative to existing law.

Overall, it would appear the bill would not have a large impact on either retail beef prices or on the farm price of cattle in the short term.

APPENDIX I

QUOTA FORMULAS UNDER H.R. 5052—FRESH, CHILLED AND FROZEN BEEF

$$\text{Annual quota for imports of fresh, chilled and frozen beef} = (725.4 \text{ million}) \left(\frac{\text{Average domestic commercial production of fresh, chilled and frozen beef in the calendar year and 2 previous years}}{\text{Average domestic commercial production during 1959–63}}\right) \left(\frac{\text{Average annual per capita supply of domestic commercial cow beef during the 10 calendar years preceding such calendar year}}{\text{Average annual per capita supply of domestic commercial cow beef in that calendar year (as estimated) and the preceding calendar year}}\right)$$

Quota computed under existing law — Countercyclical adjustment added by H.R. 5052

NEW FORMULA—PROCESSED BEEF AND VEAL

$$\text{Annual quota for processed beef and veal} = \left(\text{Average annual imports of processed beef and veal during 1973 through 1977}\right) \left(\frac{\text{Average annual domestic commercial production of beef and veal in that calendar year and 2 previous years}}{\text{Average annual domestic commercial production of beef and veal during the years 1973 through 1977}}\right) \left(\frac{\text{Average annual per capita supply of domestic commercial cow beef during the 10 calendar years preceding such calendar year}}{\text{Average annual per capita supply of domestic commercial cow beef in that calendar year (as estimated) and the preceding year}}\right)$$

Base — Regular adjustment — Countercyclical adjustment

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. CLARK. Mr. President, last Thursday President Carter directed Secretary Bergland to renegotiate our voluntary agreements with beef-exporting nations to allow an additional 200 million pounds of beef to be imported into the United States. This action is a breach of trust by the Government. It is unfair to farmers. It will not significantly reduce prices consumers pay for beef. And, it may very well cost consumers millions of dollars in higher beef prices over the long run.

In short, I believe this is an ill-advised and ineffective action, and one that will hurt both consumers and producers.

On May 5, the Senate passed S. 2895, a beef-import bill that would limit the President's arbitrary authority to lift quotas on beef imports. I am a cosponsor of that bill. It would allow the President to suspend or increase quotas only if he declares a national emergency under the National Emergency Act of 1976 and determines the suspension or increase is necessary for national security, or if he determines the quota amount is inadequate to meet domestic demand at reasonable prices as a result of a natural disaster.

I urge the House of Representatives to act promptly to consider and pass this bill so that it can be sent to the President very soon. I believe that the President and his advisors need to receive a strong signal from the Congress that frenzied overreactions each time farm prices reflect a change in supply are not good policy and are not in the best interest of the Nation. We saw the damage embargoes did to our overseas markets in 1973, 1974, and 1975. I find it astonishing that the President has not learned from those experiences and that he is using his authority in this way at this time. I am convinced that we must reduce the President's authority to change the rules.

The current beef import decision is clearly an overreaction on the President's part. The livestock industry is still reeling from a long, long series of economic shocks that began in 1972 and 1973. By the summer of 1974, feed prices were as much as 3 times the levels of 1971, and other prices were up as well.

Cattle prices did not follow costs, but stayed around $45 through 1973. Then, profits went through the floor as prices fell to around $36 by the third quarter of 1974 when producers began to sell off their herds.

The dimensions of this disaster for livestock feeders are staggering. A cattle feeder in the cornbelt who sold cattle in each quarter since January 1973 made $45 on those sold in the first quarter, but lost increasing amounts on each succeeding sale that year—$81 on those sold in the second quarter; $91 in the third; and $96 in the fourth. He lost on sales in 3 of the 4 quarters of 1974; 2 quarters of 1975; and all 4 quarters of 1976 and at least 2 quarters of 1977. He lost money on cattle sold in 15 of the 20 quarters between 1972 and 1978, and for 2 of those quarters the average per head loss was more than $104.

This has been a nightmare for many Iowa farmers and their families. Many dropped out of the business.

It is to these cattle feeders that the President is turning now for higher beef production. And, producers will undoubtedly increase production once they have confidence that cattle feeding will be profitable again. But confidence in the market is often an elusive thing that takes time to build. Cattle feeders I have talked to in recent weeks had considerable confidence in future consumer demand for beef. But, they were concerned about Government intervention. Last Thursday's action has changed the mood in my own State of Iowa from one of growing confidence to bitterness and uncertainty, at least temporarily. It may well take several months of favorable prices to restore that confidence. Cattlemen tell me that the President's action cost them about $5 per hundred for cattle sold during the past several days. That amounts to $50 per head—probably more than half their profit.

I have no doubt that the combined psychological and economic impact of the President's Thursday decision will slow the long process of herd rebuilding and increasing the supply of beef. If that is so, the decision to import more beef in 1978 will end up by actually increasing prices consumers pay for beef in future years.

Cattle producers are very seriously concerned about the Government's policy toward their industry. They remember very well the restrictions that were placed on beef prices in 1972 and 1973—restrictions that were not placed across the board on all commodities. And, now they are concerned because the Government is taking action to hold beef prices down when no such actions have been taken to hold down prices of other agricultural commodities or other consumer commodities even following sharp price

increases. The cattle industry is very proud of its role in the American diet, and the preference consumers have for beef. But, they are increasingly concerned that this important role makes them too prominent a target for government action following each adjustment in prices.

I share these concerns. I see by the most recent USDA release on meat imports that the retail price of hamburger was 88 cents in 1975 and 88 cents in 1976 and 85 cents in 1977 and that it was between $1.03 and $1.13 on June 6. USDA says the increase in imports will knock 3 cents off of that price.

It is only fair to point out that had hamburger that was 88 cents per pound in 1975 increased only as fast as the Consumer Price Index for all items, it would be expected to be $1.06 right now—about what it is. That means the administration's import decision is in fact an effort to hold hamburger price increases below the rate of increases expected—and allowed—all consumer items. It appears to me that the President is setting a different standard for hamburger and for beef than for other consumer items—a standard that is unfair and inequitable.

I have also heard the argument that more imported beef is needed because cattle prices are increasing too rapidly, and that will over-expand cattle numbers and beef supply—and, over expansion could lead to overproduction and eventually to price breaks that would cause producers even greater grief.

It is true that cattle numbers and prices follow cycles, and that these are more or less extreme depending on the economic setting. But current cattle prices are not extremely high considering other prices and costs of production. Steer prices at Omaha are around $55, or a little more. USDA says cost of production of this steer is $49. A return of $6 per hundred is 12 percent—not exactly outrageous, or a level that would be expected to cause the industry to expand too rapidly, even if expansion could be achieved in a short period of time. If cattle producers had been turning a 20 percent or 30 percent profit for some time, I would have been a lot more sympathetic with the administration's action. But frankly, Mr. President, I simply do not understand how the administration expects the industry to sustain a healthy expansion on a gross return of any less than the 12 percent figure they intend to push down.

In this connection, I want to quote briefly from the most recent USDA publication on this subject that I have seen—it is ESCS publication No. 23 by James Nix and it was released just last month. Nix says:

> At this phase of the cattle cycle, it is important that prices remain attractive to producers to signal them that it is time to rebuild herds. Given the prospects for higher beef prices it may be tempting to take steps to bring them down. However, with the extended period of losses that cow-calf producers have been through a sharp break in prices might cause them to think that the period of prosperity has not yet arrived and they might continue to liquidate the cattle herd. If that happens, even smaller supplies and higher prices are in store.

Under the present meat import law, beef imports for 1978 can rise a little above the 1977 level, but they will drop substantially in 1979 and remain at a relatively low level through 1981 unless quotas are suspended by the President, in some years when beef prices rose sharply, meat import quotas were suspended to allow more meat to be imported. Such a suspension at this time might alleviate some of the pressure on retail meat prices, but it could also discourage the rebuilding of the cattle herd.

Mr. Nix concludes:

> Although beef prices have been rising for only a few months, they are attracting much attention because of their importance in the consumer's food budget. Just when prices are beginning to signal producers to start rebuilding their herds, proposals are being put forth to thwart further price increases.
>
> Any such government actions should be carefully examined for their potential in stimulating continued herd sell-offs, because, if herd reduction does not stop soon, the annual per capita consumption of beef during one of the next three years could drop below the lowest level of the past decade. Since consumers have demonstrated strong preference for beef, anything that further reduces supplies will exert even more upward pressure on beef prices and total food costs.

Mr. President, I believe there is clear evidence that the administration has overreacted to the increases we have seen in cattle and beef prices. And, I believe these pose very serious questions that need to be answered—questions that are important to both procedures and consumers. I intend to raise these with the President at the first opportunity.

Let me just list four:

First, what actions are intended to help producers hold down costs?

Second, what actions are intended to prevent middlemen's margins from increasing retail prices even if farm prices hold steady or fall?

Third, what actions are intended concerning imports in 1979? Are the quotas to be expanded again? and

Fourth, what actions are intended if farm prices for beef fall in 1978?

Mr. President, a healthy cattle and beef industry is essential for an adequate future supply of beef. The cattle industry is recovering, but the process has been interrupted, whether it resumes, and how rapidly it resumes, depends on whether or not the Government permits the market to provcide adequate incentives. I hope the Government will support adequate incentives and that we have seen the last of these ill advised attempts to curry consumer favor by knocking down farm prices.

Mr. President, I ask unanimous consent that I be allowed to yield the remainder of my time to the Senator from Missouri.

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

Mr. DANFORTH. Mr. President, I thank the Senator from Iowa.

Mr. President, I am distressed with the administration's decision to allow increased beef imports into the United States. I can understand President Carter's desire to moderate the price of beef, but I question whether it is either wise or fair to single out livestock producers to fight rising food prices.

Beef prices are approximately 15 percent higher than they were in 1977. They are forecast to go up another 7 or 8 percent in 1979. That is not a very rosy picture for consumers. The question is whether there is anything that the Government should do to hold down these price increases.

As Robert J. Samuelson recently observed in the National Journal, "there is lost in today's inflation anxiety an understanding that not all price increases are bad. Often price increases tell producers to produce more or consumers to consume less. A market economy needs these signals in order to make the necessary adjustments.

This is particularly true, Mr. President, in the beef industry where prices are very sensitive to fluctuations in supply and demand. Responding to a rise in consumer demand in the early 1970's, cattlemen sharply increased the size of the Nation's cattle herd. As ranchers held back their cows and calves for herd-building purposes, less beef went to market and higher consumer prices resulted. In the mid-1970's, the high grain prices brought about by worldwide scarcity and the ballooning price of petroleum products wiped out profit margins on beef cattle. Producers then liquidated their herds, flooded the market, and retail beef prices stabilized and even retreated.

The price increases of recent months confirm reports that the herd liquidation stage of the cycle is over and that producers, encouraged by a more favorable cost-price picture, are now starting to rebuild their herds and to recoup some of the losses they suffered during the last 3 to 4 years of depressed prices. As cows and calves are held back, higher beef prices will result in the supermarket during the next 2 years—the time it takes from breeding to slaughter. With all of our genius, we have not yet reached the point where we can coax a cow into giving birth to a 500 pound steer fattened and ready for market. Cattle production cannot be manipulated like turning a spigot on and off to obtain immediate results. One simply must sit out the periods of scarcity and wait for them to run their courses.

President Carter's decision to increase beef imports has come at an extremely inopportune time. Not only will Mr. Carter force down the price of beef just as Missouri feeder cattle producers are preparing to market this year's production, but he has also infected the industry with a "defeatist" attitude that may result in a premature herd reduction and thus even higher than expected consumer prices in 1979 and 1980.

The President's actions display an unfortunate lack of understanding of the beef industry and surprising insensitivity to the financial woes that cattle producers are experiencing. I oppose these measures which the President has instituted and I encourage the House to complete action on amendments to the Meat Import Quota Act of 1964 by passing a companion bill to the Senate's Beef Import Act of 1978.

Mr. President, I yield to the Senator from Oklahoma.

(Mr. DECONCINI assumed the chair.)

Mr. BELLMON. Mr. President, I thank my friend, the Senator from Missouri.

Mr. President, among all the economic groups in our country, beef producers probably get the rawest deal from our Government. When beef prices are low and times are bad for beef producers, Government turns a deaf ear. The reaction is usually that nothing can be done, let the law of supply and demand work. That is the attitude Government takes when things are tough.

Then when, after years of economic hardship and bankruptcy for many beef producers, prices begin to improve, Government is quick to use all the weapons at its disposal to keep cattlemen from receiving the prices set in a free market. The result is that beef producers lose money heavily during one-half of the cattle cycle, then are prevented by Government from receiving prices needed to recover their losses during the other half of the cycle.

Mr. President, there are many Members of the Senate who have firsthand knowledge of the beef business, but there are some who do not. For those, it might be helpful to explain how the beef cycle works. The cycle is based on the biology of the cattle species, upon the psychology of the cattle raiser, and the fact that Americans, as well as most other people, prefer beef to other types of meat in their diet.

First, consider the biology of beef production. A female heifer calf born in the spring of 1978 will be mature enough to breed in the summer of 1979. With good fortune, a large percentage—perhaps 50 to 75 percent—of these heifers will give birth to live, healthy calves in the spring of 1980. By the fall of 1980, these calves will be old enough to wean from their mothers and will be wintered on roughage or supplement and then summered on pasture so that, by the fall of 1981, they will be ready to be placed on full feed for fattening.

After 5 or more months on feed, these cattle will then be ready, in the spring of 1982, to be slaughtered and processed into meat for consumption.

So a cattleman who gets a signal from a higher market in 1978 that there is a demand for an increased supply of beef cannot actually increase production for the meat market until 1982, 4 years later. That is simply how long it takes for this whole process to work.

If the signal that the cattleman gets is distorted by ill-advised or politically motivated Government interference, the increase in beef production is simply delayed. That means that the ensuing years will see an aggravated beef shortage and even higher prices in the marketplace.

During these 4 years, while beef cattlemen are tending to increase production, there is actually less beef available for consumption, since the females which would normally have gone to market have been kept in the breeding herd.

So here we have a situation, Mr. President, where, after years of farmers having suffered losses and then liquidated declining herds, now the market is trying to signal increased production. The President comes along, opens the gate for a flood of imports and the result is a shortage of beef production that the country is going to face in future years.

Mr. President, there is also a downside to the cattle cycle. This occurs some 6 or more years after the buildup of numbers begins. At this time, the supply of beef begins to equal or exceed the demand and and prices which have been strong begin to turn down. This signals producers to cut back on the production of beef. At this point, cattle growers stop retaining heifers in their breeding herds and send their entire calf crop to market. This further increases the supply of beef and the market prices go down further. This lowers prices over time, triggering liquidation of the cow herd, further increases the beef supply, and causes disastrously low prices for all classes of cattle.

The liquidation process lasts 3 to 5 years, then the cycle begins again.

Mr. President, we should know, I believe, that American beef producers have the capacity to produce all the beef that all the consumers in this country could possibly need and, additionally, have the capacity to produce a vast amount for export abroad. We could and should become a major beef exporter and not an importer of beef under most conditions. The action that the President should take now is to leave the beef business alone and, at the same time, help us to develop exports of our beef so that when supply is abundant, as it has been in recent years, we should have a place for this beef to go outside the country and, in this way, help to avoid the boom-and-bust cattle cycles that have plagued the beef industry ever since this country was founded.

There are also things that consumers and producers can and will do to help moderate the effect of the cattle cycle. During times when beef supplies are low, consumers can turn to other types of meat to a larger extent. They can consume more poultry, more pork, and more fish.

Cattle on feed can and will be fed longer to heavier weights so that the product from each animal slaughtered will be increased. Countercyclical beef import policies can be followed if we have to import at all.

The problem with the action taken by President Carter is that it is ill timed; it is going to send the wrong signal to cattle growers; it is certain to cause them mental anguish as well as financial pain; and it it is likely to mean that this country will not now see the rapid increase in the building of our beef herds that is indicated by the free market and which is needed to provide supplies for the future.

In addition, what is so unfair about the action the President has taken is that, even though beef prices have gotten stronger in recent months, the cow-calf operator has not yet had the opportunity to benefit from these higher prices, since they have not been able to sell a crop of calves since prices improved.

The normal beef-cow-calf operator will not have cattle to sell until September, October, or November of this year, and the President's action now, which has caused the beef price to drop $5 to $7 a hundred, is going to punish those producers.

The cow-calf operator is the foundation of the beef business and unless they are encouraged to go ahead and increase the size of their cowherd, the beef shortage the country is facing will simply get worse. I am concerned that President Carter, who is an agriculturist but whose experience is primarily in the peanut business, where Government guarantees producers a good price every year, simply does not understand the way the beef business operates.

I believe he has done something here that is totally unjustified by the facts that is going to be damaging both to the producer and the consumer over the long haul and that he has acted in an inconsistent way in using one of the tools at his disposal at a time when it is going to hurt rather than help the very people he is trying to benefit.

The administration also, I believe, made a serious mistake when they blamed the price of beef for the rise in the Consumer Price Index.

Attempts by the administration to blame the rise in the Consumer Price Index on beef are inaccurate and politically inspired. The price of beef accounts for less than 2 percent of the total Consumer Price Index. To blame the inflation problems encountered by the administration on the price of beef is unrealistic. A small group of producers have been chosen to blame the Carter administration's lack of ability to cope with inflationary problems. This is grossly unfair and should not be believed by consumers nor tolerated by Congress.

If the administration had been on its toes, it could have seen that the shortage of beef was building and the price of beef was certain to rise. They could have given the producer a signal to increase production several months ago and this would have moderated the impact on the marketplace that the present reduction in supplies has caused.

Mr. President, I believe sincerely the American beef producers will respond to the higher market price, that they will produce the beef the American consumers need. The President's action is only going to make this job harder for producers and work a great hardship on the consumers in the long run.

Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the Senator from Oklahoma (Mr. BARTLETT) relating to this matter.

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

STATEMENT OF DEWEY F. BARTLETT ON THE PRESIDENT'S DECISION TO INCREASE THE BEEF IMPORT QUOTA

During the past 4 years, I have advocated changes to the Meat Import Laws including formula changes, and more specific definitions. I have testified before the Senate Finance Committee both during the 94th Congress and, again recently, during the Second Session of this Congress. Initially, I had little support for these much needed changes, but by the beginning of the Second Session of this Congress, other Senators had taken an interest, an interest which led to legislation being reported by the Fi-

nance Committee and passage by the full Senate on May 5, 1978.

There were specific reasons for this increased interest on the part of Congress in the plight of the American cattlemen. This interest grew out of the continuing depressed market, and the fact that cattlemen were being forced to liquidate their herds to such an extent that without changes in the formula, a critical situation as to total numbers of cattle and breeding stock would soon have been reached.

Obviously, the ulimate effect of these reductions would have been a serious shortage which would have drastically affected consumer prices. This type of price increase would have also collaterally affected the supplies and prices of beef substitutes such as poultry and pork.

Recently cattle prices have started to increase, in part, because of the effect of herd liquidation, and because of speculation over actions being taken by Congress.

Until this past week, it seemed that with the changes being made by Congress, and the natural price increases occurring as the result of reduced herds, would bring a reasonable profit to cattlemen, and allow them to start paying off debts incurred over the past 3 years. The President's action to stifle these price increases by increasing foreign imports is a "low blow" at a time when the cattle industry was just raising off of the "mats".

Farming in general has felt the insensitivity of the President's agriculture programs, and the cattleman now is feeling what can only be termed a specific attack which will insure the failure of some, and a much longer and harder recovery period for others.

This irresponsible action comes at a time when breeding stocks are being restored. The impact of the imported beef will be felt immediately by the rancher, and could well provoke another downward spiral and a return to herd liquidation.

The President's actions are ill-advised and ill-timed. Simply because consumer prices are rising does not mean that the rancher is out of his dilemma. I strongly object to the President's action, and urge a reversal of his decision to increase imports.

(The following proceedings occurred earlier:)

Mr. CURTIS. Mr. President, I ask unanimous consent that of the time allotted to me 5 minutes may be used by the distinguished Senator from New Mexico (Mr. SCHMITT) after the Senator finishes, and I ask unanimous consent that this interruption go at the end of the other remarks.

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

Mr. McGOVERN. Mr. President, I yield whatever time I have left to the Senator from New Mexico (Mr. SCHMITT).

The Acting President pro tempore. The Senator from New Mexico is recognized for a total of 9 minutes.

Mr. SCHMITT. Mr. President, I thank the distinguished Senator from South Dakota and the distinguished Senator from Nebraska for their courtesy.

Mr. President, a few days ago I made a plenary statement relative to the Carter administration's threatened action to increase the beef import quotas, and today, in the face of the clear intention to carry out that action, I should like to continue that discussion.

I have tried diligently to understand President Carter and his administration's policy and their posture on issues related to agriculture. So far, that policy and posture still add up to a great big question mark. What candidate Carter said during the campaign and what President Carter has done since he moved into the White House are entirely different courses of action in almost every respect, as it relates to agriculture and, unfortunately, to many other areas of public policy.

The latest example of how the administration dilly-dallies around and then comes up with the wrong solution is seen in the beef issue.

The President wants to import 200 million pounds of foreign-produced beef, so as to drive down the price of beef to consumers—certainly a worthwhile aim—and, in so doing, maintain his posture with consumers as a champion of cheap food.

Mr. President, I think everyone in this body—and most people in this country, I hope—realize that food is cheap in the United States. It is cheaper than in any other major industrialized nation in the world. As a matter of fact, only 16 percent of our disposable income, after taxes, is spent to feed the average American, compared to a worldwide average of 53 percent.

This particular action would be disastrous—a surrender to the policy of the quick fix, and a total rejection of long-term economic realities relative to commodities.

It is similar to the administration's position—and as is the administration's position—on the price of natural gas. The only way you decrease the price of a commodity over the long term, in a free enterprise economy, without spreading that burden to other sectors of the economy, is to increase supply and increase domestic supply. Once this economy becomes dependent on imports of foreign commodities to keep its price down, eventually that price is going to rise because of foreign pressures over which we have no control. If we need any more examples than the petroleum crisis we are now in, we have become a nation that cannot understand being hit across the nose with a 2 by 4.

No one doubts that the Consumer Price Index will continue to show beef price index increases in its next report. The next Consumer Price Index report will reflect current increases in wholesale prices of beef which already have taken place. But further reaction to situations already past is a poor substitute for leadership when it comes to the economy.

The time for effective leadership was during the past 2 years, when cattlemen were losing their shirts. Thanks to the leadership of Congress, some reasonably effective steps have been taken in the past couple of years to help farmers and ranchers hang onto their farms and ranches, to ride out the natural disasters of two serious droughts back to back and two terrible winters, also back to back; to be able to survive, albeit temporarily, the increasing pressures from a Government-fueled inflation—not an inflation brought on by the farmers, ranchers, and other workers and business people of our economy, but one to which they have to react relative to wages and prices.

With those disastrous years behind, the agricultural community and the surviving cattlemen are now striving to rebuild their herds and are gearing up to expand the production of beef to meet consumer demand, which now is driving up the price of a limited amount of domestic beef.

What the President should do is to state publicly that, regardless of what action the administration or Congress takes at this time, beef prices will continue to rise for another month or so, due to the irreversible market forces which already are in place.

What the President should do is to place the blame for inflation where it rightfully belongs—on the cost of unnecessary Government and Government regulations, on the drop in overall manufacturing and service productivity, on the high cost of money for business expansion due to competition of Government agencies bidding for capital. Such action would demonstrate far greater leadership than the shortsighted attempt to blame inflation on the price of beef.

I see nothing wrong with the President calling attention of consumers to the fact that all cuts of beef are nutritious, that there are many cuts that are relatively inexpensive, and that consumers who want cheaper cuts can find them and base their menus on these less expensive beef cuts. But to take on a cattle industry that is just beginning to show signs of survival—not of excessive profits, just survival—is, once again, entirely the wrong direction in which to head.

Mr. President, there is no doubt that a healthy cattle industry is in the best interests of the American consumer. Likewise, there is no doubt that the lifting of beef import restraints at this time will adversely affect the recovery of the U.S. beef industry, and it is not in the best interests of the American consumer.

I am not sure what it is going to take to educate the Carter administration as to just what basic economic principles apply within our modern free enterprise economy. I have not seen one significant indication that either Mr. Carter, Bob Strauss, or any of their advisers truly understand the causes of inflation and the causes for the rise in the price of any particular commodity—not just beef, but any commodity. Until there is that kind of understanding, until there is an awareness of what it takes to drive this great American Nation in the marketplace, I am afraid we are going to be subjected, again and again, to these kinds of shortsighted, completely ineffective policies.

Again taking an example from the natural gas issue, it is absolutely clear to anybody who spends any time at all on this subject that if we continue to regulate the price of natural gas, or if we continue to attempt to regulate the price of beef by imports, that price never will decrease. One way or another, the American people will continue to pay higher and higher prices for those commodities.

The only way that price ever will decrease is to have abundant production

domestically, and every incentive should be created so that the marketplace can provide the supply—and eventually the oversupply—that will give the consumer the permanent decrease in price that is necessary for the consumer's survival.

(Conclusion of earlier proceedings.)

● Mr. STONE. Mr. President, last Thursday the President of the United States announced that an additional 200 million pounds of fresh chilled or frozen lean foreign beef will be allowed into this country. This action comes at a time when consumers are faced with rising food costs and when the overall U.S. economy is experiencing a spiraling rate of inflation. The President's announcement will not reduce substantially the American consumers' costs for beef, for the 200 million pounds represents less than 1 percent of the total U.S. beef supply. The administration says hamburger prices will drop by 4 to 5 cents per pound, but other beef prices will not go down.

I realize the crushing problem of inflation and I recognize the need for national efforts to curtail the upward spiral of consumer prices. However, I am most fearful that the harm that will be done to our domestic cattle producers will not be balanced by consumer savings—for the consumers too will suffer in the long term.

The past few years have been difficult ones for the American cattlemen. Drought, high production costs, and low prices resulted in a liquidation of cattle which is just now coming to an end.

It is this forced liquidation that has resulted in lower beef supplies and the recent rise in cattle prices. Our producers are responding to the higher prices by rebuilding herds as well as putting more cattle on feed. Import quota reductions during this rebuilding period could very well offset the natural adjustments that are now being made. After all, a shortsighted policy could hurt consumers in the long run if it discourages U.S. cattle producers from rebuilding their herds in order to produce a stable, adequate supply for the years ahead.

For the reasons I have mentioned, I wrote the Secretary of Agriculture last Friday to express my concerns over the President's announcement and to urge him to monitor the consumer demand and the additional imports on a weekly basis. It is most important that the Secretary make sure that these additional imports do what they are intended to do, which is to keep consumer prices at a reasonable level and also to enable our domestic cattle producers to recover the losses they have incurred these past 4 years.

I am most hopeful that the Secretary of Agriculture will agree with me that careful monitoring of these imports, retail prices, and consumer demand are a must in order to protect the domestic cattle producers and the American consumer in years ahead.●

● Mr. ZORINSKY. Mr. President, last week when President Carter announced a 15-percent increase in the level of meat imports, he cited the recent upward surge of consumer prices, particularly of retail meat prices as a justification. Only a few days later Secretary of Agriculture Robert Bergland said the additional 200 million pounds of imported meat would have a negligible effect on prices. In fact, the increase of supply would hardly be noticed in the retail market. President Carter himself admitted that the economic impact of the increased imports would be limited for both consumer and producer.

The short-run economic effects are not likely to be great. The administration's symbolic foray will neither reduce inflation nor cripple the cattle industry. What concerns me more is the gross insensitivity and lack of concern demonstrated for the American cattleman and livestock feeder. What was aimed as a symbolic stab at consumer price inflation, has delivered a severe blow to the morale of the livestock industry.

For the past 4 years American cattlemen have lost money. Drought, high input costs and low product prices have taken their toll, and livestock feeders have shown a net loss in 15 of the past 23 quarters. The cattlemen is heavily in debt; over $500 million of Farmers Home Administration loans are still outstanding in the emergency livestock program. More than 5,200 loans remained unpaid this spring.

The American livestock producers' loss has been the American consumers' gain. Record high cattle numbers and the slaughter of 16 million head since 1975 have given the consumer cheap fed-beef and cheaper hamburger. Now the long liquidation phase of the cattle cycle is coming to an end. Cattle and beef prices have turned the corner and barely have begun to recover from a prolonged depressed period. The American cattleman—for the first time in 4 years—can see the light at the end of a very long tunnel.

The increase of meat imports at this time would place another obstacle in the path of the American livestock industry's recovery. Some operators may be driven back into the red and may not survive. But perhaps most important is the renewal of the pessimism and frustration of the past 4 years. American cattlemen recently have started planning to rebuild their herds, assuring adequate beef supplies to consumers in future years. The callous disregard of this administration for the struggling livestock producer has all but destroyed that optimism, on which sufficient beef supplies in the next few years depends.

During the past 4 years the law of supply and demand has prevailed in the livestock industry, and cattlemen have, for the most part, borne the burden of high supplies and low prices in silence. But this same fundamental tenet of the free market economy is not to be allowed to turn the balance in favor of the producer. The administration has decreed that beef prices are the villain causing consumer price inflation. Though producer's losses subsidized the consumers low meat prices, the cattleman is once again asked to shoulder the burden of inflation. His own production costs continue to rise, but increased imports of foreign meats are used to force down the prices he receives for his products.

Higher domestic beef prices are not the principal cause of consumer price inflation. Indeed, livestock and beef producers themselves are victims to ever-increasing costs of production. There are other greater inflationary sources—higher energy and labor costs, increased Government spending—but perhaps none so visible to the average consumer as meat bought at the local grocery store.

A few days before President Carter announced his decision to increase meat imports, I joined 23 of my colleagues in sending the President a letter expressing our concern with the proposal to suspend import quotas. We urged him to consider the precarious state of the livestock industry and to reject any such proposal. Our pleas were ignored. Today, we repeat our complaint and ask to be heard.

I wholeheartedly concur with the distinguished Senator from Kansas, the ranking Republican of the Senate Agriculture Committee, in condemning this insensitive and unjust treatment of the American cattleman. And I urge the President to reconsider his plan before further damage is inflicted on the American livestock industry.●

Mr. LUGAR. Mr. President, earlier this morning a colloquy ensued in which a number of our colleagues addressed the problem of beef imports into this country. On an earlier occasion I made a comment on this situation, and I should like to join my colleagues with a brief thought this morning.

The White House press secretary, at the time the beef import question came to the fore, presented certain statistics that were important both in making a case for the White House as well as a discussion of this situation with regard to farmers.

Essentially, the White House press secretary pointed out that the cattle cycle is about 10 years in duration and that since 1974 most livestock producers have experienced losses. Indeed, for 15 of the past 23 quarters, cattle feeders have experienced losses.

The White House also pointed out that meat production for 1978 will total 51.1 billion pounds, about 1 percent below earlier year levels, with beef production expected to be down 4 percent.

From this analysis, one could make a case that the country needed more beef and that beef should be imported—and, indeed, the White House made that judgment. But I concur with my colleagues this morning who pointed out that this judgment shows a profound misunderstanding of the cattle industry and of decisions that may be made adversely with regard to breeding stock in the next 90 days.

Clearly, the decision, as a psychological tool, is likely to have an adverse impact upon the availability of beef in this country, and thus may set in place a continuation of substantial inflation.

● Mr. McCLURE. Mr. President, William

Jennings Bryan once characterized the importance of agriculture in this Nation by saying:

Burn down your cities and leave our farms, and your cities will spring up again as if by magic; but destroy our farms and the grass will grow in the streets or every city in the country.

His words reflect precisely the situation today. All industries contribute to the state of the economy's health. But if agriculture or ranching coughs, the whole economy catches cold.

American agriculture and ranching produce enough food to feed our Nation, as well as much of the world, on a level unprecedented in history. And how do we reward the people responsible? Too often, the rancher must pay more than his fair share of this Nation's economic burdens.

Latest figures indicate we are once again in a period of double-digit inflation. While this troubles all of us, the beef producer views those figures with even more concern. Beef producers as a matter of rule, are among the first to be saddled with new anti-inflationary methods.

For the meat producer, this means increased meat import quotas.

Reducing the price ranchers now receive for their products would be disastrous at this time. After 4 years of near depression in that industry, ranchers are beginning to recover.

Increasing quotas is the easy way to bring down beef prices. But this usually begins a vicious cycle with the consumer's patience and his pocketbook. Once the producer's price rises, the consumer begins to feel the pinch.

Unfortunately, the administration is making overtures in that direction. Imported beef does lower the price. But the result is only temporary. Both the consumer and the producer eventually suffer.

The problem lies in the current method of increasing imports when production is high and subsequently reducing imports when domestic production is low.

This results in a series of boom-bust cycles. It hurts the consumer who must face fluctuating prices. It hurts the producer who must make his way in an uncertain market.

Interestingly enough, the International Trade Commission has found imports of live cattle and meat to be "neither causing nor threatening serious injury to the U.S. industry producing cattle and beef." This is contrary to the opinion of the beef producer who is dealing with the influx of live foreign cattle from Canada and Mexico into his local market. These cattle are not considered in the national average when they enter the United States. They become part of our statistics and are no longer considered foreign imported beef.

In addition, imported beef is not under the same health requirements as domestic beef.

We can and we must find a better way. The beef market can be stabilized.

H.R. 5052 would go a long way toward that goal. This measure would create a countercyclical beef import cycle. Imports would increase as production lowers and vice versa.

This is a more natural working of the marketplace, and a concept I can support wholeheartedly. Mr. President, we should ask ourselves how we arrived at this point. We should ask ourselves several questions before accepting the administration's actions quietly. Retail prices for beef have risen rapidly, but why? Income to the rancher is rising as the price paid for cattle increases; but is he receiving a price so unfair as to justify Government intervention? Will driving the price down again benefit the consumer, the producer, or the Nation in the long run?

The cattle rancher has already taken it on the chin—he has paid the price of Government intervention. Are we to require him to extend his burden? On July 18, 1973, controls on ceiling prices of all food items—except beef—were lifted. The result was both dramatic and predictable. Deprived of their right to sell on a market in which they could gain at least a small return, cattlemen held their animals for an anticipated improvement at the end of price controls. Cattle numbers rose to levels substantially above demand. Prices fell. Those who favored consumer protection pointed with gratification at the "good" results of the action—lower prices. The market would in all likelihood have adjusted last year if drought conditions had not forced ranchers to move cattle to market in spite of market conditions. Now we are at the inevitable end of the cycle—Government controls depress prices, low prices depress supply, decreased supply drives prices upward—and the consumer is hit in the pocketbook. Then, as always, the Government cannot resist the temptation to interfere again.

The rancher, over the last several years, has been able to survive, if at all, only by increasing debt. They not only must have "normal" profits, but slightly "better-than-normal" profits, so they can pay the banker as well as making a living. Many have not survived and many more were forced to rely on income produced off the ranch. Now that they have a chance to pay their bills, they are told it is unjust to get as much as they are getting. As a matter of fact, prices have just gotten back to the precontrol levels and it needs no proof to say that costs have risen dramatically. When will the Government stop this cruel cynical hoax?

I am totally opposed to the action by President Carter in allowing increased imports at this time. It is unfair. It is unjust. It is unwise.●

● Mr. PEARSON. Mr. President, the recent decision by President Carter to suspend meat import quotas is not in our Nation's best interest. Although this is intended to be an anti-inflationary move, there is little evidence that it will have any appreciable effect on retail beef prices. Under current voluntary restraint agreements, the U.S. is allowed to import 1.2 billion pounds of meat. Pursuant to the lifting of import quotas, an additional 200 million pounds of meat would be allowed for importation. Mr. President, considering the fact that Americans consume about 26 billion pounds of meat every year, the additional 200 million pounds will not have a dramatic impact on the marketplace.

But it is likely, Mr. President, that this decision will have an adverse effect on our beef producing industry, which only recently has begun to recover from a prolonged recession. This action sends a disturbing message to cattle producers. They are now forced to reevaluate the decisions as to whether or not to continue to sell off their brood stock. It necessarily weakens producer confidence in the future; if 200 million pounds can be allowed today, why not additional millions tomorrow. Thus, this action could well result in a further liquidation of the cow herd at the very time a rebuilding is in the interest of both producers and consumers.

The responsibility for curbing inflation does not rest solely on the shoulders of only one segment of our economy. I regret the President has taken an action which, in the first place, is unfair to the livestock industry and which, in the second place, will not effectively serve consumers in their battle against higher prices. Indeed, Mr. President, the ironic aspect of this decision is that if it does serve to weaken producer confidence, it will further delay the rebuilding of our cow herd and this means a further delay in expanding the supply of meat available to the consumer.●

Mr. TOWER. Mr. President, since the 93d Congress I have been involved in efforts to revise the statutes relating to the importation of meat and meat products from foreign countries into the United States. In my view, the current system, which focuses on allowing more beef products into this country when domestic production is high, adversely affects the cattle markets in this country.

The recent decision by the administration to increase the ceiling on the amount of beef which can enter this country from foreign sources will have a detrimental, if not drastic, impact on the prices received by U.S. cattle producers. At the same time, the prices paid by American consumers in retail markets will be relieved very little, if at all.

This administrative decision makes the beef producer in the United States the scapegoat for the public outcry over rising meat prices, yet it leaves the larger problems of inflation in food costs fundamentally untouched. One of the true culprits is labor unions, particularly when we consider the fact that the cost of labor alone involved in moving food from the farm or ranch to the supermarket is now greater than the total value of farm production in this country. And, we are now in the midst of conducting an extended, educated dialog concerning whether these unions will gain even more power. Perhaps our discussions on labor reform should focus on the impact that labor unions have on retail food prices.

In terms of food marketing dollars, what the consumer pays for food, exclusive of the returns received by farmers, contributes to labor's 51-percent share. Earlier this year, an ad hoc Senate Republican Agriculture Policy Subcommittee determined that—

At numerous points in the food chain, self-serving labor rules and regulations jack up

prices without returning an extra penny to the farmer of an extra benefit to the consumer. In many localities, union work rules prevent supermarkets from using meat cut up and boxed at its point of origin, even though that would result in a savings to the buyer. Instead, "swinging" meat must be shipped long distances to be cut up at the point of supermarket sale, with consequent higher prices for the public.

It is disheartening, and even discouraging, to see the farmers and stockmen of this country being used. When retail prices begin to rise, American farmers and stockmen are the direct recipients of the wrath of our citizenry. Both the farmer and the consumer are victimized. Instead consumer unrest and militancy should be directed against the labor abuses which impose higher prices upon the American people while not improving the goods or services being provided.

American beef producers have shown that they are capable of providing this country with an adequate supply of beef products. Yet, the disincentives levied by the administration will almost assuredly precipitate herd liquidation which will result in smaller supplies of domestic beef, greater dependence on foreign beef sources, lower quality beef products, and higher prices in the Nation's supermarkets.

A recent publication by the Economics, Statistics and Cooperatives Service of the U.S. Department of Agriculture supports the theory that opening the floodgates for foreign beef will artificially depress cattle prices, just as these farmers are beginning to recover from a prolonged price depression. The May 1978 publication states that—

Although beef prices have been rising for only a few months, they are attracting much attention because of their importance in the consumer's food budget. Just when prices are beginning to signal producers to start rebuilding their herds, proposals are being put forth to thwart further price increases.

It is imperative that the Congress take the necessary steps to insure the continued health of the agricultural economy of this country. I commend my colleagues in the Senate for approving the meat import revision legislation which was introduced by my distinguished colleague from Texas (Mr. BENTSEN) and cosponsored by many of the Members of this body.

In my view, we should muster the necessary resources to encourage the approval of this legislation by the House of Representatives. If revisions such as those we supported are enacted into law, situations such as those created last week by the President's decision would not become prevalent.

These trends cannot and must not continue. We cannot afford to see our agricultural economy artificially stifled and depressed in every instance when returns on investment begin to increase. We must not allow imports of foreign beef to increase when our producers are capable and willing to provide us with the beef products we require. We must not allow the Nation's agricultural producers, nor its consumers, to be continually victimized and used in this manner.

Mr. DOMENICI. Mr. President, the Senate has considered the meat import question and passed a countercyclical beef import bill on May 5. This bill provided for automatic increases in beef imports during periods of domestic shortages, and decreases during periods of domestic overproduction. The measure will correct inequities harmful to consumers, to cattlemen and to importers.

The Meat Import Act of 1964 provides for beef imports to increase as domestic cattle production increases, and beef imports to decline as domestic production declines. This brought about an extremely unstable market with consumers periodically paying high beef prices.

Mr. President, it seems to me that the Senate-passed bill will provide for more stability in the cattle industry. It will provide lower prices to the consumer because of the greater stability it brings to the beef market. It will also provide reasonable markets for imports.

I believe the recent actions taken by the administration to increase imports of meat will make apparent that provisions contained in H.R. 5052 are both needed and desirable to help ease sharp fluctuation in beef prices.

COMMITTEE MEETINGS

Mr. MELCHER. Mr. President, I ask unanimous consent that the Environmental Pollution Subcommittee of the Environment and Public Works Committee be authorized to meet during the session of the Senate today to mark up S. 2900, the oil spill liability bill.

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

Mr. WILLIAMS. I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate today to consider executive nominations, H.R. 12571, the Fishery Conservation Zone Transition Act; H.R. 7819, a bill to complement the Vienna Convention of Diplomatic Relations; and other treaties.

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

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate today to consider S. 2692, the Department of Energy authorization bill.

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

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the Aviation Subcommittee of the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate today to consider S. 3064, S. 747, and H.R. 8729, aircraft noise reduction legislation.

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

LABOR LAW REFORM ACT OF 1978

The PRESIDING OFFICER. The Senate will now resume consideration of the unfinished business, H.R. 8410, which the clerk will state by title.

The legislative clerk read as follows:

A bill (H.R. 8410) to amend the National Labor Relations Act to strengthen the remedies and expedite the procedures under such act.

The Senate resumed the consideration of the bill.

Mr. LUGAR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

THE NEED FOR LABOR LAW REFORM

Mr. WILLIAMS. Mr. President, as the debate on the labor law reform bill continues, we sometimes lose sight of the people whom this revision of our Nation's labor laws is intended to help.

It is all too easy to think of this bill as legislation for the benefit of the large international labor unions. It is too easy to forget that there are millions of American workers who want and need the protections of our laws.

When all the rhetoric is put aside, we come back time and time again to the fact that this bill is intended to protect not the mighty, but the weak; not the labor leaders or the big corporations, but the workers of our Nation.

Ethel Smith and Lula Hurry are two such workers; and their fight for justice, which took more than 5 years, is evidence of the need for labor law reform.

WHY AMERICA'S WORKERS NEED LABOR LAW REFORM CHAPTER THIRTEEN

In early August of 1971, the nonprofessional nursing employees of the Gerrard Convalescent Home in Covington, Ky., requested a wage increase.

When the employer did not respond to their request, they contacted local 1199H of the National Union of Hospital and Nursing Home Employees. On August 13, 1971, Hurry met with a representative of that union, and signed a union authorization card. The next day, Smith signed a card. Two days later, on August 16, 1971, the supervisors held a captive audience meeting with the employees, and after the meeting, Ethel Smith and Lula Hurry were fired.

The union filed unfair labor practice charges on their behalf, and after a hearing, the administrative law judge found that by discharging the two, and engaging in other coercive conduct, the employer had violated the National Labor Relations Act. On October 12, 1972, the Board affirmed the administrative law judge's decision, and ordered the company to reinstate the two and give them backpay.

In fact, the company had offered Hurry and Smith their jobs back on June 2, 1972, 4 months before the Board's decision, but refused to comply with the Board's backpay order. The Board went to the U.S. Court of Appeals for the Sixth Circuit, which on January 23, 1974, enforced the Board's order. By this time, 3 years and 5 months had elapsed since the illegal discharges.

It took another 15 months before the

Board held a hearing on the issue of how much backpay was due to Smith and Hurry. That hearing was held on April 17, 1975, and on June 26, 1975, the administrative law judge issued his decision.

On December 18, 1975, the Board affirmed that decision, ordering the company to pay Lula Hurry the sum of $1,400.65, and Ethel Smith the sum of $1,397.74.

The company still contested the validity of the Board's order and forced the Board to seek enforcement in the court of appeals. The case went back again to the sixth circuit, and after another year of delay, the sixth circuit, in a five-paragraph decision, enforced the Board's order.

After 5 years and 4 months, Lula Hurry and Ethel Smith had their backpay order.

Mr. President, our current law encourages employers to string out these cases for years, while innocent employees wait and suffer.

Under H.R. 8410, this would not have happened. The temporary reinstatement provision of the pending bill would have insured Smith's and Hurry's prompt reinstatement. The backpay provisions of the pending bill would have provided a sure and efficient and fair measure of the damages suffered by these employees, and there would have been no need to litigate the backpay question for 3 years.

Mr. President, it is cases like that of Lula Hurry and Ethel Smith that labor law reform is all about.

NEW YORK CITY'S FINANCIAL SITUATION

Mr. LUGAR. Mr. President, I should like to comment this morning, prior to launching into the debate on labor law reform again, on developments in one other area of responsibility for us.

Currently—at this hour, as a matter of fact—the Committee on Banking, Housing, and Urban Affairs is conducting the fourth day of hearings on New York City and its finances. This is of considerable interest to me and to the distinguished floor manager of the bill.

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

Mr. LUGAR. I yield for a question.

Mr. WILLIAMS. The question is this: This is not germane to the matter that is now before the Senate. Under the rule, this is not permitted.

The PRESIDING OFFICER. Does the Senator from New Jersey have a parliamentary inquiry?

Mr. WILLIAMS. Yes, is this germane and permitted—this discussion of other matters at this point?

The PRESIDING OFFICER. The rule requires that the subject of debate must be germane up to 1:07 p.m. today.

Mr. WILLIAMS. In view of the fact that the Senator has entered into this matter, I have no objection to his continuing. I just wanted it to be understood, and I wanted to understand whether or not this required unanimous consent. Am I correct that it does?

The PRESIDING OFFICER. The Senator from New Jersey is correct.

Mr. WILLIAMS. I have no objection.

Mr. LUGAR. Mr. President, I ask unanimous consent that I may proceed for a moment on a subject that is not germane.

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

Mr. LUGAR. I thank the distinguished Senator from New Jersey.

Mr. President, the Committee on Banking, Housing, and Urban Affairs is meeting at present. This is a hearing that normally would invove the distinguished floor manager of the bill, Senator WILLIAMS, as well as myself.

We are obviously here debating labor law reform, although it is of great interest to the country how the hearings in the Banking Committee turn out. I was disappointed to learn yesterday that a markup of the New York City financial legislation is scheduled for Thursday. This appeared to me to be peculiarly inappropriate and I have so written to the chairman of the committee, the distinguished Senator from Wisconsin, Senator PROXMIRE, with hopes that he might at least delay for a few days the markup so that the benefits of hearings and likewise the full attention of Senators who are members of that committee might be given to this important matter.

I have indicated to Senator PROXMIRE that I am preparing legislation on my own that might offer at least one course, and I wish for that legislation to be considered at the time that the committee considers the administration bill or the consequence of no action, and I simply point out that my understanding is that Senator PROXMIRE was hoping to move that legislation to the floor very rapidly and to ask a unanimous consent request for a time limit on debate. And I simply say that I have no intent of attempting to entwine the New York legislation with what we are about, but it simply is very difficult to devote the time and attention to that that might be required, and I am not in favor, therefore, of moving on to a unanimous-consent request for a limit on that debate until we are able to untangle some matters. I am hopeful that I may have the cooperation of colleagues in making certain we do not proceed to a hasty markup and a decision in the Banking Committee on Thursday in the midst of our concern with this bill.

LABOR LAW REFORM ACT OF 1978

The Senate continued with the consideration of the bill.

Mr. LUGAR. Mr. President, I suggest today that much of the impetus for the labor law reform legislation came earlier on from the commentaries on J. P. Stevens Co., and I bring the J. P. Stevens situation into some perspective this morning through the benefit of an article which appears in Fortune magazine on June 19, 1978, entitled "How the Union Got the Upper Hand on J. P. Stevens," by Walter Guzzardi, Jr. I mention this article and I shall quote from passages of it because it seems to me that it offers an account which is neither very complimentary to J. P. Stevens nor necessarily supportive of the individual cases of employee action that are cited there. But it does offer a rather good background as to what we are talking about in labor law reform. So frequently as we get bound up in the legalisms and to the meanings of various words we lose sight as the distinguished floor manager has pointed out this morning of individual cases, and this article I think is helpful.

Therefore, Mr. President, I quote, and I commence at the beginning of the article:

Joseph Williams, a worker at a J. P. Stevens textile mill in Roanoke Rapids, North Carolina, was given this warning one day in April, 1973: "Joseph, on Monday morning you called Jasper Daniels, a fixer, over to the frame where you were. You then stopped your work and handed him some literature and tried to talk him into signing up with the union. You must not neglect your work nor interfere with the work of other employees in this or any other way. If you do, we cannot keep you in our employment."

That was the end of the quote of the warning that he received.

When Williams ignored the warning and continued to pass out leaflets, his supervisor sent him home. After a discussion with other superiors, Williams was reinstated. Then one night Williams was told to clean the spindles on his loom. While he admitted later that cleaning spindles was part of his job, he also claimed—and his supervisor denied—that his work load was being unfairly increased. Williams told the supervisor, "I'm not going to clean those spindles." He was fired.

The union complained to the National Labor Relations Board. After Stevens appealed the NLRB ruling, the Court of Appeals found that Williams had been illegally fired because of his union activities. The court required the company to let Williams return to his job, and to give him back pay with interest. Since Stevens had been previously enjoined to "cease and desist" from unfair labor practices, the court also cited the company for contempt.

Another case:

Crystal Lee Jordan was a worker in a Stevens fabricating plant and an active union organizer. One day in May, 1973, her supervisor protested when she started to copy from a plant bulletin board an anti-union letter written by the management, and used a pay phone during work time to call her union representative. (When she argued about the phone call, one supervisor said to another, "Let it go, Melvin, let it go.") After the union had advised Jordan of her rights, she insisted on copying the letter.

That night some supervisors called her into an office. First she refused to go; then she went; then she would not talk to them unless each identified himself and spelled his name. She clapped her hands over her ears, and became shrill and defiant. She was fired.

Ruled the Court of Appeals: "The possibility that the company had legitimate cause for the discharge does not end the inquiry, for a discharge partially motivated by antiunion discrimination is also illegal. Jordan's outburst was used as a pretext for the dismissal of an active union organizer." Contempt again.

Those incidents—snippets from records running to millions of pages—are full of the hated taste of defeat for J. P. Stevens, the nation's second-largest textile company. Fifteen year ago when the company' battle with labor began, contempt of court judgments such as those—and all the complicated, highly damaging consequences for Stevens that flow

from them—seemed impossible. But now, in an incredible turn of events, court rulings in hundreds of such episodes have given the Amalgamated Clothing and Textile Workers Union tremendous leverage over the company.

In the corporate management, the only executive who refuses to acknowledge the realities of the present situation is the chief executive officer, James D. Finley, a sixty-one-year-old Georgian of iron character and rigid bearing. "I wouldn't change anything if I could do it all over again," he says, and such is the man's quality that one has to believe him.

But in his resolve he stands alone, a man isolated in an isolated corporation. The deeply worried executives around him are eagerly looking for ways to repeal the old decision to fight to the death, and are anxious to find a compromise. For the company stands today beleaguered in the courts, besmirched in public, an embarrassment to the business community. Even Finley, after asserting stubbornly that "we don't have any problem, the union has a problem," contradicts himself a moment later. "The next move is up to them," he says. "The union holds all the cards."

Back in 1963, the old Textile Workers Union seemed hardly important enough to be in the game with J. P. Stevens. The union's former president, Sol Stetin, sixty-eight, whose unamplified voice can still fill a union hall, admits that "we saw our organization dwindling." A fading brotherhood with aging leadership, the T.W.U. could only helplessly watch textile companies flee the union's New England turf to the congenial, non-union South.

But that fading brotherhood suddenly changed its character two years ago when it joined hands with the Amalgamated Clothing Workers of America. The merged union, the A.C.T.W.U., is hardly the most potent force in trade unionism, but it has its strengths—located exactly where they count, in the capacity for skillful lawyering. The A.C.T.W.U.'s president, Murray H. Finley, fifty-six—no kin to the boss of J. P. Stevens—is a lawyer, knowledgeable in both the courtrooms and the court of public opinion. And the A.C.T.W.U.'s general counsel, Arthur M. Goldberg, is a recognized authority on labor law. It would be hard to find an adversary better equipped for just the kind of battle that the union has waged against Stevens.

When it was looking around for a textile company to unionize in the South, the T.W.U. made one of the most felicitous mistakes in labor's history. The T.W.U. had lost a big battle with that old buccaneer, Roger Milliken, then head of Deering Milliken, who had closed a plant in South Carolina rather than negotiate. The union had also been busted after a long strike at Harriet & Henderson Mills, and been beaten off by Cannon Mills and Burlington Industries.

So the union's eye fell on J. P. Stevens. It looked like a soft adversary. The company's chief executive, Robert T. Stevens, was a former Secretary of the Army best known for having been browbeaten on national television by Senator Joe McCarthy. "Very truthfully," Stetin admits today, "I never imagined that the company would carry on the way it has." Unexpectedly, the thought of union organizers at the company gates turned mild-mannered Robert Stevens into Fighting Bob, and management decided to do battle.

Looking back at that critical moment today, James Finley insists that "We've always done everything we could to abide by the law." Even if that is true—and the courts have held otherwise—Bob Stevens and Finley must have decided to carry on the battle at the law's outer limits, to push and probe out where the boundaries between legal and illegal behavior are vague. Labor laws are primarily remedial, and there is not usually a heavy penalty for a misstep—so the decision did not look nearly as risky as it turned out to be.

So in 1963 when union organizers arrived at Roanoke Rapids, where Stevens has a seven-plant manufacturing complex, they found that war had already been declared. "Our positive intention," announced a company notice to employees, "is to oppose this union and by every proper means to keep it from coming in here. It is our sincere belief that if this union gets in here, it would operate to your serious disadvantage." In a foreshadowing of what was to come, that notice, the company's first thrust, made trouble—it was later declared to be illegal. What was worse, that declaration and other mistakable signs led the supervisors on the plant floor to conclude that they were expected to get tough, which probably suited their inclinations anyway. Then out of stupidity, obtuseness, perversity, or laxity—or a mingling of these failings—the company's executives took years to get those supervisors under control. So began all those little dramas, each in several acts, that look so tragic to Stevens today.

Supervisors accosted employees over the size of the union button that an employee was wearing (the supervisor said it was too big, and might get caught in plant machinery); over where employees could distribute leaflets and whether it was dangerous to distribute them in doorways and hallways; over which cafeteria a worker was supposed to use and whether the rules were really clear; over whether Avon ladies were allowed to make sales on company property; over exactly what were the duties of blow boys and tenders and doffers and carders and fixers, and when they could go to the toilet and when they could smoke and how long they ought to take about it. Did supervisors really say, "People get hurt when they fool around with unions" and "I guess you know about your brother Theodore" and "Go home and take that T-shirt off," and were those threats, and were they followed by firings?

All those dramas were recalled very differently by witnesses and participants. But by the judgments of law just about all of them that went to trial were held to be violations of the National Labor Relations Act. There were gross incidents: within two days after their names were posted as new union members, three employees were fired. And there were trivial ones: a supervisor asked two employees walking through a plant drumming up attendance at a speech by a union organizer, "Can I help you?" and was held to have made a "gratuitous, condescending, and unjustified remark." But they were all ruled coercive acts, and therefor illegal. Stevens was like a man flipping a coin for high stakes, hearing his opponent forever cry, "Heads," and with unbelieving eyes seeing the coin come up heads every time.

Before it entered the game, Stevens ought to have taken a closer look at the rules. The central institution in labor-law litigation is the National Labor Relations Board: charges are filed with NLRB regional offices, cases are prosecuted by lawyers from the NLRB, decisions are handed down by administrative-law judges from the NLRB, and the place of first appeal is the full board of the NLRB. Over the years, NLRB boards have been pretty much the same: larded with career bureaucrats, sympathetic to labor, and blind to the realities of business. Today's board seems typical: it is, in the words of Edward Miller, a former chairman of the NLRB, "an ivory-towered board." Only two out of its five members have had any extensive experience outside of government; John Fanning, the chairman, has served on the board for twenty years.

Decisions of the NLRB can be appealed to the federal circuit courts. But what becomes critical then are "findings of fact," meaning, in labor cases, determination about the credibility of witnesses, a matter of whom to believe in a dispute about who said what to whom and in what tone of voice. And there, circuit-court judges are very reluctant to reverse the courts below: last year they upheld the NLRB 80 percent of the time. Time and again Stevens came to the courthouse to hear a judge intone, "The NLRB's findings of fact are of great weight in this court . . . the conclusions are upheld." Concludes James Finley: "The law is pro-union." But Stevens should have known about its chances in that legal environment before it began appealing every case to its bitter end.

What Stevens probably could not have anticipated was the A.C.T.W.U.'s acumen in capitalizing on all those proved, triply certified, bound-in-iron illegal acts. The union has used them to conceal from public awareness the most arresting, least noticed, most crucially important fact in the whole arresting history of the Stevens affair: time after time, at plant after plant, in southern town after southern town, the union lost election after election. From 1965 to 1975, twelve elections were held at Stevens facilities. The union lost all but one. But by persuading the courts that the company was guilty of those unfair practices, the union was able to have many election results set aside. From there, it went on to turn the defeats into victories of rather special kinds.

Nothing illustrates the union's feats of magic better than the experiences to Roanoke Rapids (population: 14,000) one of those renewed southern towns where there seem to be more cars than inhabitants. There Stevens now employs about 2,800 of the company's 44,000 people. The T.W.U. lost an election there years ago by a big margin. Then it brought massive cases against the company, consolidating allegations of more than 100 illegal practices. Stevens challenged the cases, but the union was upheld, and the election results were set aside.

Then the union showed how to build on the foundation of that courtroom triumph. By bringing a stream of new charges, the union managed to put off a rerun election at Roanoke Rapids for something over nine years. It finally made its move in 1974, when the stock market was scraping bottom, employees' profit-sharing plans were down in value, and union organizers had long been hard at work in Roanoke Rapids. So there, for the first and only time in the history of its efforts to organize Stevens, the union finally won an election—by 237 votes out of 3,205 cast.

Mr. President, at this point I want to yield the floor for a moment. But the purpose of this recitation has been to simply establish—and I have taken the J. P. Stevens case because it has been a celebrated one, I have cited instances of charges of unfair labor practices, and at least the Fortune magazine journalist's contention that Stevens should have known the law, but also I have tried to recite in a practical manner of the ways of the world the way this law appears to work, and the decisive facts—that due to all of the unfair labor practice charges and all of the lawyering involved, essentially 12 elections have been held. 11 have been lost, and I cited the one which has been won and, at a later time, I would like to continue to recite the story from the practical role of J. P. Stevens because I think it is illustrative of how the law works and likewise who has really come out on the short end of this particular stick.

At this time, Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. MORGAN. Mr. President, I have taken the opportunity this weekend to explore and review the amendments to S. 2467 proposed by the supporters of this bill. I would like to comment briefly on them.

First, I wish to compliment the proponents of S. 2467 for their willingness to listen to the concerns of Senators such as myself who have a genuine interest in the preservation of our system of effective labor-management regulation. I believe that the distinguished Senators from New Jersey and New York along with the majority leader have sought to accommodate some of the fears I have had about the effect of S. 2467.

Let me give an example of compromise which I believe is essential to any legislative act.

In the area of equal access, the supporters of the bill have attempted to work out a compromise. In an important effort, they have tried to clarify the point that an employer should not pay an employee to listen to an outside labor organizer. I expressed some reservations about this approach as a constitutional issue. While I remain opposed to the so-called equal access rule, I did want to state my appreciation for the spirit in which these changes were made and I wanted to thank the Senators for their reasonableness.

While I am glad to see some move on the part of the supporters of this bill, I must confess that I remain concerned about the approach of this bill and about its specifics.

Before addressing the individual provisions, I would like to reaffirm my concern that the labor law reform bill represents a major alteration in the thrust of our labor laws, in spite of the changes set forth by the new amendments. I must reaffirm my view that this bill will have a major impact on small business and will affect the spirit in which labor and management conduct their relations and will affect their attitudes toward employees. I must reaffirm my view that the need for this bill has yet to be demonstrated; I have not seen the failings of the present system which mandate such a reform effort. My fear is that it will be the employees who suffer from most of the reforms proposed in S. 2467.

ELECTION CHANGES

The first proposal for change deals with amending the election provisions of S. 2467. The amendment provides that the maximum time for setting elections shall be 35 days after an employer receives notice of a union organizing effort—and I emphasize the word "effort."

Mr. President, I must confess that I am concerned that there is no rationality involved in this amendment. To what is a 35-day time limit related? One Senator stated in the markup of S. 2467 in the Human Resources Committee that this is pretty much a numbers game. Personally, I do not see it that way. We are dealing with a lot of employees and a lot of employers, and to them there is no game at all in this bill.

At present, the National Labor Relations Board has been acting so as to produce elections in between 12 and 45 days. The figure of 45 days seems a reasonable one. On the whole, however, I must return to my earlier position—this matter should be left to the NLRB. The fact that we have a bill in the House of Representatives which calls for a 15-day election and a bill in the Senate which has changed from 21 to 35 days reinforces my point that the Congress is invading the province of the National Labor Relations Board. My personal view is that if the Congress wishes to direct the Board to set time limits, then we might wish to state our feelings that time limits should be formalized by the Board. We should not make arbitrary and unsupported determinations about appropriate time limits. This issue is too important to too many people for us to do so. I have no quarrel with the notification and time computation provisions, but I remain opposed to the imposition of time limits by the Congress. The Board is the expert in these matters and its discretion should be maintained.

In fact, as I read it, this substitute may be worse than the committee version or that of the House of Representatives. As I understand it, a union would file a notice of an intent to organize. This notice of intent could not be acted upon for 35 days, at which time a petition would be filed. If the union has a majority of the cards and is an appropriate bargaining unit under Board rules, then the Board, under this substitute, would have to give the petition priority and hold the election as soon as possible. The result is that there would be no hearing to insure that the whole affair was correct and elections could be held at any time, perhaps within 5 days, after a petition is filed. I am particularly disturbed by the elimination of the hearing. This is a major change in the law.

If there were stronger evidence, and none has been brought forth, that there were substantial problems with the election process, then I think we should reform the law. At present the major issue in an election is designating the appropriate units and resolving election issues. The actual holding of an election after the Board has clarified the technical details is really no problem. I do not believe that eliminating case-by-case determinations is possible, so I think that we will continue to have some time period needed to sort out issues, many of which are raised by unions, such as which employees they may represent. The holding of an election, once the issues are resolved, is of a lesser consequence, and I am confident that if we direct the Board to come up with rules, they will take these considerations into account.

EQUAL ACCESS CHANGES

The second major change proposed in the substitute bill is alteration of the so-called equal access rule. Under the modifications set forth, organizers could come onto company property but they could not address employees during working hours or in working areas. They would be limited to areas such as cafeterias, parking lots, and areas where workers congregate during changes of shifts. There could be only two organizers on the property at any time except that four could gather in parking lots. Finally, the change suggests that a labor organization must provide written notice 1 day in advance of a request to address employees, stating the areas and times for the talks. There is an important provision to exclude from the operation of the equal access rule, employers of 10 or less employees.

I must say that supporters of the bill have come a long way toward limiting the rule which they have fought to create. There is so much change I am surprised that they still want to pursue it. The parking lot or cafeteria rule still has certain infirmities to my mind.

First, there is still the problem of setting up a straw man and asking your opponent to compromise and move halfway. Someone has argued that equal access was needed, and said, "We'll compromise if you'll come halfway." My problem, Mr. President, is that I still do not see the need with which I should compromise. The statement I made earlier is that we have equal access today. We have remedial access where physical problems or law violations make information gathering difficult; this may be ordered by the courts. There is still, implicit in this rule, an assumption that every employer in the country is denying his employees information such that the Congress should make a rule of opening up company property to organizing efforts with a few safeguards. I must restate my question—where was the need for this provision and where is the real compromise?

Second, and I am certainly mindful of Senator JAVITS' point that one should not fear creating a remedy because it will be used, I can only foresee delay and endless court cases to define exactly what is a nonworking area and which employees may be addressed in these areas. I will not go into specifics, but I can see that this section will generate much delay, the same delay that other portions of the bill seek to remove.

Finally, I remain concerned about what "addresses employees" means. Is this limited to captive audience speeches or is it more broad so as to include posters, informal talks by supervisors, and a myriad of other communications that go on between employer and employee? How many court cases will be necessary and how many different rules will develop to manage this very difficult area which has already been handled most effectively by the NLRB under current practice?

MAKE-WHOLE CHANGES

The third major area of change is in the make-whole provision. Here several changes have been made in S. 2467. In response to the concern that the Bureau of Labor Statistics figures to be used covered units of 5,000 employees, which was unrelated to the majority of cases, the substitute proposes to use the Employment Cost Index (ECI) of the Department of Labor. This index is based on a sample of collective bargaining agreements from units of all sizes and is a weighted measure. It attempts to meas-

ure, as Senator BYRD stated, the average changes in collective bargaining wage rates in the country. As the distinguished Senator from West Virginia said:

It comes as close as possible to accurately stating, within the limits of the Government's resources and manpower, the average change in collective bargaining.

There, Mr. President, is exactly the problem. We are still speculating and attempting to find the best measure for collective bargaining. As I stated earlier, make whole for race discrimination is simple enough; you look to what the employee would have made but for the discrimination as reflected, for example, in a refusal to promote an employee. How can we measure what an employer would have given but for his refusal to bargain? It is simply too speculative and we are dealing with a situation where no two employers are alike. If we need remedies for refusals to bargain, I am afraid that we are going to have to look for inducements to bargain or punishments for refusals to bargain. We cannot, as evidenced by the search of the supporters of this bill for an appropriate measure, impose a contract.

As I have stated many times earlier, we should not attempt to do this. I retain strong reservations about imposing contracts as destructive of our collective bargaining system. While a refusal to bargain is a serious matter, I fear that imposing a contract is more serious. We are dealing with human beings and quantitative data and measures of bargaining results simply do not do very well in this area. Imposing contracts does not do very well either.

I might add that the notification of the employer that he has a last clear chance to engage in true bargaining seems a rather hollow assistance. It simply serves to have the Board say to an employer, "This is it, bargain the rate of the employment cost index or we impose it." To a labor organization, it will be a notice that they have secured the rate increase they wanted with Government assistance regardless of their bargaining posture.

Again, the spirit of the law is dramatically altered by S. 2467 and I am afraid that is not going to be for the better.

I hope that I have stated my position in as fair a manner as possible. I believe that I have read the changes proposed by the majority leader accurately. I did want to state my pleasure with the attempts at compromise but I am afraid that the compromises here have not assured me that this bill will be any better than the original version was.

Mr. President, on another matter, let me say that I am cognizant of the great good that has come to the economy of this country through the labor union movement. Throughout the years, as I have had occasion to speak in public forums, I have alluded to and paid tribute to this fact. I think responsible labor union movements complement our free society today. But I have become more and more disturbed at the reckless lawlessness that sometimes gets involved with the labor movement.

Last fall I had a representative from the National Education Association come into my office to talk with me about a proposed bill pending which would, in effect, mandate that every school board in the country enter into a collective bargaining agreement with the teachers in that school administrative unit regardless of whether the teachers or the board wanted it.

Of course, in North Carolina that would be in violation of our State law because we have no mechanism for collective bargaining. But the representative of the NEA was quick to assure me that this did not mean, of course, that they, the teachers or the employees, would be allowed to strike. Strikes, he said, by public employees were specifically forbidden.

At that very time, teachers were out on strike in several areas of the Northeast and Northern part of our country.

I asked him if he supported those strikes, which were clearly illegal. His answer was, "Well, we support our members." I pursued it a little further. I said, "Well, now, these strikes are illegal. Do you support them in their illegal acts?"

"Well, yes, we do."

I said, "How many illegal strikes has the National Education Association supported in recent years, to your knowledge?" My recollection is about 50, was his answer.

I said, "How can you sit here and ask me to vote for a bill to mandate collective bargaining all over the country, regardless of whether teachers or school boards want it or not, saying that in one breath under the bill strikes would be illegal but your organization supports them?"

Mr. President, there is no satisfactory answer.

A young man who went to work for NEA was from my home State. He taught school in Forsyth County. I remember what happened there. I said to him, "Is there a better way? How about the democratic process? If you are not happy with the elected officials, those who administer the schools, why not vote them out of office, as you did in Winston-Salem?" pointing to the young man from Winston-Salem who was sitting in the office. I happened to know that they did vote in some new members.

He said, "Oh, that is too slow, the process is too slow."

Well, the wheels of democracy sometimes move slowly.

Last week, Mr. President, I had an engagement in Raleigh, which all public officials have to carry out from time to time in order to keep contact with their constituents. No man can truly and fairly represent his constituents' interests in this great deliberative body without going home to converse with the people from time to time.

We had some votes of the Senate, and I had my airline schedule reservations so that I could leave this Chamber about 6 p.m. and take a 6:30 flight to Raleigh. But I was told that I would have to leave earlier because the Air Controllers Association were engaging in an illegal slowdown because they could not get free rides on airplanes to Europe while they are paid Federal employees. They had no concern at all for the inconveniences caused to the traveling public. This is the sort of irresponsibility that I think has brought on a tidal wave of antiunion feeling in my State.

(Mrs. HUMPHREY assumed the chair).

Mr. MORGAN. Madam President, this weekend, I was in North Carolina again, as I am every weekend. I was in the extreme western part of the State, which put me nearly 400 miles farther from my home then than I am today. Some of my constituents were saying to me, "What are you going to do about shoring up New York City?"

I said, "I do not know what I am going to do. I do not know how I am going to vote."

I voted 3 years ago to shore the city up for about 3 years because I did not think we could allow the greatest city in our Nation to go bankrupt, even though retired garbage collectors there are earning more money at age 40 and will for the rest of their lives than the highest paid schoolteacher in my county. I realize that those were sins and errors of the past.

I spoke those sentiments this weekend, and I said, "I raise the other question, without saying how I am going to vote"—and I do not know how I am going to vote—"what would it do to international finance, what would it do to the value of the American dollar abroad if we allow New York City to go bankrupt?"

Those are some of the many questions that I have to answer before I cast my vote as 1 of the 15 or 16 members of the Banking Committee of the Senate. But I must confess again that I have reservations when I hear my colleagues before the Banking Committee and I hear the mayor of the city of New York and I hear the Governor of the State of New York sit before our committee and say that many of these problems that were brought on were brought on either by employees' strikes or exorbitant labor contracts. Then I come to the floor of the Senate and I hear the two Senators from New York arguing for a labor reform bill which I think is punitive toward the South.

There are a great many contradictions that Members of the Senate have to deal with, Madam President, and I do not know how I am going to deal with it. I do know that it has been spoken on the floor of the House when this bill was considered, that Congressmen should not worry too much about this bill, it is primarily going to affect the Southern and some of the Midwestern States, which are not heavily unionized. There was a sort of whispering campaign around the House, "Just don't worry about it; we are going to keep some of the industries from moving from the Northeast down to the South."

I suggest it has not been a lack of unionization in the South that has brought industries there; it is the work ethic of the people in the rural areas in which I live. The president of one of the great pharmaceutical corporations of

the world has a number of plants in our State. He told me that his productivity in North Carolina was among the highest in the Nation, and he came to see me one day to tell me that he was going to expand their industry in North Carolina. I was just being somewhat facetious and I said, "I am not so sure that pleases me."

He said, "Why?"

I said, "I do not know, we have about as many people as we want now."

He said, "We are not bringing in people; we are exporting people from North Carolina. We are taking people from our plants in North Carolina to other areas of the world where they are used as supervisors because of their high productivity."

That is what makes industries move to the South.

The laws are adequate. I grant you there are some violators of the laws and, while I have not read the Supreme Court decisions and NLRB decisions on the Stevens case for the last 15 years, I will grant that somewhere along the way there has been some tough bargaining and maybe unfair bargaining going on. But I read an interview in the Washington Star, in which Mr. Marshall, Secretary of Labor, was asked if it were not a fact that there were not more than six of these recalcitrant employers in the country that this bill was aimed at. He did not repudiate that.

So, Madam President, I feel that the needs that are alleged to be remedied by this so-called reform bill simply do not exist. I say that I hope, of course, that the bill will be modified. I hope that it will be defeated. I would be much more willing to modify it. In fact, I think I have some 12 amendments which I have filed and will refile to meet the new procedural requirements. I believe I could live with all of them. But, Madam President, I am reluctant to offer them, because my friends in the labor movement say to me, "Do not offer any amendments; we have the votes to pass it. If the Senate adopts any amendments, we have the votes to bring it back from conference the way it was passed in the House."

My employer friends say the same thing. So, apparently, there is very little that the rest of us can do except vote up or down on either the bill itself or the question of cutting off the debate.

I yield the floor, Madam President.

Mr. SCOTT. Madam President, the Senate is obviously divided as to the wisdom of the present proposals to amend the National Labor Relations Act and this probably includes the pending amendment or substitute offered by the distinguished majority leader (Mr. ROBERT C. BYRD). It is a matter on which labor and management have differences of opinion. In my judgment, the proposed bill is not as much a threat to the business community as some opponents allege, nor are the present faults of the National Labor Relations Board as serious as labor organizations appear to indicate. I personally doubt the wisdom of authorizing the National Labor Relations Board to set wages for newly unionized workers under specified conditions. This appears contrary to the free enterprise concept. The same is true of giving employees who have been improperly fired for union activities back pay at time and a half, but perhaps it would be well to briefly review the National Labor Relations Act as amended and as it operates at the present time.

The National Labor Relations Act, as amended, is the basic Federal law governing collective bargaining between employers and their employees in the private sector. The act is designed in part to lessen industrial disputes by establishing protected rights of employees to join or not join labor unions and to bargain with their employers over issues such as wages and working conditions. The act also defines various unlawful actions of employers or unions which are "unfair labor practices" and provides for the prevention of these practices or remedial actions.

The quasi-judicial National Labor Relations Board, composed of five members appointed by the President for 5-year terms, was established to administer, implement, and enforce the provisions of the NLRA. It does not initiate action, but responds to requests for elections or to charges of unfair labor practices. The General Counsel and his staff investigate and prosecute unfair labor practice cases and conduct secret ballot representation elections to determine what union, if any, a majority of workers in a unit want to represent them. Unfair labor practice hearings are conducted by NLRB administrative law judges—these are the people we used to call hearing examiners, hearing officers, and now they have a more dignified title of administrative law judge—who use the rules of evidence and procedure that apply in U.S. district courts. Based on the hearing record the judges make findings and recommendations to the Board. The five-member Board settles representation questions and decides unfair labor practice cases. If the Board finds that an unfair labor practice has or is being committed, it may order the violator to cease and desist the practice or other appropriate affirmative action, such as reinstating an employee with backpay, refunds of illegally collected dues, or the posting of notices of cessation of a practice.

The Board may ask for a court injunction in some unfair labor practice cases, and is required by law to seek injunctions preventing certain types of union picketing or work stoppages.

If an employer or union does not voluntarily comply with a Board order the Board may ask for a court order requiring compliance with the original order. Any person may appeal a final Board order to a U.S. Court of Appeals.

In the fiscal year ending June 1977, the NLRB had its busiest year on record. A total of 52,943 cases were filed with the Board. Most of these cases were processed in the NLRB field offices. However, a record 1,848 contested decisions were made by the Board itself.

A total of 37,828 unfair labor practice charges were filed with the Board in fiscal year 1977. Most of these, 26,105, were for alleged employer violations—the most prominent being employer discrimination or illegal discharge of employees for union activity. Unfair labor practice charges against unions totaled 11,723, the majority of these being alleged illegal restraint or coercion of employees. The Board and its field staff found that 32.8 percent of all charges had merit.

The NLRB received a total of 14,358 representation petitions in fiscal year 1977. The NLRB field staff conducted a total of 9,484 conclusive elections involving 570,716 employees in fiscal year 1977.

The problems the Board has experienced in case handling stem not only from the increase in the number of cases, but also from various requirements of the NLRA which create delays and invite litigation. The review by the Board of routine unfair labor practice cases is time consuming. Further, the procedure of court enforcement of Board orders causes delays in compliance and often leads to further litigation. The hearing requirement in election cases—when either party requests one—is, at times, burdensome and delays election procedures.

The primary argument made by organized labor and its supporters in favor of reforming the NLRA is that the current law and the way that it is administered are so defective that the statutory right of employees to form labor organizations and collectively bargain is a hollow promise. These critics believe that the Board does not have the necessary power to effect the policy of the act. They have found that the major problems in the application of the law are delays and inadequate remedies for those whose rights have been violated.

Labor supporters feel that currently employers who wish to keep a union out of their firm can do so with virtual impunity and that employers find it more profitable to break the law (the NLRA) than to comply with it. Organized labor complains that the company "stool pigeon" or "goon" commonly used to thwart union organizing campaigns in the 1930's has been replaced by the sophisticated "labor relations consultant" who shows management how to remain nonunion through the exploitation of the law or through outright illegal activity. The end result, they claim, is the same: The denial of workers' rights to join unions and better their wages and working conditions.

Union supporters believe that the often cited phrase "justice delayed is justice denied" is all too true in the application of the labor relations law. Specifically, they cite the following problems of delays:

First. Delays in representation elections.—In cases in which a hearing is held it took a median of 79 days from the petition to the election in fiscal year 1976, and 287 days from petition to election in casse where a Board decision was required. At times it takes a year to decide postelection objections. These delays are counter to the purpose of the act.

Second. Delays in unfair labor prac-

tice cases.—The median time from filing of a charge to a Board decision for unfair labor practice cases was 358 days in fiscal year 1976, while many take years to be fully litigated. It does workers who have been illegally discharged for protected union activities little good to be reinstated 2 or 3 years later. The firing of union supporters can be extremely damaging to a union organizing drive, and is illegal. The intent of the act is denied when it takes months or years for workers to be reinstated.

Third. A third major delay is in enforcing orders and findings of the Board. Currently the guilty party can put off compliance with a Board order for several months or years through court litigation. An order of the Board if it is not voluntarily complied with must be further litigated in the courts and enforced by a court order. Clearly, it is claimed, law breakers should not be allowed to frustrate and defy the law by long and complicated legal maneuvers.

Labor supporters also believe that the law provides inadequate remedies which not only fail to secure the rights of workers but also encourage employers to break the law. These persons believe that it is necessary to reform the labor laws, particularly to force the "rogue" employer to obey the law. They cite numerous examples of employers who, they claim, intentionally frustrate and deny the rights guaranteed by the National Labor Relations Act.

Labor supporters offer many cases in which national labor policy has been subverted by companies who use the law and the Board's own procedures to intentionally delay the process. Finally, it is argued, it is obvious that the Board's current remedies of cease and desist orders, reinstatement with back pay and the necessity of court enforcement with litigation are not adequate to enforce Federal labor-management relations policy. Union supporters conclude that significant labor law reform is needed.

An entirely different point of view is expressed by business organizations.

Business oriented groups and some Members of Congress have also been concerned with the operations of the NLRB and with what they believe are inadequacies in the NLRA. These advocates have argued that it is necessary for Congress to amend the law to restore balance in Federal labor policy and to protect working people and the public from union abuses. They argue that decisions by the Board have been predominantly pro-labor and have undermined two previous congressional amendments to the NLRA which they believe were designed to create a fair national labor relations policy which would not be tilted to the side of unions.

The principal problems and suggested changes cited by business groups include the following:

First. The Board and the act still have a decided pro-union bias. The preamble of the act should be amended to stress the right of employees not to join a union. Currently, the preamble concentrates on the reasons for collective bargaining, rather than presenting a balanced introduction.

Second. There have been many cases in which the Board has found that an unfair labor practice has prejudiced a representation election and the Board has then ordered an employer to bargain without an election. The law should be amended to require a vote by employees in all cases before a union is certified as the bargaining representative.

Third. Once a union wins an election, it is virtually assured continued certification while new employees never get the opportunity to vote for or against the union. The law should be changed to make it easier for employers to test a union majority through decertification procedures in which employees who wish to have a different union or no union representation may, within time limits, request a Board election. A majority vote determines the outcome.

Fourth. One purpose of the NLRA is to reduce strikes and lost production. It is claimed that this has not been a noticeable result of the act. The NLRA should be amended to require secret ballot strike votes before and during any strike. Strikes not so authorized should be illegal.

Fifth. The NLRB is an administrative agency, not a court of law. Its powers in unfair labor practice cases are remedial, not punitive. It should not be allowed to reinstate strikers who have committed violent acts in the course of labor disputes. Its powers should be curbed to include selective reinstatement with backpay, the posting of notices, and requiring the parties to meet and bargain.

Sixth. When a firm buys out another firm it should not be held liable for the previous owners' misconduct under the NLRA. Further, it should have a choice to accept or reject a previously negotiated collective-bargaining contract.

Seventh. Workers should be protected against union fines, especially fines for exceeding production quotas or crossing picket lines.

In essence business and management groups argue that the Board has been far too prounion and that labor law reform is needed to change many of the decisions of the Board and to make its policies evenhanded. Some of these organizations argue that the final answer may be to remove adjudication of unfair labor practice cases from the Board and give those duties to district courts, while allowing the Board to continue its representational functions. Another suggestion is to abolish the NLRB altogether and establish a labor court, similar to any Federal court, which would decide questions arising under the Federal labor laws.

In an effort to update and streamline the operations and procedures of the NLRB the chairman's task force on the NLRB was created by the then NLRB Chairman Betty Murphy in late 1975. This group was made up of 27 labor law experts with backgrounds in organized labor management, the academic community, the American Bar Association, and the NLRB. It was established for a 2-year period with the objectives of:

First. Reviewing and evaluation existing rules and procedures used in investigation, prosecution, and enforcement of cases,

Second. Suggesting ways of improving the agency's processes,

Third. Making recommendations on recruitment and productivity of administrative law judges, and

Fourth. Serving as a forum for ideas and opinions on the NLRB.

In late 1976 the task force issued its interim report and recommendations. This report made 69 recommendations to streamline the Board's procedures. The more significant and controversial findings and recommendations include:

First. The task force found that 80 percent of the representation elections were conducted by agreement between the parties with no delays. However, in order to prevent undue delays and intentional frustration of the election process the task force recommended that all elections be held on the designated date and that the ballots be impounded pending decision on any issues raised concerning the election process.

Second. The task force recommended that the hearing officer in representation cases be encouraged to terminate a hearing when it is clear that no evidence is being presented to support the allegations being made, or that the hearing process is being abused.

Third. The task force found that a major problem was postelection delays brought about primarily by challenges and objections and the resulting Board procedures. The task force recommended (a) that the postelection proceeding should be accelerated, including specific time limits for each step, and (b) the objecting party should supply more supporting evidence then currently required when the objection is made, and if found insufficient the objection should be promptly dismissed.

Fourth. In unfair labor practice cases the charging party should be required to present more evidence, especially affidavits and witnesses; charges defective on their face should be quickly dismissed.

Fifth. The task force recommended increasing the number and productivity of the administrative law judges and expediting civil service proceedings for faster selection.

Sixth. The task force urged the Board to ask Congress for a modernization of the pay structure to upgrade many staff positions. Further it urged increased funding for staff training.

Seventh. The task force recommended that its second year be spent on studying formal rulemaking by the Board. It believes that rules by the Board can greatly contribute to reduced litigation in preelection and postelection proceedings.

It is interesting to note that the task force in its 1976 interim report made recommendations of which 2 were adopted by the Board and 10 were rejected. Later, however, the task force gave further consideration to changes and filed its final report in December 1977, but I am not aware that the Board has taken action on the updated recommendations of the task force.

Mr. President, it seemed reasonable to review the basic purpose of the National Labor Relations Act as I have attempted to do and to summarize the arguments for and against amending the law. Of course, over the past 2 weeks, various Senators have covered much of the same material, but my statement to a large extent was based on a research memorandum prepared by the Library of Congress and may be helpful in providing basic information.

It would seem that all of us desire to improve the climate between labor and management and we would be hesitant to aggravate existing differences or to do anything that would stimulate further conflict to the detriment of labor, management and the Nation as a whole. Actually with few exceptions we have had less friction in recent years between management and labor; both seem to recognize the need for collective bargaining and I would hope that differences can continue to be solved to a large extent at the bargaining table, recognizing, that there will continue to be differences of opinion and some conflicts.

Of course, we will continue to need the National Labor Relations Board, the Department of Labor, its negotiating assistance and other assistance from Government agencies in resolving differences from time to time. But, in my judgment, the Government should be impartial, should not take sides, should recognize the desirability of labor and management settling their own differences rather than aggravate conflicts that develop from time to time. This does not appear to be the time, Mr. President, to change the present law and to invest labor with more power to the detriment of management. In fact, the business community has suffered greatly in recent years by increased paperwork, increased Government regulations, environmental constraints, by additional foreign competition and it appears to me that it is in the public interest, including that of both labor and management, to find ways in which we can increase our industrial capacity, our productivity, where we can provide more of the material things for all of the people of the country. This would, of course, result in a higher standard of living for labor as it would provide a higher standard of living for all Americans.

Our primary concern should be directed toward the general public interest with basic fairness and equity to both sides in conflicts between labor and management.

It would appear that we have an arrangement under present law for the Government to take an attitude that it is neither prolabor nor antiunion, that it is neither probusiness nor antibusiness, but one that serves the general public interest.

Therefore, I would hope that the leadership of the Senate would reflect upon the desirability of any change in the present law at this time. I would hope after we have another cloture vote, that I understand is scheduled for later today, certainly after a few more cloture votes, that this bill will be withdrawn from further consideration by the Senate. In my judgment, it just is not a timely bill, and interfering at this time by the Government in the labor-management field does not appear to be warranted.

I believe that the people of California, on an entirely different matter, gave us an indication of the feeling of the American people when they voted on proposition 13. They do not want any more taxes. If we are going to reduce taxes we are either going to have less Government or we are going to have a greater deficit and more inflation.

The American people, in my judgment, do not want either of these alternatives. I believe the American people want less government not more government.

Let labor and management at the bargaining table settle their own disputes. I intend to vote in opposition to the proposed amendment in the nature of a subsbitute by the distinguished majority leader.

I intend to vote against the bill. But until we come to the place where we have an up-and-down vote, if that should occur, I hope we will continue this debate and discussion of the matter and that cloture will not be invoked.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

The Senator from North Carolina.

Mr. HELMS. I thank the chair.

Madam President, each time the Senator from North Carolina has addressed the Senate on this bill I have, like so many others, emphasized that the paramount concern of the Senate should be the protection of employee rights.

In this regard I received in the mail last week a letter from one of the best friends I have ever had. He is an outstanding citizen of our State. His name is Dr. Lenox D. Baker of Durham. This man has had an incredible career. He has long been recognized by his fellow North Carolinians for his remarkable contributions to the field of business, athletics, and medicine.

He founded the North Carolina Cerebral Palsy Hospital in Durham, which now bears his name. In any event, Madam President, Dr. Baker was writing to me to express his concern about a story that he had read in one of his local newspapers, the afternoon paper named the Durham Sun, and he enclosed the newspaper clipping in his letter.

The article described the tragic story of a handicapped man who lost his job recently, a job this man had held for 32 years.

Why did he lose it? He lost it because of a rule imposed by a labor union.

I want to share this information with my colleagues in the Senate. Certainly it ought to be made a matter of record. It was published in the Durham Sun on Wednesday, May 24. The headline read, "Handicapped Man Loses Job Held for 32 Years." It is an Associated Press story written by a Mr. Richard T. Pienciak. It is datelined New York:

HANDICAPPED MAN LOSES JOB HELD FOR 32 YEARS

(By Richard T. Pienciak)

NEW YORK.—Freddie Kerbel lost his family to the Nazis in World War II. In 1974 he lost his left leg, two years later his right one, both to diabetes.

Now the man who visited Veterans' Administration hospitals to boost the spirit of other cripples has lost the job he held for 32 years—to a union regulation barring prolonged sick leave.

Hotel management had fought a union rule that removes job protection from anyone absent from work for 22 consecutive weeks.

But the hotel was unable to find two jobs—one for the 63-year-old Kerbel and one for the man who replaced him while he was away for a year and a half. So an arbiter was called in, who after two months ruled in favor of the younger man.

"I though I was entitled to the job," said Kerbel. "I belonged to the union for 30 years. I helped organize the local here. I served as a delegate. I took care of the grievances."

Kerbel said his replacement had filled in for him "with the understanding that I could have the job back if I returned."

Kerbel, who stayed off his job until March 13, said: "This was my only chance to go back to a normal life. I guess I might have to go back to the hospital and let them take care of me. What else can I do?

"This isn't just a blow to me, but to all handicapped people around the world. If you knock a handicapped person down, what's the use of rehabilitation?" he asked.

He recalled visits he made to VA hospitals where he would show other disabled persons "that if I could do it, so could they. I can't go see them now, though."

Kerbel lost his family in German concentration camps in World War II. He fled the Nazis and came here from Austria in 1938.

Kerbel, who lives in a basement apartment in an otherwise vacant building owned by the hotel, started out as a waiter at the hotel in 1945 after getting out of the Army. He transferred to the $175-a-week cashier's post, after his first amputation.

He returned to work three months later. But he stayed away for 19 months after his second operation in August 1976.

"One leg you can manage easy. Two legs, it's kind of tough," he said.

Dr. Baker—being the compassionate and Christian gentleman that he is—called the hotel management in New York to express his concern with this situation and to offer his help. The hotel management informed Dr. Baker that they very much wanted to have Mr. Kerbel back but was simply prohibited from hiring him because of the union rule.

Dr. Baker also called the National Office of Disabled Veterans where he spoke with someone who said the matter would be investigated. The person with whom Dr. Baker talked expressed profound shock that such a thing could happen.

Dr. Baker further took it upon himself to place a call to the office of the President's Committee for the Employment of the Handicapped. The people with whom he spoke there seemed incredulous that such treatment would be given to any human, especially a bilateral amputee veteran. Both of these organizations promised Dr. Baker that they would look into this matter.

I do not know, Madam President,

whether either of these organizations can do anything to help Mr. Kerbel. I hope that they will at least make an attempt to find this man some suitable type of employment. In writing to me, Dr. Lenox Baker said, "I pray I am not off on a Don Quixote, but, dear God, are we to allow the forces of organized labor to further abuse our great laboring people, and especially our handicapped veterans?"

It is difficult to answer my dear and distinguished friend, Dr. Baker. I think it is fair to say that we will allow such abuses to continue if we enact into law the bill that is now being considered by the Senate. As I have tried to state repeatedly on this floor, this is not a bill for the working man, Madam President. This is a bill for those who manipulate the working people of this country; and the Freddie Kerbel story is just one episode of unfair union power, not to mention the frustrations to just one man caught in a typical "Catch 22" situation.

Madam President, it is not surprising to this Senator that the bosses of the big labor unions are in trouble in terms of trying to sell their product around this country. The percentage of workers today belonging to unions is decreasing, because more and more working people in America are coming to realize that the unions just do not do anything for them. The unions collect dues; they pay enormous salaries to union leaders in Washington, D.C., New York, and Chicago; and they use the union dues to promote legislation with which the average working man and woman do not agree.

I recall one instance that comes to mind, Madam President, when the Senator from North Carolina was trying to put an end to forced busing of schoolchildren. I submitted an amendment to an appropriations bill to forbid the waste of the taxpayers' money for the ridiculous purpose of hauling innocent little schoolchildren across cities and counties just to satisfy the whim and caprice of some Federal bureaucrat or Federal judge.

What happened? The union lobbyists were all over this place, saying, "Defeat the Helms amendment," and they did—by three votes. But I dare say that if a poll could have been taken among the union workers anywhere in this country, it would have paralleled the polls taken among the American people. Between 75 and 80 percent of the American people are opposed to the forced busing of their schoolchildren.

But this shows you how the enormous political power has grown and grown and grown, just like Topsy, and here we have a piece of legislation that is neither a labor bill nor a reform bill; it is simply a procedure to place even more inordinate power in the hands of a few union bosses. That is why this extended debate is going on in the Senate—because the majority of the American people, including members of labor unions, feel that we ought to be going in the other direction. Unions are now huge businesses—as this handicapped veteran, Mr. Kerbel, unfortunately discovered—that are often guilty of the very things they were created to combat. But through this bill, the union bosses now want to use the Government to force more workers to pay dues to labor unions. Money is what they are after. Power is what they are after. And this bill will deliver it to them on a silver platter. But why should Congress come to the rescue of big labor union bosses at the expense of the small businessmen and the working people of this country?

My response to that is that the Congress should not.

The majority of Americans think that the power and political influence of labor union bosses is already too great. They also believe that there is too much power concentrated in the hands of these union bosses. In fact, reputable public surveys indicate that the public favors the enactment of laws which would curb the power of union bosses and give better protection to the rights of employees.

It is interesting, is it not, Madam President, that the piece of legislation before us now is silent in seven languages on the question of violence, such as occurred in the recent coal strike? The legislation is silent in 47 languages as to corruption in labor unions. Scarcely a day passes that we do not pick up a newspaper and see where trust funds have been invaded or robbed, or otherwise violated.

Madam President, in recent weeks all of us have witnessed the orchestrated visits to Capitol Hill of the so-called "victims" of management.

They have come to my office and I am sure they have gone to the offices of all other Senators. These people have been transported to Washington by unions using union funds, the dues paid by that average working man back home who does not know a thing about this situation.

These people will come and they are given attractive red, white, and blue badges that denote their "victim" status. Then they come to our offices to lobby in favor of this bill. I am not, of course, in a position to pass judgment on the merits of their complaints and would not attempt to do so here.

But the question is, where is Freddie Kerbel, that New York hotel employee? How did his rights happen to fall through the crack? Why is there no sympathy for him? You can bet one thing safely, Madam President, the union bosses are not going to bring Freddie Kerbel to Washington, D.C., to lobby for this bill. He is a victim of the labor union rules. Had his employer been able to prevail, this handicapped veteran would still have his job today. It was the union, it was not management, which took away Freddie Kerbel's job and thereby shattered his life.

There is nothing in this legislation to prevent such abuses as this. The reason is simple: This is not a bill for the working man. This is not legislation to take care of the working people. This is legislation to confer upon labor union bosses even more inordinate power than they now have. When we strip away the veneer and look at the fine print, one has to marvel that such a piece of legislation would have been forced upon this floor at this time when the Senate has so much more important work to do, work that needs to be done in terms of inflation, energy, national defense, and other vital aspects of our national life.

There are no provisions in this bill to protect employees and employers against union violations, such as violence committed during a labor dispute, excessive fines, and other arbitrary and capricious penalties imposed by unions. The American people realize all this, and I daresay that, if the American people could vote on this piece of legislation now before the Senate, it would be soundly defeated.

(Mr. NUNN assumed the chair.)

Mr. HELMS. Interestingly enough, on the same day that I heard from Dr. Baker, the Labor Department released its quarterly report on employee wages. One cannot understate the relevance of these statistics to our consideration of this legislation. The report disclosed that nonunion wages increased more than union wages during the first quarter of the year, reversing the trend since the figures were started in 1975. Of course, it is going to be interesting to see if this new trend continues.

The pay of workers in occupations not covered by collective bargaining agreements advanced 2.2 percent, compared with the increase of 1.6 percent for workers covered by collective bargaining agreements.

Of special interest, the Labor Department report revealed that workers in the South, the least unionized region of the country where right to work is the law, recorded the largest increase in wages, 3 percent. No wonder the union bosses want to head southward armed with this incredible pro-union-boss legislation that is now before the Senate.

I am sure this quarterly report is not encouraging to what is called big labor in this country, because this simply provides another reason for employees, the working people, given fair opportunity for free and uncoerced choice, to decide to remain nonunion, as more and more are choosing now to do. More employees than not are now concluding that opportunities to communicate with their employer are adequate and will not be improved by the presence of a labor union as a sort of middleman. Many employees have seen enough of union fines and restrictions to conclude that unions are not the sure answer to workplace democracy and economic well-being.

So the condition of big labor is understandably shaky, and it is growing shakier by the day. That is why this bill is before the Senate today. The big labor union bosses pushed it here. It was thrust upon the Senate when the Senate would have been well advised to proceed to matters far more vital and essential to the national welfare.

In the years 1975, 1976, and 1977, the unions lost more than 50 percent of their organization representation elections.

This, in fact, was the first time since 1935, when the election machinery was

set up, that organized labor lost more elections than it won.

Furthermore, during the 10 years ending in 1976, the number of elections to withdraw recognition of a labor union increased from 234 in 1967 to 612 in 1976. The last 2 years, 1976 through 1978, have shown a loss for the unions of more than 50 percent of the decertification elections.

Mr. President, to withdraw from a union is not an easy accomplishment, since a withdrawal can be initiated only by employees, and at least 30 percent of them must petition for an election. As further indication of what we call big labor's decline in the marketplace, a decade ago 35 percent of all nonagricultural workers were members of labor unions. Today, that figure stands at 20 percent. Obviously, there are a number of reasons why union strength has declined in recent years.

The amount and percentage of white-collar workers has increased dramatically in our society.

We have the phenomenon of what is called the vibrant Sun Belt, which not only has been attracting industry to the South and Southwest, but also native industry in these States has been growing because of the availability of capital. In recent years, the Southland has scored impressive gains both in population and in income.

The migration of workers to the South is a drain on union strength in the North, and the existence of right-to-work laws in the Southern States serves as a further limitation on the growth of union membership.

Furthermore, of the 20 States now having right-to-work laws, 11 of them are in the States of the old Confederacy. The other nine are Iowa, Arizona, Kansas, Nebraska, Utah, South Dakota, Nevada, North Dakota, and Wyoming.

It is obvious that, with a declining membership in the Northern States and the flight of workers to the South, the union bosses have only one option to halt the national decline of union membership, and that is to head south and thrust organization upon a great many people who really do not want it. Because the unions are desperate to organize in the South, they must look for industries that are concentrated in the South, industries that are largely nonunion. Of course, foremost among these is the textile industry. The national union leaders have admitted that, if the textile industry is organized, then the South, in effect, will be unionized.

Unionization of the South and the complete restructuring of southern society is the goal of these union bosses in the North. The union leaders acknowledge this.

In the Raleigh Times, of December 6, 1976, the president of the Amalgamated Clothing & Textile Workers Union, Murray H. Finley, stated:

> This isn't just to get more members in the union. It's a social movement in a highly anti-union part of the country. The union spent between $5 million and $6 million in its successful boycott and organizing against Farah Manufacturing Company four years ago and is expected to double that outlay in the fight against Stevens.

Quoted in Labor Unity, the issue of November 1976, Paul Swaity, director of the National Organizing Department of Amalgamated Clothing and Textile Workers Union, said this:

> I am optimistic. Of course, Stevens is the key to the South. That giant corporation is spearheading the whole southern anti-union industrial establishment. Once we make a breakthrough there, the whole climate in the South will change.

Even though the southern textile industry has been the target of unionization by the ACTWU, the results have been very disappointing for the union bosses. An example of what can happen to the economic health of a company when faced with unionization is that with the Farah Manufacturing Co. of El Paso, Tex. In May 1972, the Amalgamated Clothing Workers Unions initiated a consumer boycott against the clothing manufactured by the Farah Co. Liberal church, labor, civil rights, and similar groups supported that boycott, and by February 1974 the company gave in and accepted the union.

Here is the point: What did the employees, the working people, gain by the 22-month strike and boycott against the Farah Co. by the union?

At its preboycott peak the Farah Co. produced 12,000 dozen men's and boys' garments each day. Today the Farah Co. produces 3,500 dozen per day, a decline of about 71 percent. Before the union boycott, Farah employed 9,500 workers at 9 plants in El Paso and San Antonio. Now, the Farah Co. employs only 6,500 in 3 plants, a loss of 3,000 jobs thanks to this union boycott. Estimates vary at the moment as to the amount the unions spent to obtain 5,500 new members from the ranks of the employees of the Farah Co. But those estimates range from a low of $4.5 million to a high of $6 million, and since the mid-1974 dues level was $3 per member per month, it is estimated it will take 25 years for the Amalgamated Clothing and Textile Workers Union to recover the cost of acquiring these new members.

When the union went to El Paso they expected that a victory at the Farah Co. would make it easier for them to organize an additional 50,000 to 60,000 members in the El Paso area. However, this was never achieved. In fact only one-tenth of the workers in El Paso are unionized.

So what did the union bosses really accomplish for the working people in that area? That is a good question.

Well, the union won a 3-year increase of 80 cents an hour of which 60 cents an hour was mandated by the minimum wage law. Big deal. Obviously the union netted only 20 cents an hour more spread over a 3-year period. For a 20-cents-an-hour gain 3,000 people lost their jobs. What a price to pay, Mr. President, what a price to pay to satisfy the appetite for additional power and money by union bosses.

It is well known that the Farah Manufacturing Co. has never recovered from this nationwide boycott of its products.

The New York Times in its edition of May 20, 1977, noted:

> The Farah Manufacturing Company, the Texas apparel-maker that was locked in a bitter union fight for several years and suffered a widespread boycott of its products, announced yesterday that it expected to report another, and "significant" loss in the second quarter of this year. Industry sources said yesterday that Farah's losses represented the aftermath of a 22-month strike begun against it in 1972 by the Amalgamated Clothing Workers Union. Sales last year dropped to $137.3 million from $151.6 million in the prior year, and the company suffered a deficit in the year ended October 31, of $24.4 million.

Think of that, Mr. President, the great thing that the labor union organizers did for that part of Texas. A company which once made a profit and was able to employ thousands of workers is now losing money. But the Amalgamated Clothing and Textile Workers Union has not learned a lesson from the Farah strike but, in fact, it wants to impose the same disastrous methods on the textile industry in my State of North Carolina.

I was looking through the files and I saw a clipping from the Charlotte Observer dated December 7, 1976, and I saw an article attributed to Jacob Sheinkman, who was secretary-treasurer of the Amalgamated Clothing and Textile Workers Union, who said:

> We are prepared if necessary to go beyond economic expenditures of the Farah strike. A key element is the recruitment of broad based support from the civil rights movements, liberal church groups, students and other unions. This is essential to project the boycott into a social movement. This is what we did in El Paso (in the Farah Boycott) and this is what we have to do against Stevens.

Well now, Mr. President, look at the disastrous consequences of what "they" did in Texas. You can understand why the people of North Carolina are concerned about the activities on the part of union bosses in my State.

Setting aside for the moment the dispute between the ACTWU and the Stevens Co., what has been the track record of that union recently in North Carolina? Well, on August 5, 1977, the ACTWU was rejected 33 to 30 by the employees at Globe Manufacturing Co. in Gastonia, N.C.

On July 29, 1977, the textile workers of the Sanford Finishing Corp. in Sanford, N.C., rejected the ACTWU by a vote of 65 against and 53 for.

On March 7, 1977, the National Labor Relations Board informed the Chatham Manufacturing Co. of Elkin, N.C. that the ACTWU had filed a disclaimer of any further interest in representing Chatham's approximately 2,500 employees. Thus a 23-year-old struggle by the company and many of its employees against union representation had been won. Perhaps, the following analysis by the local newspaper reveals the key to the union's unsuccessful efforts.

The Elkin Tribune stated on March 9, 1977:

> Despite what the textile workers union says about the intransigence of Chatham management with regard to labor-management relations, in the final analysis the union failed because it could not convince

Chatham employees that a union could benefit them to any extent. In the ten years that the union was bargaining on behalf of the workers, it did not succeed in extracting any major new employee benefit that the company was not prepared to grant anyway.

Just looking at the aforementioned cases here in the state of North Carolina, what do the votes against the ACTWU tell us. First, the demand for union representation is not overwhelming. The ACTWU has lost seven elections in a row, and it has not won since December of 1975 in the two Carolinas.

That is why, Mr. President, this bill is on the Senate floor today. If the union bosses cannot win fair and square they come trotting to the United States Senate and the House of Representatives and, in effect, say "Bail us out; bail us out. Make them join our union."

Now, the union would have everyone believe that the workers of North Carolina are oppressed, downtrodden, completely at the mercy of their employers, and literally begging to be represented by the Amalgamated Clothing and Textile Workers Union. Don't you believe it, Mr. President. It simply is not so. As the votes show, whenever the workers have been given the opportunity to vote recently they have rejected the ACTWU. Any intelligent person is bound to be aware that this does not indicate that the textile workers are completely satisfied with their working conditions, because nobody in any job is completely satisfied all the time; but the textile workers have indicated by their votes in these elections that they would rather work out their differences directly with their management than to have some far-away union boss interfere with this process of direct compromise and negotiation.

Management and workers in North Carolina are closer to each other than their counterparts in the unionized States of the North. We live in the same towns, we go to the same schools, we worship at the same churches, we take part in activities together such as the Little League, the American Legion. Workers and management alike are enjoying the economic growth and prosperity of what some call the Sun Belt, and it is apparent that industry is booming in the State of North Carolina because of the climate established by the friendship and the relationship between workers and management.

Just yesterday, I went with the distinguished Governor of North Carolina, Jim Hunt, to a little town in the eastern part of the State, in Robeson County, a community called Maxton. There may be some who remember Maxtin as being near to the Laurinburg-Maxton Air Force facility during World War II.

Governor Hunt and I went to Maxton yesterday to participate jointly in a symbolic groundbreaking for an enormous Campbell Soup plant which ultimately will employ at least 1,100 people of that area, providing a fine industry, operated by capable management.

(Mr. BAYH assumed the chair.)

Mr. HELMS. I was very much interested in the remarks made by the president of the Campbell Soup Co., Harold Shaub, and the Governor of North Carolina, Jim Hunt, yesterday. They pledged to each other that there would be a harmonious relationship between management and labor, that each would be interested in the success of the company and thereby in the success of everybody employed by the company at this new facility in Maxton.

Now, this plant for North Carolina was not acquired by any labor union boss. As a matter of fact, I am sure there was great displeasure when the news came that this plant would be built in my State. I mention this, Mr. President, to emphasize the fact that the relationship between labor and management in North Carolina is good, and the last thing we need are interlopers coming into our State inciting discord, and pretentiously declaring that they are the saviors of the working people. The free enterprise system is the only salvation of the working people of this country, Mr. President. The free enterprise system produces jobs. Government does not, and certainly labor union bosses do not.

Mr. President, as a Senator from North Carolina, I am particularly concerned about the damaging effects this bill would have on the growing economy in my region of the country. But I was reminded of the national implications of this legislation in an article written by Allan Grant, president of the American Farm Bureau Federation. Mr. Grant noted that the entire country has a stake in this bill—every farmer and every consumer. He urged us to consider the following facts:

First. Organized labor's bargaining power has materially increased the costs of vital production inputs such as fuel, machinery, trucks, fertilizers, and other farm chemicals.

Second. Labor gets more than half the cost of transporting, processing, wholesaling, and retailing food.

Third. For the first time in history, labor now gets more of the consumers' food dollar than does the the farmer who produces it.

Fourth. Closing of vital services by unions at crucial times—transportation, processing, or product supplies—denies customers food, and farmers markets, both domestic and foreign.

Fifth. More and bigger government with its inefficiencies, overregulation and inertia is consistently advocated by organized labor.

Sixth. Protectionist efforts of organized labor hamper foreign trade and can close critical export markets to agriculture.

Seventh. Harvest time strikes against processors or handlers leave growers with food rotting on the ground—and, of course, this increases the food cost to the consumer. There is not a housewife who goes to the supermarket who cannot testify to that.

Finally, big labor pressures have caused farm labor costs to increase nearly 300 percent since 1960.

Earlier this year, Mr. President, the city of Washington was visited by literally thousands of farmers from all over this country, including my own State, who had come here to protest the fact that they were about to go bankrupt. The 300 percent increase in the cost of farming was the bottom line of their complaints. They were talking about inflation, and Allen Grant, in his article, was spelling out part of the cause of inflation.

As we consider this very unwise legislation now before the Senate, we had better also consider the people of this country, who are fed up with inflation, and rightly so.

If the pending bill should become law, there will be more unemployment, coupled with increased inflation, due to the increased monopoly power of the unions and further increases in labor costs that go beyond increases in productivity. The distinguished farm leader warned that the "last thing we need now is to amend the NLRA to tilt it more on the side of the labor monopoly." I could not agree more.

Allen Grant makes clear that he understands that this is no true reform bill. He has correctly noted:

The so-called "reforms" that big labor would press upon our economy are not reforms at all. At stake are precious freedoms in the marketplace and the rights of employees as well as employers to make decisions of self-determination free of coercive pressures. Any true reform bill would provide protection for the rights of individual workers, both nonunion and union; prevent and severely punish those who practice violence in the name of union; and protect the public against strikes that shut down vital public services, such as transportation, education, fire and police protection.

Mr. President, the inflationary and other worrisome aspects of this bill should be of utmost concern to all farmers and consumers. For their sake, I hope my colleagues in the Senate will give the Farm Bureau objections to this legislation serious study and consideration.

As with the farmers and consumers of America, we have had much discussion and debate on what this bill would mean to small business.

Lest anyone be in doubt at this point, the Senate should know that small business is opposed to this legislation in its entirety. No amendment has been proposed which will make a silk purse out of this sow's ear. In no way will it be acceptable to small business and their employees.

Mr. Wilson S. Johnson, president of the National Federation of Independent Business, has aptly noted that the labor reform bill is nothing short of "a small business nightmare." I want to share his objections—on behalf of Americans small business—with the Senate.

In an article entitled, "S. 2467: A Small Business Nightmare," Mr. Johnson wrote as follows:

S. 2467: A SMALL BUSINESS NIGHTMARE

Early in 1978, the Senate will tackle the so-called "Labor Law Reform" bill, S. 2467, a complicated bill that could introduce disastrous powers and penalties into the field of labor-management relations. As so often has been the case, the proposed changes in federal labor laws would greatly increase the pressures and penalties facing small businesses least able to cope with them.

Unlike many recent "reform" bills, this labor law reform has not been initiated by good government groups or reform organizations but by the bureaucrats and power brokers of organized labor. This is not surprising. It seems that the union leaders have noticed a phenomenon very disturbing to them: more workers want less union involvement than ever before. Today only one out of five workers belongs to unions, compared to more than one out of four 20 years ago. Unions likewise recite in dolorous tones their pathetic record in organization elections. NLRB fiscal year 1976 figures show that unions won fewer than half of the certification contests conducted by the NLRB.

The union logic is audacious: unions argue that they are not very successful under our present system of labor law, so the rules must be changed to improve their organizational record. This logic completely overlooks the obvious question. If unions are so good for their members, then why don't more workers join unions?

Wherever the fault lies, it is not with the federal labor law. The tumultuous labor environment of the thirties provoked Congress into enacting a system to bring peace and evenhandedness to relations among management, workers and unions. In the 40 years since passage of the original National Labor Relations Act, workers in this nation have enjoyed tremendous gains in wages, fringe benefits and job security. The economic and political impact of unions is awesome and obvious. The present federal labor law has generally worked as it was intended and is not in need of wholesale reform.

But the bill's proponents disagree and claim several current examples of organizing efforts frustrated because the federal law is not strong enough or tough enough. Whatever the facts may be in those cases, it is certain that large national companies will continue to have legions of lawyers and labor consultants available to advise them on how to stay in the bounds of the law and still give the unions a good fight. Small businesses, however, will be severely affected by this bill.

Big labor may well complain that it cannot win against big business. The latest NLRB annual report lists labor as winning only 17 per cent of the 119 organizing elections of units with 500 or more workers. But big labor has been going after small business with a vengence and has been very successful at it. For the same period the NLRB supervised 3,865 elections in units with fewer than 20 employees and unions won 57 per cent, nearly three out of every five organizing drives for small units. Small businesses with small groups of employees are clearly easy targets for the big labor leaders.

These statistics document a situation distressing but familiar to many small businesses. Not only do they usually lack regular counsel on labor affairs and laws, but they often lack the time and resources to effectively fight any organizing drive. The small business owner does not sit in a board room giving orders. He or she is often the foreman, inspector, accountant and substitute for any employee off work. He cannot take the time to print placards or organize employee rallies to discuss his views on unions. He is sharply restricted by law and NLRB decisions as to the type and content of contacts with his employees on the union issue. And he is often unaware of any movement toward unionization of his firm until he is presented with the certification petition by the NLRB. By then the union has done all its advance work and the owner faces a fait accompli.

The "reform" bill proposes an accelerated timetable for certification elections, exactly what is least likely to improve labor-management relations. An organizational drive is not unlike a domestic dispute: workers and employers who may have known each other for some time are surprised and often angered at the other's position. It would be much more sensible to impose a mandatory cooling off period of 75 to 90 days after presentation of certification petitions, than the quick interim called for by the Senate bill. Tempers could cool on both sides. Workers would be in a better position to decide whether the union was best for them. Employers would not feel as pressured and would be less likely to react precipitously. Inflammatory language and tactics would likely decline and all sides would approach a very important issue with cool heads.

Proposed changes in the federal labor laws would surely deal organized labor a much stronger hand, vastly increasing the amount of pressure it can bring to bear against workers and businesses. More importantly they will add several new stumbling blocks for small businesses to get over in today's tough business environment.

Congress is responsible for legislating in the public interest. Trade unions are now large, powerful bureaucracies. What is good for unions is not necessarily good for the nation. Federal labor laws must strike a balance among workers, unions, and business, large and small. Each has different needs and problems. The Senate should realize that S. 2467 will badly tip that balance against small business.

CONCLUSION

Forty-two years ago, Congress enacted the legislation which labor unions hailed as their Magna Carta. Under it they have indeed grown and flourished. Their memberships have increased by millions. Their income—tax free—has multiplied to billions of dollars annually. Their wealth and prestige and power have expanded until they are today undoubtedly the most potent organized factor and influence in our Nation, in matters social, economic, and political, and in all areas of local and State governments and of the Federal Government, congressional, executive, and judicial.

Yet the leaders of the unions are not content. They want no slackening in the growth of their power. Not unexpectedly, their motto is "More." They sense that now is the time to get it—and through the mandate of law.

Hence they come now to Congress urging statutory enactments, which in themselves would make unionization irresistible—and from which there would rapidly flow into the hands of union leaders unchallengeable power.

That power as it rose and spread would dominate not merely employers—but even more truly, employees—and beyond employers and employees, the whole American people.

Finally, I must once again urge the Senate to replace S. 2467 with legislation which would foster true reform. The thousands of small businesmen who are harassed, threatened and subjected to personal and property damage each year at the hands of some unscrupulous union organizers deserve more, not less, protection from the Federal Government. Moreover, such additional protection must also be afforded to the countless numbers of working men and women who are intimidated into joining labor unions. Legislation designed to end these blatant abuses would constitute real labor reform.

This legislation will not, I repeat—will not—aid the American working man. It will not aid the American economy and it will not aid American business. Instead, it will only serve to accelerate the already rapid deterioration of this Nation's ability to compete in world markets. I say again that this proposal is not reform of the current legislation. It is, rather, an attempt to expand the organizational efforts of America's unions.

I am not against labor unions. I am not against the rights of workers to join together and organize in order to enforce and protect their interest. What I do oppose is a blatant effort to disrupt the delicate balance of industrial harmony. What I do oppose is a blatant political payoff. What I do oppose is an attempt to legislate inequities whose short-term selfish gain for organized labor will be a long-term tragedy for America and its people.

Mr. President, I yield the floor.

(The following proceedings occurred earlier during Mr. HELMS' remarks:)

Mr. HELMS. Mr. President, I ask unanimous consent that I be allowed to yield to the able Senator from Illinois, with the understanding that I not lose my right to the floor, that my resumption of my remarks not be considered a second speech, and that his remarks appear following the conclusion of my remarks.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. PERCY. Mr. President, I thank my distinguished colleague, very much indeed, for his usual graciousness in yielding at this time.

Mr. President, just before the Memorial Day recess, I announced my intention of participating as actively as possible, consistent with other responsibilities, in the debate on the pending labor law reform bill.

At that time, I spoke in some detail about the inflationary impact of the "make whole" remedy and I am pleased to see that the sponsors of the bill have been willing to revise that section of the bill—as part of a broader substitute—in response to the concerns expressed by a number of Senators, including myself. While the substitute introduced on Thursday of last week does not adequately correct the original bill, it is a step in the right direction and I compliment the distinguished majority leader, the two floor managers, the staff and others who worked so hard to produce this revision, and express deep appreciation for their willingness to be flexible and realistic on this issue. I would have preferred to see the bill be sent back to committee until a time certain to work out compromises and revisions in that atmosphere and under conditions absent on the Senate floor once cloture has been invoked. For that reason, I was delighted to support the motion of the minority leader, Senator BAKER, as the preferable course of action.

When I spoke previously, I objected to the "make whole" remedy in the committee bill for three reasons:

First, its inflationary impact: had the bill been in effect as law at the end of May, the percentage increase to which

compensation to employees for the failure to bargain in good faith would have been directly related was 14.6 percent. Were this standard to be applied in Board cases and otherwise used as a standard across the country, the increases would have been quite inflationary.

Second. Its interference with the collective bargaining process, by which the Government—heretofore neutral—would have become an active part of the process; and

Third. Its possible chilling effect on the right of the employer to appeal decisions of the Board related to the determination of the bargaining unit and the election.

I still feel strongly about this provision, particularly its inflationary impact and yesterday introduced an amendment to modify that section of the bill.

Today, I would like to turn to other provisions of this legislation which I find disturbing and which, if contained in the final bill, would cause me to vote against it. Although I understand that the sponsors of this legislation are moving to invoke cloture on the Byrd substitute so that it becomes the pending business, I intend to address myself to the provisions of the bill as reported by the Human Resources Committee on January 31, in order to have on the record my position with respect to the committee bill. I will comment at another time on the changes suggested in the substitute.

Of the major provisions of H.R. 8410, the following raise serious doubts in my mind as to their fairness and effect on the delicate balance of labor-management relations, and for that reason, I oppose them:

First. The so-called equal access provision,

Second. The shorttime periods within which the NLRB-supervised elections are to be held, and

Third. Summary affirmance of the decision of administrative law judges by a minority of members of the NLRB.

I. "EQUAL ACCESS"

Section 4 of the committee bill requires the Board to promulgate rules applicable to all representation elections which would assure that, subject to reasonable conditions, including due regard for the needs of an employer to maintain the continuity of production, employees will be given an equal opportunity overall to obtain information from both employers and unions concerning union representation. It would apply not only to captive audience situations, but also to other employer communications. It would allow equal access rights to be exercised after the union notifies the employer in writing that 10 percent of his employees have signed authorization cards. It also provides the employer access to union property, a provision which is not looked upon, even by unions, as a serious or credible offset.

Under current law, union organizers who are not employees are now permitted access to the employer's premises if it can be shown that this is the only reasonable way to communicate with employees. Organizers may visit employees in their homes and call organizing meetings off the employer's property; once an election has been ordered, they can get the names and addresses of employees; employees who favor unionization may talk to their colleagues during nonworking time in nonworking areas such as lunchrooms, locker rooms, et cetera, and in workplaces when it does not unreasonably interfere with continuing work; they can campaign without notification to the employer and they can make promises. In most situations, the employer's only access to workers is at the workplace.

The proponents of this section feel that employers have an advantage over unions at the workplace in presenting their message to their employees during working time. Talking to the employees as a group is, for the union, more efficient, less costly, and certainly less time and trouble than the traditional methods. The employer's ability to hold captive audience speeches during which it stops production and requires attendance, while refusing to give the union equal time is said to give the employer a tremendous advantage during the campaign period. They cite a study which found that only 36 percent of employees attended union meetings after work, off company premises, while 85 percent attended employee meetings held on the premises during working time. The study found that—

Many employees know little or nothing about unions prior to the union organizing campaign and, as a practical matter, have neither the time, energy, nor the inclination to travel to a union meeting at the end of their working day (Quotation from *Union Representation Elections; Law and Reality* by J. Getman, S. Goldberg and J. Herman, 1976).

Opponents point to all the opportunities for organizing available in current law and feel that the equal access provision would totally tip the balance in favor of the organizers. Management, unlike unions, runs great legal risks in speaking to individual employees and this provision would deprive them of their only effective means of communicating with them. It also interferes with the employer's ability to run his own business. They also argue that 10 percent of the workers is not a significant number and does not justify the use of such a strong measure.

Mr. President, I believe that section 4 is one of the most arbitrary and unfair provisions of the proposed bill. It is also unnecessary because unions already have a number of exclusive opportunities to communicate with workers that employers are prohibited from using and I find unions understandably unwilling to give up such advantages.

The Board has, over a period of 42 years, developed various procedures and safeguards necessary to insure the fair and free choice by employees of their bargaining representative. The equal access provision contradicts the Board's experience in carefully balancing the rights of labor and management, notwithstanding its total disregard for an employers' property rights which I shall discuss subsequently.

As indicated in the Senate report, this provision is directed at "captive audience" speeches conducted by the employer during the campaign, but, as currently drafted, I believe this provision would apply anytime an employer talks with his employees concerning unionization, even though no petition for an election has been filed by a union with the Board. As a result, it is likely that union organizers will notify employers that they have obtained several organizational cards and insist that they should have access to the company premises every time the company mentions unions. I see the workload of the Board expanded tremendously on this one provision alone.

It is also extremely vague with respect to its scope of coverage. It could apply to such situations as a small group meeting conducted by an employer in which the subject of unionization is discussed, despite the fact that it is only one of numerous subjects covered, and therefore, it appears that this provision far surpasses its stated purpose of equalizing campaign opportunity. There is also a problem concerning the number of union officials to be permitted on the company premises. It appears that this provision would allow an unlimited number of organizers onto a company's premises.

At the very least, it would seem incumbent on the unions to reimburse the employer for the cost of time and production lost because of a union address to workers. While it is one thing to talk of free speech, an employer and his shareholders should not be required to subsidize the sales presentation of a union organizer. Unfortunately, however, this is not provided for in the bill.

Finally, not only is equal access unnecessary, but the provision in S. 2467 is so drafted that it is probably unconstitutional. In *NLRB* v. *Babcock & Wilcox Co.*, 351 U.S. 105 (1956), the Supreme Court upheld an employer's refusal to permit nonemployee union organizers access to private company property. The Court held that because of the availability of other means of communicating with employees—mail, home visits, group meetings and handbilling—the Labor Board could not require union access to a parking lot. Here, of course, we are talking about access to the entire plant and not just the outside portion.

More recently, in *Central Hardware Co.* v. *NLRB*, 407 U.S. 359 (1972), the Supreme Court, again reversing an NLRB determination that access by nonemployee organizers was required, held that such persons did not have a constitutional or statutory right of entry to an employer's parking lot even though the parking lot was open to the public. In affirming the principles originally expressed in Babcock, the Court held:

The principle of Babcock is limited to this accommodation between organization rights and property rights. This principle requires a "yielding" of property rights only in the context of an organization campaign. Moreover, the allowed intrusion on property rights is limited to that necessary to facilitate the exercise of employees' § 7 rights. After the requisite need for access to the employer's property has been shown, the access is limited to (i) union organizers; (ii) prescribed non-working areas of the employer's prem-

ises; and (iii) the duration of organization activity. In short, the principle of accommodation announced in Babcock is limited to labor organization campaigns, and the "yielding" of property rights it may require is both temporary and minimal.

The requirement that access be granted only where the particular facts demonstrate the absolute need has been carried forward with precision by both the NLRB and the courts. This standard is not one of convenience, but one of absolute necessity, which requires the labor organization to demonstrate that it is unable to contact employees through any other available means of communication.

The due process clauses of the 5th and 14th amendments of the U.S. Constitution provide that—

(n)o person . . . shall be deprived of life, liberty, or property, without due process of law.

The right of a person to control his private property is a fundamental right under the U.S. Constitution.

It also is well established that the right to limit the use of property by outside persons is "part and parcel to the rights traditionally associated with the ownership of private property." *Amalgamated Food Employees Union Local 590* v. *Logan Valley Plaza, Inc.*, 391 U.S. 308, 319 (1968).

The problem of reconciling the competing constitutional rights of property and free speech was addressed by the U.S. Supreme Court in *Lloyd Corp. Ltd.* v. *Tanner*, 407 U.S. 551 (1972). In holding there that a privately owned shopping center could prohibit the distribution of handbills on its property, the Court emphasized:

The Fifth and Fourteenth Amendment rights of property owners as well as the First Amendment rights of all citizens, must be respected.

The Court further stated:

Although the accommodations between the values protected by these three amendments (the first, fifth and fourteenth) are sometimes necessary, and the courts properly have shown a special solicitude for the guarantees of the First Amendment, this Court has never held that a trespasser or an uninvited guest may exercise general rights of free speech on property privately owned and used nondiscriminatorily for private purposes only. Even where public property is involved, the Court has recognized that it is not necessarily available for speaking, picketing, or other communicative activities."

The Court established the following general standard to be applied in arriving at the accommodation:

It would be an unwarranted infringement of property rights to require them to yield to the exercise of Fifth Amendment rights under circumstances where adequate alternative avenues of communication exist. Such an accommodation would diminish property rights without significantly enhancing the asserted right of free speech.

In Babcock & Wilcox and Central Hardware, the Court applied the same standard in determining the rights of nonemployee union organizers to enter onto private property. In both cases, the Court ruled that such persons did not have a constitutional or statutory right to the employer's parking lot.

Applying these principles here, it is clear that the equal access provision cannot stand. The problem of the right of nonemployee organizers to enter onto an employer's property cannot be dealt with by general regulation. A case-by-case approach is constitutionally required. To justify an infringement of an employer's property rights, there must be a showing in each case that such an infringement is necessary because of the unavailability of alternative means of access to the employees which do not infringe on these rights.

I cannot agree that lack of worker motivation to attend union meetings, as illustrated in the Goldberg, Getman and Herman study, is sufficient reason to require the employer to open up his facilities to union organizers across-the-board, particularly as measured against the constitutional standards established in the cases I cited.

Mr. President, I am committed to three principles of labor reform: I support the concept that once a sufficient number of workers has signed authorization cards, there should be a union representation election after a reasonable amount of time. I support the idea that workers deserve a specified compensation from employers if they are clearly illegally fired solely for engaging in union activities. I also believe that existing law should be strengthened to assure that, once a union has been certified as the bargaining agent for a group of workers, both labor and management will bargain in good faith. I fail to see how an equal access provision would accomplish any of these goals.

Furthermore, as I stated several weeks ago, I believe that the principle purpose of any labor reform bill should be to strengthen the ability of current law to deal with labor-managment problems, and to that limited extent I have said I would support a labor reform bill. I do not think, however, that it is necessary or desirable to change the complexion or balance of our labor laws as presently constituted, and it is my belief that the "equal access" provision represents a major change in those laws.

With respect to the substitute proposed by Senators BYRD of West Virginia, WILLIAMS, and JAVITS, I believe a good-faith attempt has been made to address concerns prompted by the committee bill. The new provision certainly is an improvement over the old. Although I still believe that existing law is sufficient with regard to access, I shall be happy to give this proposal closer consideration in the next few days, and speak at the appropriate time should this measure become the pending business of the Senate at some point.

II. TIMING OF ELECTIONS

Section 6 of the bill provides that the Board shall conduct elections according to the following schedule:

First. For bargaining units in which a majority of employees supports the request for an election, the Board is to issue the order for the election within 13 days and the election is to be held between 21 and 30 days after the petition for such election is filed with the Board and served on the employer, unless both parties consent to a date prior to the 21st day.

Second. In any other case—but with at least 30 percent of the employees in the bargaining unit having signed authorization cards—the Board must direct that the election be held within 45 days after filing and serving of the petition, except that—

Third. The Board may direct the election to be held at or before a maximum 75 days from the time of filing and serving in cases of exceptional novelty or complexity, in its judgment.

These timetables apply to all elections supervised by the NLRB including those to decertify a union. The bill specifies that the days of the week during which a majority of the employees involved in the election are on vacation shall not be included.

The election would occur during the required time period regardless of whether or not such questions as the appropriateness of the bargaining unit or the inclusion or exclusion of certain employees had been decided. If major questions are not settled by the date of the election, the ballots are impounded until such time as they are settled. When all questions are resolved the ballots are counted and the union certified, assuming that the questions were resolved in the union's favor.

Under current law, the Board is required to conduct an election within a reasonable amount of time subsequent to the filing of an election petition. No time requirement is imposed and approximately 80 percent of all elections are held within 45 days by voluntary agreement of the two parties.

The unions maintain that delays inherent in NLRB processes have frustrated the attempts of many employees to exercise their rights to organize. Critics of the present procedure note that an employer can delay a representation election for 2 or 3 months by contesting preliminary issues such as the bargaining unit. When these issues are complex enough to require full Board review, the delay can be 9 months to a year during which time support for the union is eroding. It is suggested that some of the procedural delays on the part of the employer are deliberately caused to hasten the erosion of union support. Supporters say that once the Board is forced to make rules governing the determination of a bargaining unit, the time required to settle these issues will be much less and it would be entirely feasible to hold an election within 21 to 30 days.

Opponents argue that serious delay occurs in a minimum of cases, and that 80 percent of elections are held by the consent of both parties within 44 days. The new proposals apply to all elections, a requirement which is not necessary in most cases. They also suggest that the time periods are too short and argue that the union definitely has the advantage in getting an election since there is no time limit within which the required number of authorization cards must be signed. there is no time limit on the validity of

the cards—except that the signers must still be employees by the time the election occurs—and the organizers can hold the cards, once they are signed, until the most propitious time for filing the petition.

Mr. President, I believe there is a way of reconciling the opposing arguments on this provision. Clearly, we ought not interfere with people who are playing by the rules, that is, conducting their elections within 44 days. Where the law must be strengthened, however, is in its ability to expedite elections in cases of deliberate and meaningless delay of which we have been given many examples in recent months. For this reason, I have supported and will support time limits beginning at 45 days as proposed in the amendments of the distinguished Senator from Rhode Island (Mr. CHAFEE).

This amendment, if enacted, will put employers, who have every right to legally resist unionization, on notice that they cannot unduly delay the question of whether or not the employees wish to be unionized, but it will not interefere with law-abiding employers and unions who already agree in a majority of cases on an election date within 44 days of the filing of the petition.

III. SUMMARY AFFIRMANCE OF THE DECISIONS OF ADMINISTRATIVE LAW JUDGES

Section 2 of the bill directs the Board to develop rules for the establishment of a three-member panel who could summarily affirm the decisions of administrative law judges (ALJ's) in unfair labor practice cases. It is the intention of the committee that this procedure be used for uncomplicated cases. It provides a procedure whereby the winning party in a case before an ALJ would have to file, within 10 days of the decision, a motion for summary affirmance. The losing side would have 20 days beyond that to file a response. A three-member panel of Board members would then review the case and make a decision. No time period is specified within which the Board panel must render a decision, but the committee report implies that it should be done as soon as possible.

Under current Board practice, appeals the ALJ decisions are usually assigned to three-member panels who, once they have reached a decision, circulate it to the entire Board before it is formally issued as a decision of the Board. The Board has a summary affirmance procedure which it uses now at its own discretion.

The committee argues that it presently takes a median time of 185 days from the issuance of an unfair labor practice complaint to the issuance of an ALJ decision, including a median time of 111 days from the close of an unfair labor practice hearing until the ALJ issues an opinion. Finally, it takes a median of 145 days from the decision of the ALJ until the Board's final decision, in spite of the fact that many of these cases do not involve substantial questions of law. The committee points out that 40 percent of all contested cases taken to the Board are affirmed by adoption of the ALJ's decision without modification. They recommend that summary affirmance be used in uncomplicated cases where the ALJ's have made what are known as short-form decisions. It is felt that by requiring the Board to mandate that motions for summary affirmance be filed within 30 days, the median 145 days mentioned above would be substantially reduced and the cases disposed of in a more efficient manner.

Opponents note that present Board procedures already allow the Board to summarily affirm ALJ decisions on its own initiative in cases that are appropriate for this treatment. They feel that the bill thus risks the creation of inflexible rules which may actually delay cases. If, for example, someone asks for summary affirmance in a case which actually merits full Board review, this process may serve to delay the ultimate decision by increasing the number of procedural steps leading to that decision.

What concerns me about this provision in the bill is the approval of decisions by a minority of the Board. If this provision is to save time and avoid further appeal, the parties involved must be satisfied that the decision of the panel is, in fact, the decision of the full Board. This could be achieved in two ways: First, having the panel constitute a majority of the Board and requiring its decisions to be unanimous, or second, keeping a three-member panel and requiring that the panel's decisions be circulated to all Board members. If we could establish in the legislative history of this bill that decisions of the three-member panels be circulated to the Board, just as under current procedure, I would be happy to withdraw my reservation.

Mr. President, I have advised the minority floor leader of the bill (Mr. JAVITS) that I would appreciate having a short colloquy with him to clarify certain aspects of the Labor Reform Act. I understand that Senator JAVITS is on his way to the floor. At this time, awaiting his arrival, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. PERCY. Mr. President, we have been advised that Senator JAVITS is questioning witnesses in connection with the refinancing of loans to New York City and is not available at this time, nor is Senator WILLIAMS, the chairman of the Human Resources Committee.

It is the understanding of the Senator from Illinois that the distinguished Senator from Indiana (Mr. BAYH), who is the floor manager of the bill at this time, even though not a member of the Human Resources Committee, would be authorized to speak on behalf of the chairman and the ranking minority member on an issue that I would like to raise with respect to section 2 of the committee bill.

Is my understanding correct in that regard?

Mr. BAYH. That is accurate, I say to my colleague from Illinois.

I am sure the Senator from Indiana cannot speak as eloquently as the Senator from New York, if he were here, but I understand the legislative emergency that calls him elsewhere, I have discussed the concerns of the Senator from Illinois with Senator WILLIAMS before he left the floor and he has prepared me to respond to the questions of the Senator from Illinois as if he were making the response himself.

Mr. PERCY. I thank my distinguished colleague.

It is the understanding of the Senator from Illinois that Senator JAVITS also conferred with Senator WILLIAMS so that in a sense, the Senator from Indiana would be responding for both of them.

Mr. BAYH. That is accurate.

I have not had a chance to talk with Senator JAVITS himself, but I do know Senator WILLIAMS and Senator JAVITS are in agreement and share the same kinds of concern relative to the questions to be posed by my distinguished colleague from Illinois.

Mr. PERCY. Mr. President, I thank my distinguished colleague.

Let me then detail my concern about section 2.

Section 2 of the committee bill directs the Board to develop rules for the establishment of a three-member panel which could summarily affirm the decisions of administrative law judges in unfair labor practice cases and, in particular, the uncomplicated cases. The justification for this provision is that it presently takes a median time of 185 days from the issuance of an unfair labor practice complaint to the issuance of ALJ decision, including a median time of 111 days from the close of the unfair labor practice hearing until the ALJ issues an opinion. This long period of time is consumed in spite of the fact that many of these cases do not involve substantial questions of law.

I agree that this is too much time to handle simple questions.

If a statutory requirement for the Board to establish a summary affirmance procedure would expedite the work of the Board—and I believe it will—I have no objection to it. We all have an interest in seeing that Federal regulatory agencies operate smoothly, efficiently, and in the interest of the law it was designed to serve.

What concerns me—and perhaps the distinguished manager of the bill could be of assistance to me—is the approval of ALJ decisions by a minority of the Board. If this provision was written to save time and expedite the proceedings of the Board, it seems to me that, in order to avoid further appeal, the parties involved must be satisfied that the decision of the panel is, in fact, the decision of the National Labor Relations Board—not just a minority of it. The bill is silent on this matter. I know the Board now uses a procedure whereby decisions of regular three-member panels are cleared with all members of the Board before issued as final decisions. Is it the Senator's understanding that the Board will continue to use the clearance procedure in its implementation of section 2 of the bill?

Mr. BAYH. Mr. President, I appreciate

the question raised by the Senator from Illinois.

The committee has considered this matter and has ascertained from the Chairman of the NLRB that he plans no change in the clearance procedure for summary judgment cases. In other words, the procedures now followed, as previously enunciated by the Senator from Illinois, are still planned to be continued.

Personally, I see no reason for this practice to change. I speak for myself, Senator WILLIAMS, and Senator JAVITS in expressing the view that this procedure should be continued.

By this procedure, those involved in Board cases can be satisfied that the decision of the summary affirmance panel represents the thinking of the full Board, thus meeting the concern expressed by the Senator from Illinois.

Mr. PERCY. My staff had been in touch with the office of the Board counsel on this matter, and there appeared to be some doubt at that time as to the Chairman's intention. Can we clearly state for the record that it is the intention of the Human Resources Committee that the Board, in fact, make use of the clearance procedure in cases handled by the summary judgment panel, as it now does for other cases?

Mr. BAYH. Yes. It is the committee's intention that the Board extend its current clearance procedure to any summary affirmance process established by the Labor Reform Act.

Mr. PERCY. I thank the distinguished Senator for this clarification of this provision. Having received the assurances today that summary judgment decisions will be cleared with all members of the Board, I withdraw my reservation about this provision of the bill and am pleased to support it.

Mr. President, I take note that the distinguished senior Senator from New York (Mr. JAVITS), the ranking minority member of the Human Resources Committee and the minority floor leader of the bill before the Senate, has arrived in the Chamber. Senator BAYH, as the acting floor manager for the majority, has indicated favorable responses to the Senator's questions, and it would only be necessary for the distinguished Senator from New York to indicate his concurrence with Senator WILLIAMS that the understanding of the Senator from Illinois is correct in this regard.

Mr. JAVITS. Mr. President, I am sorry that I did not get here in time, as I was cross-examining a witness in the New York City hearings.

The colloquy with the Senator, which Senator WILLIAMS and I have discussed, is correct and represents my view as to the proper interpretation of the bill before us in respect of the summary judgment procedure before a designated panel of the National Labor Relations Board. I believe that the Board should and will continue its practice of clearing panel decisions with the nonparticipating members in order to insure that the decision represents the thinking of the full Board.

Mr. PERCY. I thank my distinguished colleague.

I reaffirm that, with this understanding, I withdraw my objection to this section.

Once again, I commend my distinguished colleague for the practical and realistic approach he is taking to this legislation.

I previously commended the distinguished Senator for work on the substitute, which certainly is an improvement and goes in the direction that many of us have urged upon the committee. I thank my colleague for his clarification at this time.

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

Mr. PERCY. I am happy to yield.

Mr. JAVITS. Senator Williams and I and those who manage the bill in our absence are very serious about our fidelity to the commitment that, whatever one's attitude may be on this bill, whether one is for it or against it, there be a clear understanding of what it does and what it does not do; because I believe that this is a bill which has uniquely suffered from attribution to it of a great many requirements which simply are not so or which are not as pictured or portrayed.

So I welcome and thank Senator Percy and other Senators who helped us to make clear exactly the parameters in which we are proposing this piece of legislation.

Mr. PERCY. I thank my distinguished colleague.

Mr. President, I appreciate having the opportunity to speak again on this legislation. We still have a long way to go before all of these issues are settled. I wish to reaffirm that I would like to see a bill passed this year, however, I cannot support the present bill. Whether or not the doubts that I and other Senators have expressed can be resolved in the coming days—or weeks—relate directly to my final vote on this bill.

Mr. HELMS. Mr. President, is the Senator from North Carolina correct in his understanding that the intervening business conducted by the Senator from Illinois will appear at a different place in the RECORD?

The PRESIDING OFFICER. The Senator is correct. That has been done by unanimous consent.

(Conclusion of earlier proceedings.)

Mr. McCLURE. Mr. President, some days ago, I was addressing this body in regard to the role of the National Labor Relations Board and how that role had evolved, both in law and in practice. At the time I yielded the floor, I was speaking in regard to the role of the National Labor Relations Board as an enforcer of the law. It has several roles. One of the important roles is that of an enforcement agency, in which they take the law as they see it and as Congress has passed it, and enforce the terms of that law.

Let us examine how it has functioned in the past to determine whether or not changes are now necessary.

Public law enforcement can be divided into four subfunctions: investigation, prosecution, settlement, and formal decisionmaking. The first two of these functions and the bulk of the third are performed by the General Counsel and his attorneys and investigators. The formal decisionmaking function is performed exclusively by the Board and its core of first-line decisionmakers, the administrative law judges. The Board also has authority, with some limitations, to review settlements and to rule in its decisionmaking capacity on whether a proposed settlement should be accepted or whether it is unacceptable because it does not, in the Board's view, sufficiently remedy the alleged violation.

The separation of the Board's and General Counsel's authority and responsibility is statutorily required. The General Counsel was given independent authority in 1947. Prior to that time, he had worked hand in glove with the Board, both in election matters and in law enforcement matters. This appeared to many as an undesirable combination of prosecutor and judge, tending to suggest the possibility of bias on the part of the decisionmaker. The General Counsel operates in the role of a public prosecutor and it is he who makes the call on whether a complaint which comes to his attention has merit; that is, arguably appears to make out a violation of the prohibitions of the act, which are referred to in the act's terminology as unfair labor practices. The General Counsel and his staff screen the verbal and written complaints which come into the Board's offices each year to determine whether the conduct complained of by the individual, the employer, or the union is such that, if proved, a violation of the law has occurred which requires remedy.

If the General Counsel makes a determination that there may be a violation of the law worthy of prosecution, it then becomes necessary to investigate the facts which the charging party says took place. First, a form called a charge must be signed by the charging party, and it forms the foundation for the beginning of a file on the case. An investigator must then be assigned to check out the facts. After the facts have been dug out and reviewed, the regional director must make a determination of whether there is sufficient merit to proceed further.

The technique by which such determinations are arrived at varies from region to region. The procedures, which once involved sometimes extensive reports called "Field Investigation Reports," have been streamlined over the years and oral presentations are now frequently used. Subcommittees or committees may be utilized in order to provide a broader decisionmaking base, and also to provide for supervision and training of inexperienced investigators. Whatever the techniques, the functions are the same—first, a factual investigation and, second, an analysis of whether such facts as appear to be provable are legally sufficient so that the public prosecutor should proceed further in an effort to remedy the violation.

The avoidance of litigation whenever possible is a practice long followed by the General Counsel and, fortunately, frequently followed also by those whom the

General Counsel decides to accuse of violating the law.

Most General Counsels in recent years have viewed their function as being the "cutting edge of the law"—that is, willing to litigate borderline or new and novel theories of law violations so that they could be tested out through the decisionmaking process.

The General Counsel screens out worthless cases, thereby saving innocent respondents huge amounts of money, and shuts off worthless litigation at the very outset. About one-fourth of the total charges filed are settled by agreement with the respondent. Only about 5 or 6 percent ever require a hearing, and some of these are settled during the hearing or immediately afterward. Some are settled by voluntary compliance with the initial decision of the administrative law judge.

Many of the cases do not get settled, however. Over 1,500 of them have been tried in each recent year. The trial of a case requires a careful investigation, including finding and analyzing needed documents and locating and preparing witnesses to testify. Experienced lawyers know that many hours of investigation and trial preparation are required for every hour in the courtroom or hearing room. All of this investigatory and trial work is done by field examiners and attorneys assigned to the regional offices.

The trials take place at locations convenient for the respondents and for the witnesses of the charging party, usually in the city or town where the employer's place of business is located.

In some regions, the investigative work is performed primarily by field examiners who are not lawyers, while in other regions lawyers are used extensively in both the preliminary investigation and immediate trial preparation work.

When a respondent is charged with a violation of the law, an informal complaint issued by the general counsel, the case is assigned to an administrative law judge. These first-line decisionmakers are not residents of the region in which the trial occurs. They are an extension of the decisionmaking side of the agency—the five-man board in Washington. For many years, all of these judges were housed in headquarters in Washington and sent out around the country to hear cases. It is still true today that most of the judges are located in Washington, but a west coast office has been established about one-fourth of the Board's staff of administrative law judges are headquartered there serving the Western and Southwestern States.

These judges are charged, first, with the responsibility of conducting the trial of unfair labor practice cases. A judge may encourage the parties to engage in settlement discussions just before opening the trial although there is a substantial difference in attitude amongst the judges in this regard. Some are aggressive settlers, others make no real settlement efforts at all. The trials are conducted in much the same fashion as trials in Federal courts with, perhaps, some greater liberality with respect to rules of evidence.

Upon completion of the trial, it is the judge's responsibility to issue a written decision. The Board's administrative law judges have been accustomed to writing narrative decisions, often with rather lengthy discussions about the facts and the law. There are some who say that much simpler and more formalistic "findings of fact" and "conclusions of law" could be used as they are frequently in Federal courts. Thus, consuming less paper and, more important, less of the judge's time. Others say this is a requirement of the Administrative Procedures Act or such that a full discussion of the facts and the law are required. In any event, in some cases, to avoid the risk of having decisions upset on this point, the judges have clung to the traditional long form opinions.

The administrative law judge's decision cannot be enforced until after the Board has reviewed and adopted it and taken it to a court of appeals to secure an enforceable order.

For years, these hearing officers were called trial examiners and, perhaps, one of the most intensive lobbying efforts within the Federal bureaucracy was carried out by trial examiners from the NLRB and from the host of other agencies in an effort to get the title changed so as to include the word "judge." In the early 1970's, the Civil Service Commission finally yielded to this lobbying pressure and yesterday's trial examiners became today's judges. They cherished the new long sought after title and some even required that their friends and families address them as judge.

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

Mr. McCLURE. Without losing my right to the floor and without considering the continuation of my remarks as a second speech, I yield to the Senate for a unanimous-consent request.

Mr. WILLIAMS. Yes.

Mr. President, we are in the last hour before the scheduled cloture vote. I ask unanimous consent this hour be equally divided between the proponents and opponents of this bill.

Mr. McCLURE. Mr. President, we have no objection on this side.

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

Mr. WILLIAMS. I thank the Senator.

Mr. McCLURE. Mr. President, what was probably regarded in the early days of the Board's history, as merely another step in the administrative sorting process which enables the Board to determine which cases are to be seriously prosecuted in the courts emerged as the first, really, judicial step in a three-step judicial sequence. What was once called an "intermediate report and recommended order," for example, is now called a "judge's decision." This change signifies or reflects more than just an ego massage for the former trial examiners. A change in attitude within and without the agency has really transformed the initial concept of an administrative investigation aided by hearing into a highly structured prosecution and a very courtroom-like trial with the parties expecting, not an administrative report but a judicial decision.

Both the National Labor Relations Board and the bar now regard the hearing before the administrative law judge in very much the same light as they would regard, for example in bench-trial, a title seven case by district court judge. It is before the administrative law judge that the basic facts of the case will be established. It is by this officer that credibility resolutions will be made which are rarely tampered with thereafter either by the Board or by review in court. In short, the case for the Board or for the respondent will essentially be won or lost in this initial unfair labor practice hearing. The judges are regarded by the parties as performing a critical judicial, not merely, an administrative function.

Their role has grown in importance over the years. They are more now than hearing officers. They have earned the right to be called judges. An appeal from the decision of an administrative law judge is to the full National Labor Relations Board. Currently, the National Labor Relations Board reviews about 1,000 administrative law judges decisions a year. Besides a substantial number of interlocutory matters, it carries a variety of duties dealing with the general administration of the agency.

The Board is aided in its work by the Executive Secretary's office, which performs all of the duties normally performed by the clerk's office in an appellate court and provides many services which are now being performed by various types of court executives within the State and Federal judiciaries. The Executive Secretary's office also assists the Board members and the Board Chairman in various administrative tasks, particularly, in maintaining communication between the Board and the regional offices in election case matters in which the regions reporting responsibility is, in theory, at least to the Board.

The Executive Secretary's office is not only the principal communication's link between the Board and the regions, but also is a principal communications link between the Board and the general public. The Executive Secretary's office tends to be the focal point for inquiries concerning the status of litigation pending at various levels within the agency. Frequently, that office also serves as a buffer between the Board and members of the administration or Congress who may desire to communicate with Board members.

Board members have, for years, refused to communicate with anyone about matters pending before the Board. This is a sound judicial practice. However, occasionally, some Congressman or Senator is asked by a constituent when he may get a decision in his case that is pending before the National Labor Relations Board. A Member of Congress may wish to comunicate with someone and his inquiries, whether by telephone or letter, are consistently referred to the Executive Secretary for handling, thus insulating the Board members from any written or verbal comunications in which the merits of the case might be touched upon. The Board is also aided by attorneys who are assistants to individual Board members. These attorneys, formerly called legal assistants,

have recently been retitled "counsels." With various levels of responsibility being recognized by title modifications, such as senior counsel, deputy chief counsel, and chief counsel, each Board member has about 20 attorneys assigned to him for assistance in handling his quasi-judicial review functions.

The most important and time consuming of the duties of the members in the National Labor Relations Board is this judicial appellate review function which requires that the records of the trials conducted by the administrative law judges be reviewed, that possible errors committed by the judges be identified and duly considered, and that a review decision be written in each case.

A respondent who has received an adverse decision can either comply with that decision or wait for the Board to go into court and enforce it, or may take the initiative in the court review process and petition for a review of a Board decision. In either of these events, the case ends up in the court of appeals and someone must brief it and argue it on behalf of the agency. This at one time was regarded as a function of the five-member Board, but for many years the Board has delegated that function to the General Counsel who, in turn, has created a special division of enforcement litigation. The bulk of the work of this division lies in attempting to secure enforcement of Board orders in the courts of appeal. In addition, there are a few cases which go to the Supreme Court which are handled by special subdivisions of this division.

This group also handles contempt litigation in the courts when a recalcitrant respondent will not comply even with the order of the court of appeals. And, there is some miscellaneous special litigation, such as injunction litigation, although now most of this is handled by the regions, Freedom of Information Act cases and a few other special kinds of court work which are also handled by this division.

In both capacities, the Board as it is now constituted and operating under the present form of law has been very successful. The proof of how successful the Board has been in conducting elections under present law is shown by the fact that in 1977, the Board celebrated the fact that its 30-millionth employee voter had cast his ballot.

The Congress is being asked to make drastic changes in elections to determine whether the employees want a union to represent them. Let us take a look at the history of the Board in relation to election process. In 1938, the third year of the Board's history, over 340,000 ballots were cast in Board conducted elections. In that year, there were over 3,600 "R" cases, or representation cases. These were petitions seeking to have the Board hold an election. They resulted in a total of 1,152 elections being conducted. By 1940, the number of ballots cast had risen to over one-half million, and by 1942, it exceeded 1 million. Those were the big years. Over 1 million voters cast ballots again in 1943 and in 1944.

Elections grew to be, by far, the biggest part of the Board's work, particularly, at the midpoint of its first decade of existence. While charges of unfair labor practices exceeded election cases by a 4-to-1 ratio in the Board's first year (1936), the proportion had then nearly reversed itself by 1944 when over 6,600 election cases were filed and less than 2,600 unfair labor practice charges were lodged with the National Labor Relations Board.

According to the Board's 1942 annual report, election cases had already increased from 9 percent of its total workload in 1936 to 55 percent by 1942. By 1946, the number of petitions for elections had risen to over 8,000 and the number of elections conducted reached a new peak of over 5,500.

In 1947, as part of the Taft-Hartley amendments, Congress required that unions obtain authorization from employees by means of an election before they were entitled to enter into union security contracts which require membership in the union as a condition of employment. No such statutory requirement had existed prior to that time, and there were thousands of union security agreements which were put in jeopardy by the new legislation. The new law thus lead to a rash of new elections participated in by enormous numbers of voters and the total votes soared in near the 2 million mark in 1948. In that year, of the nearly 2 million ballots, over 1,600,000 were cast in this new type of union shop authorization election with the rest of the votes being cast in the standard representation case election wherein the employees were deciding which union, if any, they desired to represent them.

The boom in elections caused by the passage of Taft-Hartley reached its peak in 1949 when a total of over 2 million ballots were counted.

During this period, employees consistently voted by nearly unanimous votes in favor of union shop authorizations. And the Congress was persuaded in 1951 that no truly useful purpose was being served by its 1947 "Authorization Election" requirements. On October 22, 1951, Congress repealed the statutory requirement for union shop authorization elections. Substituting instead, however, a procedure by which employees could initiate a deauthorization petition to determine whether they wanted to revoke the authority of their bargaining representatives to enter into union security contracts. Once the union shop authorization provisions were repealed, the Board's election case load dropped to a low of 7,165 petitions and 4,392 elections conducted in 1955 which was below the over 10,000 petitions and nearly 7,000 elections held in 1947.

In the late 1960's and on into the 1970's, the general trend was toward a gradually increasing number of Union representation elections with only an occasional year showing a modest decrease, but toward smaller voting units. Reports also show a trend toward an ever decreasing percentage of Union victories over the years. The leadership of the international unions claims that the Board delays the holding of elections, and they obviously think that they can be more successful if there is a shorter time period between the filing of the petitions for elections and the actual holding of the elections. There is no deadline put on the time that the union can spend in organizational attempts before it files the petition so that you have a situation in which all of the time factors are completely in the control of unions under the proposed legislation. Let us look at some of the times and let us see whether the claims are correct.

A review of the Board's history shows that the medium time for the filing of a petition to the issuance of the decision and the direction of an election in a contested proceeding consistently runs at less than 2 months. And, when elections by agreement occur in over 75 percent of the cases and are fully completed within less than 60 days of the filing of a petition, it is obvious that the continuing complaints about the Board's timetables and election cases refer only to isolated cases. There is no need for any change in the law.

Let us look now at the work of the General Counsel and the people who report to him to determine whether or not there are any real reasons for making changes in the labor laws of the United States. Administratively, the biggest and most important task performed by the General Counsel and his farflung staff of lawyers and investigators is to take the very heavy volume of charges which are currently running about 30,000 a year and to process them in such a way as to sort out the wheat from the chaff. The reports of the National Labor Relations Board indicate that there is today a great deal less wheat in proportion to chaff than in the early days of the act. The General Counsel's office has the very important task of determining which of the complaints are without merit and which have genuine merit. The General Counsel staff is divided into four general categories. The first is the regional office staff. In recent years there have been in the neighborhood of 1,500 people working in the 31 regional offices. Approximately one-third of these people are attorneys, one-third are field examiners, and another one-third are nonprofessional personnel.

If the legislation being advocated under the title, "Labor Law Reform" is passed, the total number of people in all of the categories that I am about to describe will be increased by one-third and a resulting cost of the operation of the National Labor Relations Board and the General Counsel's office will go up by one-third.

The second group in these field offices can be described as middle management and is composed of people who supervise and coordinate the work of the regional offices. The need for supervision and for readily available lines of communication between Washington and the field is real and this middle management group has become, as the agency has grown and the volume of the work expanded, a necessary group of contribu-

tors to the efficiency of the General Counsel's operation.

The third division is the Office of Appeals and the Division of Advice. When a regional director is unsure whether a complaint should issue on a particular charge, he may get the legal advice from the Division of Advice. Very often, what is involved is a ticklish question of statutory interpretation or doubts caused by lack of clarity and the precedence established by Board and court decisions.

The Office of Appeals was created by the General Counsel some years ago so that a charging party advised by a regional director that no complaint would issue on his charge may have some avenue of appeal. When a charge is dismissed, the charging party is always advised that he has a right to appeal the matter to the General Counsel's Office of Appeals in Washington. If such an appeal is successful, the General Counsel will direct the regional director to reverse his initial decision and issue the complaint. Such reversals do not occur in any substantial number of cases, but the opportunity for an appeal from the regional director's determination is doubtless sound administrative practice and has earned considerable praise for the office of the general counsel.

Former Senator Sam Ervin has referred to the general counsel of the Board as "the keeper of the keys to the temple of justice" pointing out that he has considerable discretion in determining when and when not to prosecute on the basis of the charge brought to him. Any district attorney, of course, holds a similar set of keys, if that is what they are. But, some avenue of appeal certainly does ease the tension created when a charging party has been told that he has no case. Of course, it is true he can not appeal beyond the General Counsel, but he, at least, knows that he has a second approach. And under the two, there is a genuine feeling that due process has been accorded. When Peter Nash was General Counsel, opportunity was frequently given to make personal appearances and arguments before the General Counsel and his members of his staff in Washington in support of such an appeal. His successor, John Erving, has continued to accord this privilege liberally. Today, there exists a feeling of openness and directness and credibility in the General Counsel's determinations.

The fourth group is the Division of Administration. A group providing the many needed support services such as printing, duplication, personnel administration, janitorial services, arranging leases with private buildings for regional offices, negotiating for proper space in governmentally owned buildings, budget and accounting services, administrative data gathering (by computer and by hand), and dozens of others. Such logistical support is required so that the professional staffs of both the General Counsel and the Board will have the tools to do their job. Most of the personnel of this division are located in the headquarters of the Board in the Capital.

In the National Labor Relations Board, the necessary services are provided and studies indicate that it is very rare that the agency has difficulty, because of the lack of needed administrative support.

From the work of the Board, an appeal is made to the courthouse. Now let us examine the path to the courthouse and some of the timeframes that are encountered.

One of the tests of whether a public prosecutor is effectively performing his job is whether he is able to deal properly with the charges brought to him by citizens. Promptness clearly benefits the charging party. "Justice delayed is justice denied" is an old cliche. But promptness also frequently benefits the charged party who should not have to be under a cloud of uncertainty and face possible litigation over a long period of time. If the accused is innocent, he has a right to be declared innocent at the earliest possible date. If the matter must be litigated, it is to the advantage of both parties and an early hearing while documents and witnesses are still easily available and the memories of the witnesses are fresh.

The general counsel's time targets are processing unfair labor practice cases and filing of charged close-of-hearing is approximately 45 days. The charge is filed in the regional office of the National Labor Relations Board. He hopes that within 7 to 10 days, there is a full-scale investigation underway. In the cases with merit, within 30 days of filing, the investigation is completed and the regional office has made a determination on the merit. Between 30 and 45 days is a period of time in which there is a preparation of the complaint. Then from 30 to 45 days, a period of time is set aside in which there would be conversations with the various parties in an effort to obtain voluntary adjustments to eliminate the cause of the complaint. Then if the complaint issues a notice of hearing on the issues is given with the trial set within 30 days of the issuance of the notice.

We can then characterize the road to the courthouse steps or to the actual hearing on an unfair labor practice charge as being approximately 3 months. There are very few agencies, Federal or State, that a citizen can go to with a complaint and expect to have it investigated, a preliminary determination of merit made, and if, meritorious, a trial completed all within 3 months of the date the citizen first walked into the agency's office. The road to justice in the National Labor Relations Board today is very quick, very efficient, and the Board should be applauded for its efforts. There is no need for any criticism and there is no need for any change in the law relative to the activities of the Board.

To do this work, the growth in the number of people employed by the NLRB has been substantial. The average number of people have tripled since 1940 and the total compensation is now more than 100 times larger than the budget in 1935. The bill that is being urged before the Congress can have a very inflationary effect.

The NLRB has just announced that it will have to increase manpower and budget by nearly one-third to administer the labor law reform bill if it becomes law. General Counsel John Erving has made a study of the increased needs of personnel to administer the law and has estimated that it would take an additional $27,883,000 and the addition of 1,038 NRLB employees.

When the General Counsel's office has decided that a complaint is worth merit, we turn to the Board itself to see how well it administers its functions. The Board judges currently take a little over 2 months to write a decision after hearing the case, and turn out, on the average, a written decision about every 3 weeks.

In doing their work, the administrative law judges are not limited just to the issuance of written decisions. They are required to travel to places in which hearings have been scheduled, sometimes only to find that the matter has been settled without any notice to them. They also quickly point out that they do achieve settlements in a large number of cases, so that the written decisions do not truly reflect the huge amount of work that they do.

One of the areas in which there has been a tremendous amount of criticism, but which the legislation before the Senate does not even attempt to correct, is the incredibly bad application and selection procedure which binds the Board in its hiring of administrative law judges. In 1972, the Board issued a press release announcing that it was urgently seeking well-qualifed applicants for the position of administrative law judge. The news release was incorporated by the Associated Press in a story which appeared in over 100 newspapers across the country, including many major metropolitan dailies. That news release, plus some personal efforts on the part of the Board members to interest qualified practitioners in applying resulted in the receipt of approximately 75 letters from interested persons. All 75 were sent an explanation of the application process and a personal letter of encouragement. After the receipt of the description of the process, only 12 actually applied.

An investigation showed that there were very serious problems with the recruitment in selection processes of the Civil Service Commission. The cumbersome redtape-filled application process succeeds in discouraging almost all applicants. Here are some typical comments taken from letters which were received by the Board. The following quotation is from an attorney with over 11 years of relevant experience both in the labor relations field and as a trial lawyer including 2 years of experience as an attorney with the National Labor Relations Board:

> My reason for not responding was primarily based upon the fact that the requirements of the application, that is, lengthy data to be supplied, all in written tests, and travel for interview coupled with the time factor involved before an appointment could be made, as well as the uncertainty thereof, led me to conclude that at least the Civil Service Commission was not interested in my application for any reason except to use it in a statistical way to show that they were really trying to fill those positions with applicants from outside the Government. Only a Government employee could wait for the period of time necessary to complete the requirements of the appointment without

doing a grave injustice to either his clients or his employer in the private sector. Accordingly, I concluded that the effort involved far outweighed the opportunity to achieve the desired objective and, accordingly, did not respond.

Another reply read as follows:

After some 19 years in the practice of law, including 9 years of extremely active work in the field of labor management disputes and acting as impartial arbitrator and approximately 20 years as acting judge of the Superior Court and having heard approximately 200,000 matters during this period of time, I was not about to undertake to fill out the unwieldy and complicated application furnished me.

An attorney who had spent 4 years with the Board in the active trial of labor relations cases who had since been in private practice and had written extensively in the field in scholarly publications put it more simply:

Not only do I not have the time to fill out the onerous and forbidding Civil Service application, but I also consider it an indignity.

Another telling remark came from a man who was a chief litigation counsel for a law firm in a large city and had conducted substantial labor litigation in the Federal court and before the Board. He said he thought that becoming an administrative law judge would be "the natural outgrowth of this experience" and that it would be "professional if fulfilling," but then he commented:

It seems obvious that you as chairman have properly concluded that the efficiency and value of an agency depends upon its ability to recruit the best possible personnel. You have made serious efforts to stimulate people to seek employment with your agency. The letter and application forwarded to me by the Civil Service Commission effectively destroys any specific enthusiasm generated by your activity.

The other responses received were similar. They leave little doubt that the Civil Service Commission procedures have effectively discouraged many good candidates from applying for the Board's judgeships.

Let us take a look at what the Civil Service Commission is now requiring from an individual who wishes to become an administrative law judge working for the NLRB. The Civil Service Commission announcement which is sent out to persons indicating interest in becoming an administrative law judge reads, in part:

Every applicant must include in his application, a list in chronological order, of a sufficient number of Administrative Law Cases in which he has participated or court cases which he has prepared and tried or heard to demonstrate two-full years (400 work days) within the 7-year period immediately preceding the date of his application. He must show for every case so listed:

1. Title and citation.
2. Dates between which participation took place.
3. Brief statement of issues involved.
4. Regulatory body or court hearing case. (Note: For each court so cited, indicate whether Federal, State or local, extent of jurisdiction—limited or unlimited, original or appellate.)
5. Number of work days spent in handling case and in what capacity, i.e., judge, attorney, etc.
6. Names and current address of:

(a) Hearing Officer of regulatory body, or of judge who heard case.
(b) Co-counsel, if any.
(c) Opposing Counsel.
(d) Names of Counsel appearing in case if applicant claims qualifying experience in a judicial-type position.

The applicant is also required to submit the details regarding two of the cases referred to above, which, in his opinion, are the most important ones in which he has participated. (If the applicant satisfies the administrative law, actual trial, or judicial requirements of this announcement by listing only one case, he may submit details on only that case.) If the applicant claims that his experience satisfies any of the special qualifications for filing specific hearing examiner positions which are described beginning on page 18, at least one of the cases must have been in the field of the legal specialty involved:

1. The precise nature and extent of participation.
2. Full statements of issues involved and a description of the problem.
3. Outline of arguments made.
4. Summary of technical, economic or other data presented, including sources, manner of analysis and uses, written decisions or opinions, or other papers prepared by applicants in one case.
5. Briefs, Memoranda of Law.

To assist the rating panels in determining the ability of the applicant to write clearly, concisely, and convincingly, the applicant shall submit with each written decision or opinion, a verification in the form of a signed statement of the extent of his personal involvement in and his responsibility for the preparation of the documents and the names and current addresses of those persons, if any, who worked with him in the preparation of the documents.

There can be little doubt that the enormous chores required to comply with such stipulations discourage most lawyers, particularly, successful lawyers from applying for the position of administrative law judge. Nor is even that red-tape the totality of the process. In addition to documenting all of the above information, the applicant must subject himself to a 6-hour written examination for a full 1-hour individual interview set at a time and place convenient for the Civil Service Commission with travel thereto being at the applicant's expense.

Meanwhile, the applicant must have given full information about his references with the understanding that the Commission might check them even prior to determining that he is a reasonably well-qualified applicant. That means that a practicing lawyer would have to expose himself to inquiries of his partners and of his clients, even if the Commission was not going to consider him seriously. That alone succeeds in discouraging a number of applicants. And, after all of that, the applicant succeeds only in getting his name on the Civil Service Register, thus making him available for possible selections by the NLRB or some other agency but there is no guarantee that by the time the Commission has completed its cumbersome processes, there will be any vacancies left to be filled.

The qualifications set by the Commissioner, in many respects unrealistic, the requirement that in each of 2 full years within the past 7, the applicant must have devoted a full 400-work days to the preparation and trial of administrative law cases, screens out most successful practitioners. As a lawyer becomes successful, he spend less rather than more time in the courtroom or hearing room and tends to spend an increasing amount of time counseling his clients, leaving much of the time-consuming trial preparation and litigation to junior lawyers. Nor is any credit whatever given by the Commission for the teaching of law. Thus, if a lawyer practices law from age 25 to 35 and then goes to teach law at a major university for the next 6 years, he becomes, automatically, ineligible for appointments to the position of administrative law judge.

The result of all of this is that the Civil Service Commission procedures have a strong tendency to keep these judgeships in the family. That is to say, it is most often the salaried Government lawyers, not needing to bill his time to clients, but who does the work at the taxpayer's expense who can find the time to go through the lengthy and burdensome Commission requirements for application testing and interviewing. And the fair to middling Government trial lawyer is the one most likely to meet the ivory-towered requirements established for the Civil Service Commission. Eager and ambitious hard-working private practitioners, the type that is, with some regularity, selected for Federal judgeships in the judiciary are likely to be effectively screened out by the bureaucratic application and selection procedures of the Commission.

The Civil Service Commission has consistently refused to recognize the effects of its ill-designed processes. Repeatedly in conference with Commission officials, reformers have met with nothing but objections to any suggestions that the process could be simplified or made more realistic.

We have a classic example of the nearly insoluble problems which sometimes lie in the way of improving governmental administration. An agency faced with a problem finding that one of the solutions must lie in better recruitment procedures is stymied by the unwillingness of another administrative agency to change its encrusted ways of doing things. When this occurs, the only solution is congressional action. But, here today, we are dealing with so-called labor problems, but the real problems that we have or not before the Congress. Another problem which is real, but which is not being addressed by the legislation being considered, is that in addition to the selection processes being unsatisfactory, the administrative tools available to the NLRB in attempting to improve the performance of its administrative law judges are also nonexistent. The usual tools of both the private and public sectors are, simplistically stated,

the carrot and the stick. Efficient performance should be rewarded by promotion and/or raises. Inefficient performance should, predictably, result in the demotion, discipline, or, in extreme cases, discharge. The sad practical fact is that none of these motivational tools are adequately if at all, available to the NLRB in dealing with its administrative law judges.

We continue to hear that demotion, discipline, and eventual discharge for inefficient performance are not available in a true sense anywhere in the Government. The lengthy procedural and substantive protections afforded to our civil servants through Civil Service Commission procedures effectively discourage most Government administrators from really trying to make demotions or disciplinary measures stick, except in the most extreme cases. Even then, the attempt is too often stymied and, in many instances, the employee is allowed to linger on at pay status in a state of suspended animation while all of the long "due process" procedures are being carried out. This, sometimes, presents a worse administrative problem than if no action at all were undertaken. In addition to the civil service protections, Government employee unions have now negotiated still further forums for challenging any kind of adverse action, such as the imposition of either discipline or a demotion.

This review of the National Labor Relations Board's activities proves in my mind, and I think in the mind of anyone who is knowledgeable about the actions of the Board, that there have been thousands of elections, that the conduct of these elections by the National Labor Relations Board has been exemplary, and that the elections have been fair, giving to the working people of the United States the right to choose for themselves whether or not they want to be represented for collective bargaining purposes by a trade union.

The fact that the labor unions do not wish to recognize is that they have become unpopular with the working people of the United States. They are trying to get the Congress to correct their problems in elections through unfair legislation.

The PRESIDING OFFICER. The Chair is obligated to inform the Senator that there is a unanimous-consent request dividing the hour prior to cloture between the proponents and the opponents, and the Parliamentarian has advised the Chair that the proponents have a half hour.

Mr. McCLURE. I thank the Chair.

The PRESIDING OFFICER (Mr. SASSER). The Senator from New Jersey is recognized.

Mr. WILLIAMS. Mr. President, during this debate we have devoted much time and effort to developing legislation which would meaningfully reflect the concerns of our fellow Senators, and which would offer meaningful solutions to the problems now found under current law.

I have sat here day after day after day trying to understand the opposition to this bill, trying to understand what should be done to accommodate the legitimate concerns of those who oppose this measure.

During the 15 days of debate, Senators opposed to labor law reform have evolved into two groups: Those who were and are dug in, unalterably opposed, and those who have demonstrated a willingness to understand the issues, the needs of America's workers, those who have aided us in changing the bill to meet the needs of workers, while accommodating the concerns of Senators.

We have been reasonable, we have been accommodating, we have listened and we have learned. We have proposed amendments which address and which answer the legitimate concerns of those who oppose this bill.

A few days ago the distinguished majority leader, with the support of the managers of the bill, and more than 20 of our colleagues, offered an amendment. It was in the nature of a substitute. It addressed these legitimate expressions of concern. The response is that these amendments are ploys, that they are hoaxes. But the hoax is what has been perpetrated by so many of the opponents of this measure. They are not interested in fashioning any bill which will address the problems of bureaucratic delay inherent under current law.

The ploy is that for all these days of debate, while pretending to oppose this bill, these opponents really oppose our system of free collective bargaining.

While we are indeed eager to work with all Senators to fashion a law which is fair, which works, we are not willing to participate in the dismantling of the priceless heritage which the Wagner Act has given our Nation.

But the opponents of this bill do not want to participate in fashioning a good and a fair law. They will not let us discuss changes to the bill before us. They fear the development of a bill which reasonably addresses the needs of workers and employers. They raise objections, and then when those objections are dealt with, they shift around and say, "Well, that was not our objection at all. Here is our objection."

The debate of the past few weeks demonstrates the unreasonableness, the intransigence, the true motives of these opponents.

Take what my friend, the Senator from Utah, has come to call "quickie" elections. The bill, as reported from the committee, required that when more than half of the employees think they want an election, when the unit which the petitioner is seeking is a plainly proper one, the election should be held between 21 and 30 days after the filing of the petition.

Now, to my sense of justice this seemed eminently reasonable. The law gives the workers the right to an election. The workers pay their taxes to the Federal Government like all taxpayers, and they are entitled to receive from the Government that which the law says they are to have.

But instead we hear that we were springing "quickie" elections on poor unsuspecting employers. We were treated to day after day of rhetoric about unions sneaking about in the dark of night signing up workers, while the unspecting employer's back was turned. We were treated to speculation about employer's who heard nothing until the union came up and virtually hit them over the head with an election petition, and then these poor employers would not even have the time to locate a labor lawyer before the board conducted an election.

Mr. President, any serious student of industrial relations knows that this is nonsense. Cases where a union conducts a successful organizing campaign without the employer's knowledge are few and far between.

On the other hand, our law books are filled with page after page of cases where employees active in organizing a union are fired for that activity even before the union files its petition. There are page after page of cases where the employer makes unlawful threats or promises even before the union files its petition.

Mr. President, we listened to this concern and tried to come up with a provision which would satisfy this fear. It is possible that some union organizing campaigns may be conducted in secret. Doubtful but possible, and clearly any system of justice should give the employer in that situation the opportunity to make his case.

In a poll conducted by Cambridge Reports, Inc., 70 percent of the people in our country felt it was reasonable for the employer to have a month to mount his campaign after he knew that the union was organizing his employees. The provisions of the Byrd substitute added 5 days to that, and it provides that no election be held any sooner than 35 days after the employer is first notified that the union is organizing his employees.

Mr. President, I was flabbergasted when the Senator from Utah stood up in this very Chamber and said that 35 days was not better, it was worse. Now, instead of "quickie" elections, the Senator says we have "instant" elections. How can this be?

Well, with fancy footwork—and while I notice the Senator from Utah is not immediately present, I will repeat these words—they recognize his talents that preceded even his arrival here in the U.S. Senate—well, with fancy footwork, which reveals his experience as a former prizefighter, the Senator from Utah has shifted ground. Now he is not concerned about how much time the employer has to mount his campaign after first being notified of the union drive. Now he is fearful that there is no minimum time after the petition is filed before the Board can schedule the election.

But, in fact, Mr. President, the current law states no minimum time between the filing of the petition and the holding of the election. There is no minimum time now under law. None is necessary, because the Senator from Utah knows, and I know, and the whole world knows, that it is impossible for the Board to conduct an election the day after a petition is filed. It cannot be done. Ballots must be

printed; a Board agent must be made available to conduct the election; election notices must be printed and posted in the plant to advise workers of the time and place of the election; arrangements must be made for conducting the election in a place and time convenient to the parties.

The Board must attempt to secure the agreement of the employer to hold the election on the plant premises, and if that agreement cannot be secured, the Board must make arrangements to hold the election elsewhere. This takes time, and the Senator from Utah knows it. So it is impossible for the Board to conduct an instant election after the petition is filed.

What are we to conclude from the Senator from Utah's shifting feet? We must conclude a lack of sincerity when he says he fears that employers will be caught unaware. We must conclude that he is more caught up in the jingoism of so-called "quickie" elections than he is with the substance of his opposition.

Mr. HATCH. Mr. President, will the Senator yield at this point?

Mr. WILLIAMS. Well, I remind the Senator we are under controlled time. If the Senator has a pressing question, I will yield.

Mr. HATCH. I have a question. Is the Senator saying that an election cannot be triggered within 1 or more days?

Mr. WILLIAMS. I am saying that that is not possible, and that is the answer to that.

Mr. HATCH. There certainly is.

Mr. WILLIAMS. Mr. President, what will satisfy——

Mr. HATCH. Will the Senator yield again?

Mr. WILLIAMS. No. I cannot yield because of the controlled time, and I have a feeling we will have lots of time after that to discuss this.

Mr. HATCH. I think if you want to attack people, you ought to attack them on the facts, because you are certainly not doing that here today.

Mr. WILLIAMS. We have been attacked also. Under the distribution of time during this debate we have been under much more attack than we have had time to speak in response to the attacks.

I ask, Mr. President, what will satisfy the Senator from Utah and the other opponents of this bill?

The answer, Mr. President, is that nothing short of a scheme which will permit an employer all the time he needs to fire union supporters, to threaten and intimidate employees, to threaten to close the plant, to threaten to take away their current benefits, to cow and coerce employees into submission, and then say to the Board, "all right, I have had all the time I needed to get rid of the union's supporters, all the time I needed to intimidate my workers, now I am ready to hold the election!"

Mr. President, that will not satisfy me!

I am not ready to say to America's workers that the best the U.S. Senate can do for them is to promise them in law the right to a fair and free election, but to deny them that election in practice.

The provisions of the Byrd substitute are eminently reasonable. They satisfy the legitimate concerns expressed that perhaps an employer will be caught unaware.

We have provided that no employer, under any circumstances, will have less than 35 days to prepare his campaign and insure that his employees know his views.

Let us now consider the matter of debarment. The Senator from California (Mr. HAYAKAWA) has spoken eloquently about discrimination practices by labor unions. I have listened, and I have been moved by the emotion of his words and by the heartfelt indignation he has expressed.

On Friday, June 9, the Senator from California spoke about the discriminatory practices in the construction trades. He discussed the various "hometown" affirmative action plans, and he expressed the disappointment of many of us that these plans have not been totally successful in ending discriminatory practices in the construction industry.

He expressed indignation that at the same time the Justice Department was trying to secure compliance with the Chicago plan by the unions, the Labor Department was providing Federal funds to those unions for apprenticeship programs.

The Senator from California asked, "Where are the liberals while this is going on? How can the liberals countenance such things?"

The answer is that the liberals were right here, supporting this bill which would deny Federal contracts and Federal grants to lawbreakers. The liberals were right here in the Senate of the United States trying to win approval of a statutory provision which says that the Government of the United States will not spend taxpayer's money with firms and with unions which willfully violate the law.

The liberals were right here in the U.S. Senate arguing that those who break our labor laws should be debarred from receiving Federal contracts and grants until they comply with the law.

This is the provision that the opponents call punitive. I cannot understand how it is punitive to refuse to do business with those who willfully break the law. I do not understand how anyone could say that someone who breaks the law has a right to receive Government contracts at taxpayer's expense.

The same Senators who express indignation about Federal apprenticeship programs for unions which engage in unlawful practices say that it is punitive to deny Federal contracts to employers who willfully break our labor laws.

If this is punitive, so be it. But it is punitive only to those with the most warped sense of justice. To me, it is simple fairness and simple equity.

Put that question to the American people in your public opinion polls. Ask the American people if the Federal Government should reward, with the taxpayers' money, those who willfully violate the law. That question was not asked, because we all know what the answer would be. The American people with their instinctive sense of fair play would overwhelming say "no." They do not want their tax money spent with companies or unions that break the law.

Mr. President, I could go on and on. The Senator from Utah calls the substitute amendment of the distinguished majority leader a "hoax," and yet it contains revisions of the "equal access" provision which were first proposed by the Senator from Utah himself, nearly 2 months ago, in his amendment numbered 2184, which says:

> . . . including the requirements that equal access to an employer's place of operation be in places where there are nonworking employees during nonworking times. . . .

These are almost the precise words of Senator BYRD's substitute.

Mr. President, the Senator from Utah says this bill and the substitute amendment is incomplete because it does not address criminal conduct of unions; yet, the Senator from Utah, who sits on the Committee on the Judiciary, did not take the opportunity to even propose such amendments when that committee was revising the Federal Criminal Code. This is not a new expression on my part. We raised this in colloquy the other day.

He failed to take the opportunity to offer his amendments to a bill where such amendments would be relevant and germane. And now he argues that this bill is incomplete because it does not deal with these matters.

It is obvious, Mr. President, that many opponents do not want to work toward reasonable labor law reform. Their intent is only to obstruct and delay.

It is obvious that if the Senate is to get on with its business of fashioning a law which will be responsible to the legitimate needs of America's working men and women, we will have to bring this meandering and dilatory debate to an end.

Those of us who support this measure, who support justice and fair play for America's workers have shown time and time again our willingness to compromise, to be reasonable, to develop in the Senate a law which if fair and just to both workers and employers.

But, until this debate is ended. The majority of Senators who wish to see an effective labor law, who wish to work together to fashion a meaningful response to these problems, will be unable to do their work and the work of the Senate.

The time for delay and obfuscation has ended. This is the time to be reasonable and to reason together to produce a labor law reform bill which effectively protects both workers and their employers.

So I urge the Senate, when we reach voting time very shortly, to turn the corner, to end this phase of the debate, and to get on with the business of addressing the reasonable concerns of both employers and workers.

Mr. JAVITS. Mr. President, will the Senator yield me 5 minutes?

Mr. WILLIAMS. I yield the floor to the Senator from New York.

Mr. JAVITS. Mr. President, first I would like to answer Senator HATCH's question, if I could have the attention of the Senator from Utah.

If I understood the Senator's question correctly, it directed itself to the election schedule which is provided for by the Byrd substitute, and the question was, might not the Board order literally, an immediate election any time after the petition was filed? Is that correct?

Mr. HATCH. I think the question should be restated.

Mr. JAVITS. Please state it your way.

Mr. HATCH. The question should be stated that once the notice of intent to unionize occurs, there is a 35-day period to expire. They can file these notices repetitively, after the 35-day period has expired. Let us say they file the petition the 35th day. They can have the election the day after. They can have it before the 50th day. If they file the petition on the 49th day, they can have the election on the 50th day, without the employer having any notice or knowledge of that.

They can file a series of notices over a period of time, until they finally spring that on him on 1 day's notice.

Admittedly that is unlikely, although it is possible. What is not unlikely is that there might be only 2 or 3 or 4 days. If that happens, the employer, particularly the small business employer, may be at a tremendous disadvantage.

As a matter of fact, he may not even know an attorney to find out if he had to move in 50 days or 15 days. If he has an attorney, he does not know whether he is a labor lawyer or will understand that phase of the law. That is only one of the bad aspects of the Byrd substitute which I think as a whole would be found to be perhaps even worse than the bill itself.

Mr. JAVITS. May I just answer that?

Mr. HATCH. I am delighted to hear an answer.

Mr. JAVITS. I am interested, naturally, in what another Member of the minority thinks.

In the first place, no matter how we construe this particular provision of the Byrd substitute, it does not change existing law. There is no period of time whatever under existing law. The fact is that it is not only unusual, but it just does not even happen that we have 3- or 4-day elections simply because physical arrangements have to be made for an election.

Second, the period of notice, which is at least 35 days, certainly puts an employer on ample notice as to getting a lawyer or trying to counter the organizing drive, et cetera.

Finally, very importantly, the 50-day period is not a bracket between 35 and 50. The 35 relates to the notice from the organizing union, but the 50 relates to the filing of the petition. So there is a very considerable interval which is allowed totaling really 85 days or more.

Now, as to the successive filing, there is a limit of 6 months on the prepetition notice so that you cannot have more than two per year from the same union, and the substitute does not permit a second notice to the filed until 2 months after the first has expired.

I respectfully submit that practically, which is the important point, the employer is not taken by surprise. As a matter of fact, he has very great protection under this which he does not have under existing law. In the practical situation, even after the filing of the petition as to an election, an immediate election just will not happen because it simply cannot be arranged for within any such time parameters. Now I yield to the Senator.

Mr. HATCH. Again, this is a mandatory time constraint. I suggest to the Senator that if he reads this, and I am sure he has, this is not an 85-day possibility. There is a procedure within which, as I understand it, they can do it in 75 days in matters of extreme complexity. With regard to the average election, they have 50 days. They have the first 35 days from the notice which can be repetitively filed, and then 15 days in which to file the petition, and that can be filed on the 49th day and the election held the 50th day.

Mr. JAVITS. But this will not happen because you cannot physically do it.

Mr. HATCH. That is my point, it can and I think the Senator will find that it will.

Mr. JAVITS. I am sorry. After all, we have to be human. If I say I can walk a hundred blocks theoretically in 3 minutes, it just does not happen and I cannot do it, really.

Mr. HATCH. The Senator says it cannot happen.

Mr. JAVITS. Yes, I say physically it cannot happen.

Mr. HATCH. If it cannot, why write it this way?

Mr. JAVITS. Because if we begin to pick arbitrary days, we get into more trouble. We get into more difficulty. Having given the notice, I respectfully submit that that is a very solid, major, good reform in the law. Then the employer is alerted that he has an organizing drive on his hands. Beyond that, if he is unprepared then that is his fault, not the law's fault. That is my point.

Mr. President, I have only a few minutes but I will yield again.

Mr. HATCH. All I can say is that that is what we have been arguing about for 15 days, that we have arbitrary time constraints that are not justified in the law or under the facts, and these arbitrary time constraints will not benefit anybody, least of all the very men they are presumably being offered to benefit.

Mr. JAVITS. I respectfully submit that the time parameters are now, in my judgment, fair to give adequate notice, and that a businessman has no one but himself to blame if, after he has had such very adequate notice, he is surprised.

Mr. President, my purpose in debating this particular matter at this time is to make the point that I think the Byrd substitute represents really major improvements in this bill, not in terms of the absolute need for such major improvements, because I believe that the bill essentially deal with methodology and procedure as we reported it from the Human Resources Committee. But what I mean is that it goes a long way toward satisfying the complaints which have been made about it. I believe that anybody—and I think that is Senator WILLIAMS' position—who can be reasonably satisfied should be satisfied. Concerning those who can never be satisfied, I think they are a relatively small minority of the Senate who would just be against anyhing. They would like to repeal the existing law, if they possibly could, but obviously they cannot.

Mr. President, on equal access, I think that now with the union activity confined to nonworking areas, and where we do not have a guaranteed right of reply on working time of the employer, or even on working premises, with small employers with fewer than 10 employees completely exempted from all the equal access provision, with the limitation of the number of union organizers who may appear at any place to a very small number, and with notice before even that can be done, the equal access provision has really been very, very materially changed to meet the views of those who had legitimate feelings about it.

As to the "make-whole" remedy, again there has been great complaint about it, but a totally new index is now provided which relates to the across-the-board increases, if any, which union labor has received and takes away the objection that there was an unrepresentative index—making for large percentage creases—because it was based on settlements in bargaining units of more than 5,000 employees.

Finally, again a matter of complaint, in the debarment proposition it is now made clear that it does not have to be for any period of years. Once the employer who is charged comes into compliance, then that employer has the right to have the debarment lifted automatically, without any discretion on the part of the executive branch.

There is one other thing which was argued in respect of this whole matter which I think is critically important, Mr. President. That is the criminal acts which have been performed and which have rated indictments, et cetera, somehow or other discrediting this bill. Mr. President, there are plenty of businessmen who are caught for mail fraud and tax fraud. The people who are giving these bribes in order to get concessions from dishonest labor leaders are there, too. We have very adequate criminal law on the books. As a matter of fact, the Judiciary Committee, of which the leader of the opposition to this bill is himself a member (Mr. HATCH), has just completed a revision of the criminal code which the Senate passed and which is over in the other body. Certainly, there was more than ample opportunity, if there was any dissatisfaction, for including in that particular bill every conceivable remedy against racketeering, imposition of fraud or dishonesty, in the labor field.

Mr. President, with the Taft-Hartley Act, this new criminal code, the ERISA of which I, with Senator WILLIAMS, am one of the authors, the Hobbs Act, which deals with plant and machinery damage, the Income Tax Code—indeed, where most of these convictions takes place—it seems to me that we are really railing against the moon to blame the absence

of law for racketeering and other crimes in the labor field when, as a matter of fact, there is more than adequate law to cover. As we know in all matters of this society, we have to deal with the problem of stricter enforcement every day, but that does not represent any deficiency in the law.

CLOTURE MOTION

The PRESIDING OFFICER. The hour of 2:30 having arrived, under the previous order, pursuant to rule XXII, the Chair lays before the Senate the motion to invoke cloture, which the clerk will state.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the substitute amendment, No. 2445, by the Senator from West Virginia (Mr. ROBERT C. BYRD) and others to H.R. 8410, An act to amend the National Labor Relations Act to strengthen the remedies and expedite the procedures under such act.

Robert C. Byrd, Patrick J. Leahy, Harrison A. Williams, Jr., John Melcher, George McGovern, Claiborne Pell, Dick Clark, Frank Church, Daniel Patrick Moynihan, Edward M. Kennedy, Jacob K. Javits, Abraham Ribicoff, Howard M. Metzenbaum, Birch Bayh, Henry M. Jackson, William Proxmire.

VOTE

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the substitute amendment, No. 2445, by the Senator from West Virginia (Mr. ROBERT C. BYRD) and others to H.R. 8410, an act to amend the National Labor Relations Act to strengthen the remedies and expedite the procedures under such act, shall be brought to a close? The yeas and nays are mandatory under the rule.

Under the previous order, this will be a 20-minute vote. The clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BARTLETT), the Senator from Wyoming (Mr. HANSEN), the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The result was announced—yeas 54, nays 43, as follows:

[Rollcall Vote No. 165 Leg.]

YEAS—54

Abourezk	Hart	Melcher
Anderson	Haskell	Metzenbaum
Bayh	Hatfield,	Moynihan
Biden	Mark O.	Muskie
Brooke	Hatfield,	Nelson
Burdick	Paul G.	Packwood
Byrd, Robert C.	Hathaway	Pearson
Case	Huddleston	Pell
Chafee	Humphrey	Proxmire
Church	Inouye	Randolph
Clark	Jackson	Ribicoff
Cranston	Javits	Riegle
Culver	Kennedy	Sarbanes
DeConcini	Leahy	Sasser
Durkin	Magnuson	Schweiker
Eagleton	Mathias	Stafford
Ford	Matsunaga	Stevenson
Glenn	McGovern	Williams
Gravel	McIntyre	

NAYS—43

Allen	Goldwater	Percy
Baker	Griffin	Roth
Bellmon	Hatch	Schmitt
Bentsen	Hayakawa	Scott
Bumpers	Heinz	Sparkman
Byrd,	Helms	Stennis
Harry F., Jr.	Hodges	Stevens
Cannon	Hollings	Stone
Chiles	Johnston	Talmadge
Curtis	Laxalt	Thurmond
Danforth	Long	Tower
Dole	Lugar	Wallop
Domenici	McClure	Young
Eastland	Morgan	Zorinsky
Garn	Nunn	

NOT VOTING—3

Bartlett	Hansen	Weicker

The PRESIDING OFFICER. On this vote, the yeas are 54 the nays are 43. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

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

The PRESIDING OFFICER. The Senate will be in order. Senators will take their seats.

Mr. ROBERT C. BYRD. Mr. President, the Senate began consideration of the labor law bill on May 16, almost a full month ago.

The debate has been purposeful; it has been worthwhile. Opponents of the measure have criticized areas of the bill which they find unacceptable. The floor managers, Mr. WILLIAMS and Mr. JAVITS, have performed an invaluable service as, day after day, they have risen to respond to these criticisms, to explain the bill, to present evidence and information to support of their position.

From the outset, the managers of the bill and its supporters have indicated a clear intention to seriously weigh the arguments made by the opposition and a willingness to accept modification to improve the bill. They have joined with me and with other Senators in offering a substitute measure which, I am sure, will receive careful consideration from all Members.

Because of the importance of the labor bill, no attempt was made to bring a premature end to its consideration. The first cloture vote was taken on June 7, after 11 days of debate. Few measures have been debated for a longer period of time prior to the initial cloture vote. Of the 68 measures upon which cloture votes have been taken since 1964, only a handful—only 7 out of the 68—were debated for a longer period of time before the first cloture vote.

The purpose of debate is to educate, to deliberate, to discuss opposing points of view, and that purpose has been served.

The moment arrives when debate becomes filibuster. Delay and obstruction—not education or deliberation—are the purpose of a filibuster. Debate is constructive. The filibuster against this amendment is—as has been expressly stated by its opponents—destructive. It is a stone wall against legislative action.

The word "filibuster," originally a noun and not a verb, meant an armed adventurer, on land or sea, one who wages irregular warfare for plunder or power. As early as the 1800s, the term "filibuster" was used in the United States as a term signifying legislative obstruction; and, indeed, legislators knew how to employ the tactic long before the appellation was applied.

From the beginning—in the Roman Senate, in the English Parliament, in our colonial legislatures—this was a device used to delay business, to defeat legislation, to exact a price.

One of the more famous Senate filibusters is instructive. It occurred in 1893—before the adoption of the cloture rule, rule XXII. The filibuster lasted for 46 days, and arose over President Cleveland's attempt, which was ultimately successful, to repeal the silver purchase law.

The proposed repeal pitted the financial Eastern States against the agricultural Western States and most of the Southern States. Senate divisions were regional, rather than partisan.

Arguments began on August 29. Every attempt to bring the matter to a vote failed. Over a month later, on October 4, Senator Matthew Butler of South Carolina, one of the filibuster leaders, said:

I am asked, and the question has been asked over and over again, what then is to be done if we are not to reach a vote? I reply, compromise.

He reminded the Senate that John C. Calhoun had pointed out that the conservative principle in constitutional government is compromise, and that the conservative principle in absolute government is force.

I concur with Senator Butler. I concur with the great John C. Calhoun. Ours is not an absolute government. Our representative institutions depend not on force but on comity, on courtesy and compromise.

Mr. President, a compromise has been offered—and it is a good compromise—in the form of the substitute that is pending before the Senate. Opponents of the legislation have argued that the bill favors organized labor at the expense of the business community. Supporters have responded with a comprehensive substitute measure which directly answers many of the substantive criticisms which have been propounded over and over again.

So I am on the side of the filibustering Senator Butler when he said:

What is to be done if we are not to reach a vote? Compromise.

I am on the side of the distinguished Senator John Sherman of Ohio, an opponent of Mr. Butler's during that same silver filibuster, when he said:

The rules of the Senate are made to expedite the public business in an orderly and proper manner. We are not here for any other purpose except to legislate, to make laws . . . All the rules ought to aim for the accomplishment of that purpose and no other. . . .

And he added:

Sir, if this continues, the Senate of the United States will be a marked body; it will no longer command the respect of an intelligent and active people like ours. Our people are people of action in every department of industry in this country, and the Senate of the United States ought not to be the great

log which weighs down and obstructs legislation.

I am as concerned as was the late Senator from Ohio about the role of the Senate in serving those who elected us. This is a time when the public is increasingly restive at the inability of their Government, and of their Congress, to act decisively in the face of a growing number of problems which are evermore complex.

The bill before us—and I refer particularly to the substitute measure against which the cloture motion will lie again in a moment—is a meaningful and appropriate response to the economic problems of industrial unrest. The costs of such unrest, and of slow and uncertain administrative procedures, fall upon employer and employee alike. Uncertainty and hardship fall upon both the employer and the employee who wish to comply with the requirements of the law, but simply are unable to discover just what the law requires. The burden is great for any party who must await, for months or for years, resolution of a dispute. Heavy costs fall upon the employer who must litigate prolonged and complex issues, and on the employee who may be discriminatorily discharged or be prevented from benefiting from a union organization and a union negotiated contract.

These heavy costs in the long run are passed on to the consumer.

Opponents have charged that this bill is a "give-away," that it will produce "pushbutton unionism."

I do not agree with this. Union organizers, and the supposed benefits of unionism, will still have to compete in the marketplace of ideas. The American worker is an independent individual who will make his or her own choice. If employees do not choose to have union representation—so be it. I doubt very seriously that this bill is going to produce a great upsurge in unionization. I would not support it if I believed that this was an instance of Government intervention in decisions more properly left in the hands of the individual.

I do think that this measure will streamline the entire administrative process, and that the delay and frustration which are abundantly in evidence under current procedures will largely be curtailed.

This measure will facilitate the decisionmaking process of the individual worker in the crucial sphere of his or her relationship with the employer.

By now, I have left the famous filibuster over silver far behind. But that imbroglio had its effect upon Senate procedures. It led to the introduction of a spate of cloture rules. Finally, in 1917, rule XXII, requiring the vote of two-thirds of the Senators present and voting, was adopted.

Since that time, there have been 132 attempts to force cloture. Since that time, the rule has been amended to provide that three-fifths of the Senators present and voting may invoke cloture.

Contrary to what many believe, cloture is not frequently used. The rights of a minority of Senators have not been trampled.

They have not been trampled in this instance. The rights of a minority of Senators will not be trampled as long as the Senate makes a reasonable effort to deal with the legislation before it and to have the opportunity to work its will thereon. Only 40 times out of 132 attempts has cloture been successfully invoked.

I urge my colleagues, whether they support the substitute, or whether they oppose the substitute, to consider whether or not the time has come to bring debate to a close. I urge them to consider the comment of Senator Charles Curtis, of Kansas, who said during the course of a filibuster:

> We are a legislative body, and we are here to do business, not to retard business.

That comment was made by Senator Curtis in 1922, when he was Republican whip; 2 years later, he was elected majority leader of the Senate.

I join with my illustrious predecessor—although he was of a different party—in urging that we get on with the Senate's business.

The time has surely come to act constructively. Let us proceed as a legislative body. Deliberation and debate have value and meaning only in the context of the decisionmaking process. We have had sufficient time for thought and for talk.

Now it is time to decide and to invoke cloture and to get on with the orderly procedure of dealing with amendments which have been pending for days and other amendment which are to be called up.

It is time to vote, it is time to act on this measure, and to get on with the other business which has been building up, and there is plenty of it, and there is always, of course, the prospect of a post-election session. I do not like sessions after elections. I am not in favor of them. But I will say that to all Senators who feel as I do that we should not have a post-election session. The decision that we will make tomorrow or the next day or the next day in the long run will have a considerable bearing on whether or not when the Senate adjourns prior to election it will have to come back and complete its work after the election.

So I urge Senators to think this matter over very carefully over the rest of the day and over the night, and I hope that on tomorrow, regardless of what our position is on the substitute, Senators will have ample time under the rules to call up amendments, to have those amendments voted on if they are serious amendments. I urge Senators to vote to invoke cloture so that the Senate can dispose of this bill one way or the other and work its will thereon.

Several Senators addressed the Chair.

CLOTURE MOTION

Mr. ROBERT C. BYRD. Mr. President, I send a cloture motion to the desk.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair, without objection, directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the substitute amendment, No. 2445, by the Senator from West Virginia (Mr. ROBERT C. BYRD) and others to H.R. 8410, An act to amend the National Labor Relations Act to strengthen the remedies and expedite the procedures under such act.

Robert C. Byrd, Patrick J. Leahy, Harrison A. Williams, Jr., John Melcher, George McGovern, Claiborne Pell, Dick Clark, Frank Church, Daniel Patrick Moynihan, Edward M. Kennedy, Jacob K. Javits, Abraham Ribicoff, Howard M. Metzenbaum, Birch Bayh, Henry M. Jackson, and William Proxmire.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arizona.

Mr. GOLDWATER. I yield to my friend from Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mr. TOWER. Mr. President, in an ideal climate of objectivity, I am sure that the remarks of the Senator from West Virginia would have great validity. But let us not be naive. Let us look at the real situation as it is.

The distinguished majority leader speaks of the impatience of the general public with the apparent inability of Congress to get on with its work. The real impatience of the general public is with Congress that continues to pass legislation that expands the power and scope of Government against the public will. That is the real impatience of the public. They prefer that we pass less legislation.

The Senator speaks of getting on with the public's business. I think it is arguable as to whether or not this is in reality a public business when we are trying to pass legislation here to reinforce the faltering efforts of organized labor to retain its current membership and add to it. In fact, we are weighing in heavily here on one segment of our society that the general public feels is already too powerful.

I suggest that it is the function of the minority in the Senate, when they perceive of themselves as representing the majority of the popular will or representing an enormously important element of our society, to utilize such parliamentary devices as are available to them to prevent passage of legislation that they are certain would be damaging.

In fact, pressure groups in this country wield an influence out of all proportion to their numbers, and we are seeing that influence felt here, and no one who participates in the filibuster against this powerful and well-organized minority in our society that already wields an inordinate political power should apologize for engaging in a filibuster.

There is talk of compromise, but we know what will happen to the compromise. Now, let us be honest with each

other. We could gut this bill. We could pass a bill that has virtually no substance left in it. When it goes to conference what is going to happen? What is going to come back to us? The House bill, or something perhaps at least as stringent as has been reported out of the committee here. And that is why we are engaging in this dilatory tactic if it be such, and I do not apologize for it for 1 minute.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield at this point?

Mr. TOWER. I am happy to yield.

Mr. GOLDWATER. I am happy to yield for a question but not losing my right to the floor.

Mr. ROBERT C. BYRD. Mr. President, it will be my intention to do everything possible to avoid a conference report coming back to the Senate so that whatever the Senate does I would hope could be accepted and would be accepted in the House of Representatives so that we would not be faced with what the Senator has envisioned, to wit, a conference report that comes back to the Senate that is in its essence what the House bill constitutes.

(Mr. GLENN assumed the chair.)

Mr. TOWER. Well, I appreciate what the Senator from West Virginia said about making every attempt, but due to circumstances beyond his control that probably will not be the case.

Mr. GOLDWATER. Mr. President, I listened to the dissertation on the filibuster by our distinguished majority leader with quite a bit of interest. As I remember, when I first ran for the Senate many years ago, I vehemently opposed the filibuster. I repeatedly called it a dirty word and repeatedly promised my colleagues and my constituents that I would do what I could to eliminate it.

But, Mr. President, When I arrived in Washington that wonderful old man, Carl Hayden, who served in Congress longer than any man in history, my senior colleague, took me aside one day and he said:

I listened with interest to what you have been saying in Arizona, and I want to point out where you are wrong.

He proceeded to point out in a completely understandable way that the filibuster, instead of being the enemy of the minority, was the only way in the world that the minority had of protecting itself. He quickly pointed out when he used the word "minority' it did not necessarily mean an ethnic minority or any other minority as we have grown used to hearing the word used, but rather a minority of States, a minority of people in the States, a minority who knew that if the objectionable legislation were put to a vote, would lose because the other side, who controlled the votes, the majority of the votes, and who wanted this particular type of legislation, had the votes to get it.

So the only way that the people in the minority had of protecting themselves was through the filibuster or extended debate or prolonged discussion or whatever you would like to call it.

I remember during my first 12 years in the Senate we had fewer than 20 filibusters, and in the years that I have been here since, which do not yet total 12, we had over 90 and, strangely enough, most of these filibusters have been conducted by the so-called liberal side, not by the conservative side.

I know that the distinguished majority leader feels in his own mind that we are engaging in a filibuster, and I do not want to try to fool him. In my opinion, we are. I would be hard pressed to stand here for the 2 hours I have agreed to stand here and discuss this bill without depending a lot on what has been said before and, consequently, I have in my desk drawer probably 100 or 125 different speeches I have made on this subject of labor since 1952 and, strangely enough, in reading them I could read them today and change a few words and change a few dates, and they would be perfectly all right and perfectly applicable because, frankly, what we are talking about is what those of us who have objected to the abuse of power of labor have always talked about: Too much power; just as the proponents of labor very properly talked about the abuse of power by management before the passage of the Wagner Act in 1934.

Mr. President, we are not doing this because we enjoy it. We are not doing it, because we all want to come back after the election for a prolonged session. We are not doing it to hold up the work we have to do to get the work of the country along. We are doing it, Mr. President, because there are millions and millions of people in this country who want no part of this labor bill. Now, it is just that simple.

I recall during the efforts to change the secondary boycott, which was the first experience I had, where the great majority of mail I received opposing the common situs picketing or the secondary boycott came from members of unions who included their names and the number of their unions. They did not want their unions to have more power, because they wanted to continue working.

This is at least today the bulk of my mail—I would not say the bulk, but the majority of it, a slight majority of it—which comes from working people who do not like to be told by their leaders what they are going to do at election time; they do not like to see their dues money used for election purposes to vote or to work against people whom they themselves are going to support. They do not like the fact that they have to work under the abuse of power under which they work in many cases—not all cases. I do not condemn all unions across the board any more than I condemn all labor leaders across the board. We have some very, very good ones, and we have some that long ago should have gone by the wayside, but that is their own problem.

Mr. President, the majority leader talks about compromise. Actually that is the art of politics—it is compromise. Should the majority leader be able to break this filibuster, at that time whatever we vote on will be a compromise. It will not be anything that those of us who are arguing at great length against the bill will like. It will not be anything that the great majority of the American people will like, but it will be a compromise, and it will probably be a very bad one.

So, Mr. President, I am glad that the distinguished majority leader informed us about the filibuster. I think it is good once in a while to review the prerogatives we have at our command so that we can insure that we are not going to wake up having passed legislation that will be detrimental to our country and the people of our country.

So I accept the title of being a filibusterer, if that be the term, and I will continue to address this body at whatever length is necessary to make sure that we can continue to discuss it.

The point is that I hope the distinguished majority leader will get tired, and he can exercise one of his great prerogatives, he can pull the whole thing down and say, "We do not have to work on this right now. We have more important things to do for the benefit of our country." I know that individual Members of this body have more important things to do, because this is an election year, and they would be a darned sight better off home saying, "Vote for me. Don't listen to what is going on down there in the Land of Oz. Vote for me. I will solve all your problems," and we will welcome them back when and if they come.

Mr. President, I would like to recite something that I consider to be the best vote I ever made in my years here. It has to do with labor. I was a member of the McClellan so-called rackets committee, and I sat through years of that listening to the abuses of Jimmy Hoffa and his Teamsters Union, and other officials of that union. I participated in the rather long process of drawing up a bill which had as its intention the correction of these labor evils.

Well, the bill was finally voted out, and it was called the Kennedy bill. Then Senator Ervin liked it, and because Senator Ervin was such a delightful man and such a power in the Senate, he had his name attached to it, and it became the Kennedy-Ervin bill.

Mr. President, I think I offered some 40 amendments to that bill. All of them were turned down, and when the time came for passage, it was late in the afternoon, and I had a speaking engagement that night in Philadelphia, so I cast my vote "no," and got on the airplane and flew to Philadelphia.

On the way I tuned in the news just to see what might be happening, and, lo and behold, I heard that the Kennedy-Ervin bill was passed, I think it was, 95 to 1, and I was the only Senator voting against that bill.

Well, I got my speech done and came home, and the next morning President Eisenhower called me and said he wanted to talk to me. So I went up to the White House. In his typical army language he asked me why I voted against the bill, and I said, "Well, Mr. President, if you will hear me out and listen for not more than 20 minutes of explaining, I will tell you."

So I told him what happened in the McClellan rackets committee hearings. I told him what the shortcomings were of the Kennedy-Ervin bill, which had then gone to conference, and I convinced him, I think, that I thought it was not a good bill.

Consequently, he took to the air waves. He went on television, and he asked for a better bill than the Senate had passed. So it became the charge of the conferees to come up with a better bill, and I will never forget those 16 days we sat down here in the old Senate Chamber and argued back and forth, back and forth. Mr. GRIFFIN of Michigan and Mr. Landrum, both from the House, were members of the conference committee. Finally we hammered out a bill.

I was very happy with what we came out with, because it contained many of the amendments that I had offered on the floor of the Senate. Well, the bill came back for a vote, and the vote was 92 for and 2 against.

So I have always said, when people asked me what I think is the most important vote I ever made, that it was that one vote against a bad bill, because it made the President make the conferees turn around and write a bill that has been a good bill, and it has worked, even though, like the Taft-Hartley Act, under the decisions of quasi-judicial bodies and even the decisions of actual judicial bodies, it has been somewhat weakened.

Getting on with the actual business of the day, Mr. President, I think it is very pertinent to note the observation by a former general counsel of the National Labor Relations Board, Mr. Peter Nash, that the bill would possibly slow down the unfair labor practice case process, instead of speeding up operations. His remarks are still pertinent to the substitute version; and anything that I will say this afternoon will apply to the substitute version, for, although I do not know whether or not it has been accepted as a replacement for the other bill, my statement will apply to both, regardless.

As a panelist at a recent forum on labor law sponsored by the American Enterprise Institute, Mr. Nash said that one of the major reasons for his opposition "is that the bill holds out a false hope for expediting NLRB processes." He added:

> The National Labor Relations Board, as presently constituted, does an effective and efficient job of handling unfair labor practice cases and representation cases. Better than 90 percent of all unfair labor practice cases are resolved in the regional offices of this agency within a median time of a month and a half after charges are filed. That is an extraordinary record, and it is based, in large measure, upon the acceptance of the National Labor Relations Act and the NLRB by employers and unions alike.
>
> Moreover, statistics introduced before the House of Representatives indicated that the NLRB handles about 80 percent of its election cases within a median time of a month and a half after a petition is filed. Again, this fine record is based upon the consent of unions and employers.
>
> The new legislation offers a drastic change. At the present time, roughly 80 percent of all election cases result in an agreement among employers and unions about when an election shall be held and who shall vote in that election. That represents more than 7,000 resolved cases per year, out of the 9,000 elections held by the board. The major reason for agreement in those cases is the scheduling of an election date acceptable to both parties. This bill, however,

And, Mr. President, I might add the substitute bill, as well—

> Mandates election times and removes the incentive for agreement. No union or employer would have a substantial incentive to agree to an election if this bill were enacted. Each would raise a number of issues that could not be litigated prior to the election; whoever lost the election would seek a hearing and ultimate litigation of those issues. The bill holds out the prospect of turning about 7,200 consents a year into litigated cases. That is hardly the kind of activity that will expedite the processing of cases before the board.
>
> Furthermore, when a regional office of the labor board issues a complaint to prosecute an employer for discharging an employee during a union organizing campaign, this bill requires that the regional office seek an injunction in the federal district court to return that employee to work.

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

Mr. GOLDWATER. I will be very happy to yield, provided I do not lose the floor.

The PRESIDING OFFICER (Mr. GLENN). The Senator from Montana.

Mr. MELCHER. I thank the distinguished Senator from Arizona for yielding. The Senator's remarks have been based on his long experience here in the Senate, and the Senator is truly qualified to speak on the basis of 20 years or more experience with labor legislation adopted by the Congress.

But I was distressed to note that in his remarks dealing with the time frame in the substitute bill, wherein an election date would be set by the Board, if I understood the Senator correctly, the Senator seemed upset with the language of the proposed substitute; because the language is clear, it seems to me, that the Board shall set the date no less than 35 days after the employer is notified in writing that the union is seeking to represent his employees.

Furthermore, it would be not more than 50 days after the filing and serving of petition.

In addition the bill says, "Unless another date prior to such 35th day is agreed to by the employers and representatives named in the petition."

So it would seem to me that the substitute sets a fair balance that is, an election date set by the Board that is rather short, but does not disturb the opportunity for the employer and the union organizer to agree to a date that better suits them.

I would think that this provision accomplishes something that is meritorious. First of all, it takes away the discretion of the Board to set the date shorter than 35 days—nor may it take longer than 50 days, so that the matter does have a degree of certainty. It does not disturb the opportunity for the employer and the union organizer, or, in the case of a decertification of the union, the employer, and the employee group signing the petition, if they want a different date shorter than 35 days, to make their own agreement.

I point that out to the Senator, because I think it is important that we have our record clear.

Mr. GOLDWATER. I thank the Senator for pointing that out. I plan to get into that a little more. I might say in the years past, the uncertainty of elections was one of the major complaints in the NLRB. I compliment the NLRB on having changed that. Today there is no complaint that I know of about it, though there used to be.

This bill, and the substitute as well, mandates election times and removes the incentive for agreement. This is one of the things that worries me. There would be little incentive for employers to settle cases prior to the time the district court has heard those cases, because under this bill the employer could find out the facts of the General Counsel's case merely by going to the hearing in a Federal district court.

Let me say we run the risk—I may be completely wrong but in reading the bill I think we run the risk—of turning some 2,000 cases a year, which might otherwise have been settled, into litigated cases. In other words, I see no reason to disturb the wording of the present law in this case, because it has taken experience and some years to get to the point where we find that both management and labor are happy over the fact that they can get together without having a board hearing or a court hearing and they can decide themselves on an election. I do not see any reason to change that.

Mr. President, I am now going to speak about remarks of Mr. Peter Nash, a former General Counsel of the NLRB. I will return to the point I was talking about. He said he recognized elections may be held more quickly if the bill was enacted, but he reaffirmed his earlier position by explaining:

> The subsequent certification of the unions that results from those elections would be substantially delayed, however.

Then he went on:

> As I indicated at the outset, the legislation provides no real incentive for either unions or employers to agree to elections. They would inevitably raise issues requiring litigation after the election, so certification of the election results would be held up. We do not have that delay now in 7,300 cases a year, but we run a real risk of having it in a substantial portion of cases, if this bill is enacted.
>
> There are a couple of what I call "tinkering" amendments in the bill. One provides for summary of affirmance procedure for administrative law judge decisions within thirty days. Another requires those aggrieved by a board order to be in the federal circuit court within thirty days.
>
> In my judgment, neither of those provisions is really pro labor or pro management. But they would not expedite the processes of the board, either. Indeed, increasing the size of the board would slow the decision on cases.
>
> The summary judgment procedure is just one more formal step in the decision-making process that would slow a number of cases. And the provision for a thirty-day appeal

to the court of appeals would just produce more court of appeals cases, because there would not be time for voluntary compliance in many instances.

I point those things out for this reason: it will be tremendously unfair if, in two or three years, the members of the National Labor Relations Board and the general counsel are called up before Congress and berated because the process has been slowed down rather than expedited. And the process *would* be slowed down. There is no way the burgeoning case load could be handled. So let's not imagine that the legislation, if passed, would help those good people at the board. It would not; it would hurt them.

Mr. President, I want to continue with comments I was making the other day on the original bill which I maintain, as far as I have been able to study the so-called substitute, will apply in a large measure to it as well.

We have heard discussion of "make-whole" remedies. In fact, I think this is one of the major parts of the substitute which has been offered by the distinguished Senator from West Virginia.

Under current law, there is no provision for a "make-whole" remedy. In the proposed change under section 9 of the bill which amends section 10(c) of the act, the Board may award, in cases where there has been an unlawful refusal to bargain before entering into the first contract, compensation to unit employees for the delay caused by the unfair labor practice. The amount shall be measured by the difference between, first the wages, and other benefits actually received by such employees during the period of delay, and second, the wages and fringe benefits the employees were receiving at the time of the unfair labor practice multiplied by the percentage change in wages and other benefits stated in the Bureau of Labor Statistics average wage and benefit settlements, quarterly report of major collective bargaining settlements, for the quarter in which the delay began.

MAKE-WHOLE REMEDIES—SUGGESTED CHANGES

Assuming that Congress approves this remedy, qualifying language should be added so that this provision would not apply in situations where an employer legitimately challenges by a refusal to bargain finding and/or where there is a genuine issue of fact or law concerning determinations arising from an election; for example, unit issues, objections to the conduct of an election.

Due to the many problems with respect to computing the amount of compensation to be awarded an employee based on the Bureau of Labor Statistics settlement index, a new and objective formula should be utilized. Section 3(A) (page 15, line 22 through page 16, line 21) should be deleted, and the following language inserted in its stead:

In a case in which the Board determines that an employer's unlawful refusal to bargain prior to the entry into the first collective bargaining agreement with a representative selected or designated by a majority of employees in the bargaining unit was for the sole purpose of delay and no genuine issue of law or fact was present to warrant a refusal to bargain, the Board may award to the employees in that unit compensation on a lump-sum basis for the delay in bargaining caused by the unfair labor practice. In determining the amount of compensation to be received as a result of the delay in bargaining caused by the unfair labor practice, the Board shall consider (i) wage increases received by employees in same geographical area performing similar work for the period of time in question; (ii) wage increases received by bargaining unit employees prior to refusal to bargain; (iii) wage increases received by employees in other facilities of employer in the same geographical area performing similar work over period of time in question; and (iv) such other factors as the Board determines relevant. Upon consideration of these factors, the Board shall ascertain what the percentage change in wages would have been for the period of time in question and shall multiply that change by the difference between the wages received by such employees during the period of delay, and the wages such employees were receiving at the time of the unfair labor practice.

MAKE-WHOLE REMEDIES—CRITIQUE

The "make-whole" remedy under S. 2467 represents a fundamental shift in Board policy concerning collective bargaining. Succinctly stated, that policy, which dates back to the days of the Wagner Act of 1935, has been for the parties to reach their own agreement without Government interference with respect to the terms of the settlement. It is also yet another example of a punitive remedy being assessed against the employer. The make-whole remedy will result in the Government writing contracts for the employer and, therefore, the entire process of free collective bargaining, which is the cornerstone of labor-management relations in this country will be overturned. Since the Board will, in effect, become a third party in all negotiations, this governmental intrusion into rights is unprecedented.

A key factor which the committee failed to consider is that the United States, in comparison to developed countries with free trade union movement, ranks among the lowest in terms of percentage of available workdays lost to labor disputes. It is clear, therefore, that prior to overhauling the process of free collective bargaining, which has worked exceptionally well over a period of 40 years, the need and the proposed benefits of the change should be clearly demonstrated. This factor must be coupled with the findings in a recent study on the economic impact of the make whole remedy.[18] that "(t)he 'make whole' provisions * * * appear to use an extreme settlement solution and appear to be inequitable, unfair, and to violate the spirit of fair play which is the essence of American legislation. These amendments, as proposed, could result in an unfair economic advantage for large trade unions and for large business." Thus, not only is this provision an inflationary one, but it might accelerate the exportation of jobs in those industries that are already besieged by foreign competition.

Moreover, it is difficult to understand why the average wage and benefit settlements index is an appropriate standard to penalize employers whose wage rates may be less than the index. An analysis of the companies comprising this index, which includes representatives from the telephone, steel, automobile, aluminum, and rubber industries, reveals three common characteristics: They are oligopolies; they are capital intensive, as opposed to labor intensive; and, they are industries in which unions have historically had a stronghold, indicating a total disparity in leverage. Thus, by definition, these settlements will be significantly greater than the normal first contracts with a small employer.

A case in point is the recently negotiated coal contract which has been costed out over a 3-year period to a 41-percent increase in salary. Since the contract is front loaded, which entails a greater salary increase during the first 2 years than in the final year, the first-year salary increase may be as high as 15 or 16 percent.[19] Similarly, in a report recently released by the Department of Labor, agreements covering 5,000 or more workers had increases in total compensation—wages and fringe benefits combined—of 14.6 percent (82 D.L.R. B-2 (April 27, 1978)). There can be little question that a salary increase of that size to most small businesses would be devastating. The index is hardly relevant for most employers, because it only covers wage and benefit settlements for units containing over 5,000 employees, whereas most Board units contain fewer than 50 employees. Hence, it does not provide an equitable or economically viable basis of comparison.

A further problem in this area concerns the committee's insistence that benefits be considered as well as wages. According to a highly complicated formula set out in the Senate report (page 17, n. 5), one must attempt to place a cost figure on benefit plans "[i]n situations where the only compensation to the bargaining unit employees is in the form of wages." The simple answer to this proposition is that costing out benefits is a terribly complex process which entails placing dollar figures on such intangibles as holidays, vacations, pensions, health and welfare plans, and the like. It is perfectly obvious that unless another more feasible approach is taken, decisions on this subject will be arbitrary at best.

Mr. President, in my opinion, this could lead to very long, dragged-out arguments about what the worth might be. Ask the average worker which of those he would rather have as an intangible, and he would probably say pensions. Yet there would be many that would prefer health and welfare plans.

(Mr. NELSON assumed the chair.)

Mr. MELCHER. Will the Senator yield?

Mr. GOLDWATER. Yes, I am happy to yield.

Mr. MELCHER. I thank the distinguished Senator.

I think it would be appropriate if I point out that, just as the Senator has said, a more feasible way should be found

[18] Rinfret, *The Economic Impact of H.R. 8410 and S. 2467* at 1 (1978). This report is discussed *infra*.

[19] According to the Senate Report (page 17, n. 7), only the first year change should be considered on the basis that it "more accurately match[es] the current settlements average change to the time in which the violation occurred."

for the "make whole" remedy. The answer to that is clearly "yes."

The more feasible method was found for the "make whole" remedy in the substitute. So the substitute bill uses the employment cost index from the Bureau of Labor Statistics, which is weighed by the size of business, which has factored out all of the fringe benefits the Senator just mentioned. So it is easily available to employer or employee alike.

In those unfortunate circumstances where there is a refusal for negotiation for the purposes of collective bargaining, then the employment cost index can be used for the "make whole" remedy.

I think it is clearly in the aspect of a more feasible method. I think it is an index that is well thought of in the Bureau of Labor Statistics data and one they can take into consideration, not just big business alone, but small business, different sizes of units, different numbers of employees, and is a definite improvement in the bill and serves one of the purposes the Senator from Arizona so eloquently pointed out.

Mr. NUNN assumed the chair.

Mr. GOLDWATER. I find myself in substantial agreement with the Senator on his comments.

We have to recognize, I believe, that so-called fringe benefits are almost equally as important today as pay itself, whether that pay goes to the so-called—I hate to use "working man," because we all work—but the man involved in a labor dispute, or would go to his employer.

I think the Senator would recognize that in business, in promoting people who do not come under union negotiations, many times—I will not say most, but many times—through my own personal experience in a corporation, it became necessary to provide expensive fringe benefits before the person we wanted to promote would be promoted, because he could not take home any more pay if we upped his salary.

While that does not apply here, I just want to make it clear that I am not opposing the things I mentioned, holidays, vacation, pensions, et cetera.

The question becomes one of putting a dollar value on it.

I know in corporate work that that has long been an argument used by the Internal Revenue Service, as to how much is it worth for a man promoted to be a manager of a section to have an automobile.

Well, we can arrive at a figure for that in the case of management. We can arrive at a health and welfare plan, because we know the amount.

I do not look on this as a particularly objectionable part of the bill. I do think it has the potential of adding a question in time, and I do not care what business we are in. I am a member of a labor union and I have several good fringe benefits, because I am a union member, just as we have good fringe benefits, because we are Members of the Senate. I am not knocking it. I am just pointing out a familiar problem.

The make-whole remedy is particularly inappropriate because a refusal-to-bargain charge by the National Labor Relations Board which arises out of delays occurring before the signing of a first contract is often a minor, technical violation of the act. Moreover, any unilateral change[20] by an employer with respect to mandatory subjects[21] of bargaining, may violate section 8(a)(5) of the act. Thus, if a company decides to require its employees to wear respirators based on preliminary findings by the Occupational Safety and Health Commission that a certain product has potential toxic effects, this unilateral action may result in a section 8(a)(5) violation irrespective of management's good intentions. Similarly, an employer may violate the act if he refuses during negotiations to allow a union representative to examine his books and records with particular reference to the unit costs and profit margins. See, for example, *NLRB* v. *Truitt Manufacturing Co.*, 351 U.S. 149 (1956). The case law on this subject shows that employers acting in complete good faith are oftentimes found in violation of a section 8(a)(5).

I might inject, Mr. President, this has been one of the desires of unions for as long as I have been aware of this work; namely, to get into the books of the employer, to find out what money he is making, what his investments are, his assets, and so forth.

I have always felt that is none of their business, although I daresay that if this country continues along the lines it has been continuing in an economic sense, that we very well may see the day when a union that bargains successfully for the membership of certain employees will be given access to the business secrets of the company and even be able to demand places on the board.

I hope that does not come about. But I think the direction we have been going and what we have been seeing would cause me to say there is a better chance of it now than we had 25 years ago.

The imposition of such a drastic remedy in this context is totally unfair and is disproportionate to the violation that it is designed to cure.

Mr. President, the make-whole remedy will also eliminate the employer's only effective method under existing law of appealing adverse decisions in cases where bargaining units are determined. Under current practice, an employer must refuse to bargain with a union if he wishes to seek appellate court review of what he considers an erroneous bargaining unit determination or an objection to the election. If the court rules against the employer, the Board may then issue a bargaining order as a remedy. Thus, the well-settled practice of challenging bargaining unit determinations would be effectively eliminated, because the employer will be deterred from seeking court review since he risks a more severe sanction.

Mr. President, the make-whole remedy directly contradicts precedent thwarting efforts of the Labor Board to interfere in the bargaining process. There are several Supreme Court rulings prohibiting the Board from compelling settlement of disputes over the terms of a contract.[22] The Court has repeatedly held that the right to bargain does not entail the right to insist on a position free from economic disadvantage. It is not surprising, therefore, that this remedy was rejected by the former Secretaries of Labor and Board Chairman Fanning in their testimony before the House Subcommittee on Education and Labor on H.R. 8410.

D. PRELIMINARY INJUNCTIONS

1. PRELIMINARY INJUNCTIONS—CURRENT LAW

Under the current act, the Board has discretionary authority to seek injunctive relief to reinstate a discriminatorily discharged employee.

2. PRELIMINARY INJUNCTIONS—PROPOSED CHANGE

Section 11 of the Senate bill, which amends section 10(1) of the act, requires the Board to petition for a temporary injunction to reinstate a discriminatorily discharged employee. Only cases occurring in a representational campaign before the first contract is signed or during a campaign to deauthorize or decertify a union, would trigger this mandatory action.

3. PRELIMINARY INJUNCTIONS—SUGGESTED CHANGE

Due to the many problems set out below with respect to this provision, it should be deleted in its entirety.

4. PRELIMINARY INJUNCTIONS—CRITIQUE

The necessity of amending section 10(1) of the act with respect to cases arising under sections 8(a)(3) and 8(b)(2) of the act is highly doubtful because other sanctions are more than adequate deterrent to recalcitrant employers.

Injunctive relief is time-consuming and duplicative since it requires the aggrieved party to appear before an administrative law judge and a Federal district court judge. Furthermore, in light of the prediction by the General Counsel of the Board of a "dramatic increase in the number of 10(1) petitions,"[23] it is perfectly apparent that it is not feasible to implement this provision. A final factor weighing strongly against this provision is that nearly all discharge cases depend on credibility resolutions which, in turn, necessitate a full hearing so that the demeanor of the witness can be properly evaluated. Since Board attorneys under this provision will be entitled to proceed directly in the Federal district court on the basis of a "reasonable cause" determination that the charge is true, Federal district judges will be forced to render decisions without the benefit of the in-court testimony of the appropriate wit-

[20] Mandatory subjects of bargaining include wages, hours, and other terms and conditions of employment.

[21] A unilateral charge is one in which an employer alters the terms and conditions of employment without first giving notice to and conferring in good faith with the duly-certified collective bargaining representative of his employees. *NLRB v. Katz*, 369 U.S. 736 (1962).

[22] *NLRB* v. *Insurance Agents' Int'l Union*, 361 U.S. 477 (1960); *H.K. Porter Co.* v. *NLRB*, 397 U.S. 99 (1970).

[23] *Study by NLRB General Counsel Irving Estimating Cost Impact on Operations Under his Supervision of Passage of H.R. 8410*, 24 D.L.R. G-1 (February 3, 1978). *See* Section III *infra*.

nesses.[24] In sum, this provision is unnecessary and will further clog the Board and the courts at a substantial expense.

E. ILLEGAL WORK STOPPAGES

1. ILLEGAL WORK STOPPAGES—CURRENT LAW

Under the current law, injunctive relief may be obtained under certain circumstances against wildcat strikes,[25] but not against stranger picketing.[26]

2. ILLEGAL WORK STOPPAGES—PROPOSED CHANGES

Section 13 of the bill provides that an employer may seek injunctive relief against stranger picketing where the picket line is not maintained by a labor organization in connection with a labor dispute. As a result, injunctions would not be available if the picket line is maintained by a labor organization in connection with a labor dispute. An employer can also secure injunctive relief if the refusal to work is not authorized, initiated, or ratified by a labor organization. If the union does authorize, initiate, or ratify the illegal activity, no restraining order can issue under this section.

3. ILLEGAL WORK STOPPAGES—SUGGESTED CHANGE

In light of the problems noted below, section 301 of the Labor Management Relations Act should be amended by deleting lines 15–25, page 20 and lines 1–7, page 21 of the bill and adding the following language:

Where there exists an agreement between an employer and a labor organization, whether express or implied, not to strike, picket, or lock out, the court shall have jurisdiction to issue such temporary or permanent injunctive relief as is necessary to prevent any person from engaging in, or inducing or encouraging any employee of the employer to engage in, conduct in breach of such agreement, irrespective of the nature of the dispute underlying such strike, picket, or lock out, and its jurisdiction to grant such relief shall not be limited by the Act entitled "An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes."

4. ILLEGAL WORK STOPPAGES—CRITIQUE

An analysis of this provision must necessarily begin with a review of the Supreme Court's decision in *Boys Markets, Inc.* v. *Retail Clerks' Union, Local 770*, 398 U.S. 235 (1970), and *Buffalo Forge Co.* v. *United Steelworkers of America*, 428 U.S. 397 (1976). These decisions both involve the availability and utilization of injunctive relief under section 301 of the Labor Management Relations Act. In Boys Markets, the Court held that an injunction may issue when a strike takes place over a grievance which the parties are bound under the terms of the collective bargaining agreement. In Buffalo Forge, in a divided 5 to 4 decision, the Court, in considering the propriety of injunctive relief in sympathy strike situations, held that injunctive relief was not appropriate.

Boys Markets and Buffalo Forge are cases illustrating the divisive nature of Federal court intervention in labor disputes and a balancing of the policies contained in the Norris-LaGuardia Act[27] and section 301 of the Taft-Hartley Act.[28] See F. Frankfurter and N. Greene, "The Labor Injunction" (1930); *Milk Wagon Drivers' Union, Local 753* v. *Lake Valley Farm Products, Inc.*, 311 U.S. 91, 100–03 (1940).[29] From a policy standpoint, it is submitted that Boys Markets, wherein the court held that arbitration is the primary vehicle of promoting industrial peace, was decided correctly and should not be overruled. Conversely, Buffalo Forge, wherein a majority of the Justices provided a literal interpretation of the Norris-LaGuardia Act, should be overruled. Interestingly, the House considered a fairly expansive amendment on this issue but decided to adopt a much more limited version.

As noted by Justice Stevens in his dissent in Buffalo Forge, it is self-evident that the question of whether employees can honor a picket line is a subject for arbitral determination. However, requiring an employer to go first to arbitration and allow the work stoppage to continue frustrates not only the arbitral process but makes virtually meaningless the union's agreement not to strike. Granting injunctive relief, therefore, promotes the very policies which led the Supreme Court in Boys Markets to accommodate section 301 of the Taft-Hartley Act with section 4 of the Norris-LaGuardia Act.

As observed by Justice Stevens, the concerns which prompted passage of the Norris-LaGuardia Act were not applicable to a situation where a court was dealing with the enforceability of an agreement:

Like the decision in Boys Markets, this opinion reflects, on the one hand, my confidence that experience during the decades since the Norris-LaGuardia Act was passed has dissipated any legitimate concern about the impartiality of federal judges in disputes between labor and management, and on the other, my continued recognition of the fact that judges have less familiarity and expertise than arbitrators and administrators who regularly work in this specialized area. The decision in Boys Markets requires an accommodation between the Norris-LaGuardia Act and the Labor Management Relations Act. I would hold only that the terms of that accommodation do not entirely deprive the federal courts of all power to grant any relief to an employer, threatened with irreparable injury from a sympathy strike clearly in violation of a collective bargaining agreement, regardless of the equities of his claim for injunctive relief pending arbitration. 398 U.S. at 342.

Since another critical aspect of national labor policy is the concept of free collective bargaining,[30] it is difficult to argue that the utilization of injunctive relief to enforce a bargain freely struck runs contrary to these policies. Injunctions designed to enforce what has been agreed to are far different than the types of injunctions which gave rise to the Norris-LaGuardia Act. As recognized by the Supreme Court in Boys Markets, there has been a shift from the "protection of the nascent labor movement" to evolving a policy designed to encourage free collective bargaining and the peaceful settlement of disputes.

It is perfectly apparent that the issuance of injunctive relief to enforce an agreement to arbitrate and not to strike hardly brings about an abuse that the Norris-LaGuardia Act was intended to present. The policies enumerated in section 2 of the Norris-LaGuardia Act cover a vastly different situation that exists today.

It should, of course, be noted that in nearly all collective bargaining agreements the only promise a union makes in the entire contract is not to strike. The remainder of the obligations are placed squarely upon management's shoulders. This provision, however, undercuts the enforceability of the union's only obligation.

Against this background, it is clear that section 13 is not an adequate remedy for employers faced with strikes in violation of a no-strike clause in a collective bargaining agreement. Indeed, the Senate report emphasizes that the rule of Buffalo Forge be preserved[31] and that the present balance between employers and unions be maintained. However, the recent debilitating effects of the coal mine strikes is a prime illustration that an equitable balance does not exist. Consequently, current section 13 should be deleted in its entirety and replaced with a provision allowing private enforcement of no-strike clauses in Boys Markets and Buffalo Forge situations.

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[24] By analogy, the Board currently has authority to seek injunctive relief under section 10(j) of the Act. There can be little question that the Board's record in this area is hardly unblemished. Without being unfair to the Board, however, its position in situations calling for injunctive relief is difficult due to the complex task in undertaking an extensive investigation and making a proper recommendation, unless potential witnesses are thoroughly probed. Basic common law principles dictate, however, that a witness cannot be adequately questioned unless he is on the witness stand and subject to cross-examination.

[25] A wildcat strike, in the context of this bill, is a work stoppage undertaken by union members without official authorization or sanction from the union.

[26] Stranger picketing is any picketing of an employer by nonemployees on behalf of a union with whom the employer has no bargaining relationship.

[27] The Norris-LaGuardia Act embodied a congressional policy against the intervention of federal courts in labor disputes. The abuses giving rise to this Act generally involved cases where union organizational strike activity was being halted as a result of the intrusion of federal courts. Section 4 of the Act was designed to halt this intrusion.

[28] Section 301 of the Taft-Hartley Act gives federal courts jurisdiction over suits for breach of a collective bargaining agreement.

[29] *See also* Gould, *On Labor Injunctions, Unions and the Judges: The Boys Markets Case, The Supreme Court Rev.* 215, 238–39 (1970) (P. Kurland ed.).

[30] Wellington, *Freedom of Contract and the Collective Bargaining Agreement*, 112 U. Pa. L. Rev. 467 (1964); *H.K. Porter Co.* v. *NLRB*, 397 U.S. 99, 108 (1970); *NLRB* v. *American National Insurance*, 343 U.S. 395 (1952). The decisions in cases such as *H.K. Porter* and *American National Insurance* recognize that a collective bargaining agreement or any of its terms is not to be imposed on an unwilling party and that the execution of a collective bargaining agreement is a matter between the parties at the negotiating table.

[31] S. Rep. No. 95-628, 95th Cong., 2d Sess. (1978).

Now, I wish to talk about the economic impact and its effects upon litigation.

While I will admit that trying to come to any final kind of conclusion on economic impact as it relates to bargaining agreements or to relationships between unions and management is very, very difficult and in most cases I would say impossible, we can in extreme cases correlate economic impact with a proceedings under the labor-management agreement or lack of agreement.

III. S. 2467—ECONOMIC IMPACT AND EFFECT UPON LITIGATION

Ignoring the labels, such as "prounion" and "antimanagement" which have been attached to this legislation, and putting aside the various arguments for and against this legislation, one can observe dispassionately certain unmistakeable effects that will occur if the proposed legislation is enacted. Two principal areas that will be affected are set out as follows. This legislation will greatly affect the two areas that I am about to describe.

A. ECONOMIC IMPACT

In a recent, indepth study conducted by Rinfret Associates, contained in a report entitled The Economic Impact of H.R. 8410 and S. 2467, March, 1978, it was determined that this legislation "'would tend to increase the general inflationary trend of the United States. * * *'" As stated by economist Pierre Rinfret, president of Rinfret Associates, Inc., "'[t]he economic impact of proposed amendments to the National Labor Relations Act is inconsistent with the Administration's objective of reducing the already-high U.S. inflation rate which is close to double-digit levels, * * *'"[32]

I could find myself, Mr. President, in some slight disagreement with that finding. I do not believe that we can just openly and completely charge that wage rates in this country are the primary cause of inflation. I think they add to inflation. I think the resulting increases in prices add to inflation. I think more than anything else the continued deficit spending of the Federal Government is the biggest contributor to inflation. However, I believe I understand what Dr. Renfrit is getting at, that as we allow wage increases in this country through collective bargaining, whether they are earned by increased productivity or not, if we allow these to continue and if we encourage them by a law that will get around some of the things that organized labor has objected to in the Norris-LaGuardia Act, as amended by the Taft-Hartley Act of 1947, we will see, in my opinion, a continuation of the movement of American industries to other countries until there is a more viable equality between the wages paid in other countries and our country.

I do not think that day is going to come day after tomorrow, but I surely expect to see a day of rising wages occurring in Japan and in our western allies in Europe, in Mexico, in Taiwan, and in other parts of the world that now are giving us more and more competition.

While it would serve no useful purpose to review the entire study, of particular importance is the analysis of the economic impact of the make-whole provision upon small business. According to this report, "[t]he 'make whole' provisions of these proposed amendments appear to use an extreme settlement solution and appear to be inequitable, unfair and to violate the spirit of fair play, which is the essence of American legislation.

In fact, as I related yesterday, in 1934 when the Norris-LaGuardia Act was proposed it came because of the need for fair play. Prior to that time when management and labor sat down at the table to talk about, discuss, and negotiate their differences, management held all the jokers and all the ace cards and won whatever they wanted to win because labor did not have any clout, and the American Congress under the leadership of Senator Wagner in 1934 and 1935 did pass the act that carries his name, which for the first time in American history allowed American labor to sit down with American management with equality.

Now our problem since that time has been that through the judgment and actions of quasi-judicial bodies and by actual judicial bodies the original purpose of the Norris LaGuardia Act has practically disappeared and construction and interpretation of the Taft-Hartley Act has virtually disappeared.

But to get back to the bill: These amendments, as proposed, could result in an unfair economic advantage for large trade unions and for large business."[33]

The conclusions reached by Rinfret regarding the significant inflationary impact of this legislation find further support in a report entitled "Study by NLRB General Counsel Irving Estimating Cost Impact on Operations Under His Supervision of Passage of H.R. 8410."[34] Responding to a request from the Office of Management and Budget, Mr. Irving evaluated the potential effect of this legislation upon the Board's General Counsel's office. According to Mr. Irving, the proposed legislation will substantially increase litigation and require a corresponding increase in Board staffs amounting to an increase of nearly $28 million a year. As the report tacitly admits, however, this estimate may be conservative.

B. LITIGATION

As stated by Mr. Irving in his abovementioned report, "the proposed legislation contains provisions which are likely to encourage the filing of charges. * * *" This is because the severe penalties imposed upon employers for violation of the Act makes it in the employers' best interest to litigate most, if not all, controversies where the penalties are triggered. Correspondingly, it would be in the unions' best interest to litigate all controversies in hope of having the Board assess severe penalties against the employers. The modus operandi of management and labor will, therefore, be litigation and the end result will be increased labor strife.

I might just comment here on something that I do not believe I commented on before. Included in the present proposed act is an increase of the size of the National Labor Relations Board, and it has been, I think, the observation of all of us who are in Washington that when you increase the size of any board you merely increase the time it takes to make deliberations.

The statistics produced before the House Education and Labor Committee showing the high settlement rate of Board cases is compelling evidence that Congress should not interfere with the bargaining process. Those statistics indicate that settlement agreements are reached in 23.4 percent of the charges filed with the Board prior to the issuance of a Board complaint and in 82 percent of the charges filed with the Board in which a Board complaint is issued. As a result, there is only 5 percent of the unfair labor practice charges which the Board is forced to decide on their merits. Similarly, about 80 percent of the representation elections which are conducted by the Board are consented to by management and labor.

Since the Board would, of course, like the parties to settle their disputes rather than having matters litigated which strains the Board's budgetary and personnel resources, any legislative efforts in this area should be directed to this end.[35] Board chairman Fanning concurred with this observation in his testimony on H.R. 8410 when he stated that successful enforcement under the National Labor Relations Board "depends in large part on voluntary compliance by employers and unions alike." Regrettably, the committee's bill will take away the settlement incentive and diminish voluntary cooperation between the parties. The bill encourages distrust, suspicion, and arbitrary attitudes. In short, employers and unions are invited by this legislation to engage in costly, time consuming litigation, and inevitably embittering both parties and clogging the dockets of the Federal courts.

Some of the areas in which litigation is likely to increase markedly, if the legislation is enacted, are the following. First, the expedited election provision will result in fewer elections being agreed to in light of the arbitrary time periods. According to Mr. Irving "the number of election agreements will be substantially reduced from its present rate of 75 percent to a conservative 40 percent of merit dispositions." Without a proper time period for the employer to present his views on unionization, the employer will be forced to litigate issues after the election to which he would otherwise have consented. Since the employer is not given adequate no-

[32] Rinfret Associates, Inc., Press Release on *Proposed Labor Law Amendments Would Increase U.S. Inflation, Impose Major Economic Burdens on Small Business* at 1 (April 11, 1978).

[33] Rinfret, The Economic Impact of H.R. 8410 and S. 2467 at 1 (1978).

[34] This report is reported at 24 D.L.R. at G–1 (February 3, 1978).

[35] According to The Interim Report and Recommendations of the Chairman's Task Force on the NLRB for 1976, "[s]ettlement is a matter of great practical concern, since it permits the prompt redress of injuries and the conservation of the Board's limited resources."

tice of a campaign or of the proper unit determination, the employer's only recourse is to litigate all issues relating to the election. And, assuming that the employer follows this course, the amount of litigation before the regional offices of the Board will increase dramatically.

Second, under the committee bill, 150 percent backpay would be awarded to an employee where there was an illegal discharge, layoff, or refusal to reinstate. Significantly, there is no qualifying language in this provision concerning voluntary unemployment or duty of mitigation. It seems perfectly obvious that if an employer stands to have 150 percent backpay assessed against him he will vigorously litigate that issue. Under these circumstances, he has very little to lose by contesting such an award before both the Board and the appellate courts.

Third, the committee's bill extends the Board's injunctive authority under section 10(1) of the National Labor Relations Act to section 8(a)(3) discharge cases. Under this provision, the Board would be required to seek injunctive relief to have a discharged employee reinstated during an organizational campaign if the Board's preliminary investigation convinces the Board's regional office that there is reasonable cause to issue a complaint.

As predicted by Mr. Irving, this provision will result in a dramatic increase in the number of 10(1) petitions (24 D.L.R. at G–1, (February 3, 1978)) because respondents litigating these controversial cases will be less inclined to settle the underlying unfair labor practice charges.

Unions will be more than tempted to file section 8(a)(3) charges as a matter of course against employers in hope that the Board will find merit and seek injunctive relief. It is doubtful that the union will be interested in the validity of the charge because at this stage the union is seeking all the employee support it can muster. Thus, unions will merely go through the motions of filing charges to assure employees that it can provide this assistance. The Board, however, is not relieved of its duties at that stage because it must still have a hearing before an administrative law judge to decide the merits of the discharge.

Furthermore, the need for such a provision is highly doubtful. Courts have consistently recognized that a discharged employee is not entitled to reinstatement pending the resolution of the propriety of the discharge.[36] If the employee prevails full relief is provided.

Fourth, the debarment provision is certain to result in a proliferation of litigation. The sanction of debarment is an extreme and unwarranted measure. Employers will have no choice but to contest a debarment rather than yielding to the summary conclusion of the Board in its interpretation of "willful violators." Litigation, rather than settlement, will become the preferred method because there is no advantage for the employer in settling a case when settlement may result in a Federal court or Board order than, in turn, subjects the employer to future possible debarment.

The enormous increase of cases before the Board and both the trial and appellate levels of the Federal courts is a significant factor to be weighed by Congress. As indicated in the 41st annual report of the National Labor Relations Board (1976) and as updated by the most recent National Labor Relations Board quarterly report ending September 28, 1977, a record number of cases are being filed with the Board. The backlog problem was recently addressed by Board member Betty S. Murphy in a letter to the Civil Service Commission concerning the need for additional administrative law judges. She noted—

> We have a serious caseload problem with time delays and backlogs, the significance of which cannot be overstated. . . .[37]

Since the Board's primary purpose is to serve the public interest by reducing interruptions in commerce caused by industrial strife, a premium is placed on the expeditious handling of cases. It is, however, difficult to understand how the Board can cope with the anticipated increases of cases resulting from this legislation.

Similarly, the likely increase of litigation in the Federal courts should not be taken lightly. Indeed, there is great concern in the Federal judiciary as expressed by Mr. Chief Justice Warren E. Burger who stated in a speech before the American Bar Association in July of 1970 that—

> From time to time Congress adds more judges, but the total organization never quite keeps up with the caseload. Two recent statutes above added thousands of cases relating to commitment of narcotic addicts and the mentally ill. These additions came when civil rights cases, the voting cases, and prisoner petitions were expanding by the thousands.

According to the recent report by the Administrative Office of the U.S. Courts, 1977 Annual Report of the Director, June 30, 1977, the amount of Federal court litigation has multiplied in recent years.

In sum, there is very little question that S. 2467 will result in an enormous increase of cases before the Board and the Federal courts. Unless Congress is willing to significantly expand the number of personnel in the Board's regional office and increase the number of Federal judges, it is clear that the backlog of cases will mount. Adding governmental employees with its attendant cost in the millions of dollars is, of course, contrary to the current administration's avowed goals of reducing the bureaucracy and reaching what the President calls zero-base budgeting.

IV. OTHER PROVISIONS

To approach a conclusion, Mr. President, the above discussion demonstrates that there are substantial problems posed by many of the major provisions of S. 2467. An intelligent discussion of the bill requires that these problems be raised so that the Members of the Senate understand that many of the provisions designed to expedite Board case handling procedures will not serve their intended goals. There can be little question that S. 2467 does not constitute even a partial effort at true labor law reform. By focusing solely on the alleged abuses of management, the bill does not address several areas which are in serious need of correction.

At the same time, there are provisions in the bill which, while objectionable in part, have less of an impact on responsible employers. Such provisions include expanding the Board from five to seven members,[38] implementing a procedure for summary affirmance of a decision of an administrative law judge,[39] providing for automatic enforcement of Board orders unless an appeal is taken within 30 days,[40] and allowing guards to be represented by labor organizations under certain circumstances.[41] While one can attack on a substantive basis most of these provisions, their impact is of relatively less import than the provisions previously discussed.

The existing ability of an organizing union to get a big head start in a campaign by organizing in secret is further exacerbated, not rectified, by S. 2647. Requiring a union to notify the employer when it begins a campaign would put both parties on an equal footing, and further insure that employees hear both sides of the story before they cast a vote. An employer should be able to campaign on his record, just as the union campaigns on its promises.

Another important step toward reform of representation case procedure would be the deregulation of the representation campaign.[42] Recent sociologically-oriented studies have suggested that a party's campaign propaganda, even if misleading, has very little effect on how individual employees vote. More important, however, is the fact that the Board has currently undermined the importance of section 8(c) of the act, guaranteeing an employer's free speech in a labor relations context, by using an employer's otherwise legal campaign statements as evidence of unfair labor prac-

[36] *Sampson* v. *Murray*, 415 U.S. 61 (1974); *Theodore* v. *Elmhurst College*, 421 F. Supp. 355 (N.D. Ill. 1976).

[37] *Interim Report and Recommendations of the Chairman's Task Force on the NLRB for 1976*, reprinted in CCH Labor Law Reports, Nov. 26, 1976 at 49.

[38] Section 2(a) of the bill, amending section 3(a) of the Act.

[39] Section 2(b)(2) of the bill, amending section 3(b) of the Act.

[40] Section 10 of the bill, amending section 10(e) of the Act.

[41] Section 5 of the bill, amending section 9(b)(3) of the Act. This provision makes a distinction between "in-house" guard employees and contract guards or armored car guards. Contract or armored car guards may not be represented by a union which admits non-guard employees to membership or which is directly or indirectly affiliated with a labor organization which admits to membership employees other than guards. However, "in-house" guards may be represented by any union, provided that the union does not represent non-guard employees at the same location or is not directly affiliated with a labor organization which represents non-guard employees at the same location.

[42] The Board's recent decision in *Shopping Kart Food Market, Inc.*, 228 N.L.R.B. No. 190 (1977), is a cautious first step in this regard.

tices or to set aside an election. The law is in need of change here—the right of free speech must be guaranteed.

Similar rights must be guaranteed for the individual employee as well. The right of a union to fine an employee for engaging in such protected activity, as choosing to cross a picket line, is a serious infringement on an individual's rights.

Stability in labor relations is seriously undermined by the current confusion concerning the potentially duplicative remedies of the Labor Board and the binding grievance and arbitration procedure found in virtually all labor contracts.[43] Congress should legislatively mandate the extent to which the Board should engage in deferral to such arbitration procedures, thereby providing some needed predictability to the employer as well as the employees.

Moreover, making arbitration the exclusive form of resolving certain disputes has obvious merit. Arbitration has long been recognized as the primary vehicle to promote industrial peace, having been enshrined as "a kingpin of Federal labor policy." [44] This contractual mechanism provides the means to expeditiously settle disputes and allows for settlement before a forum the parties have agreed upon.

Second, it has long been recognized that arbitrators are fully competent to fairly resolve disputes arising under collective-bargaining agreements. While the Labor Board is presumed to have expertise in construing the National Labor Relations Act, its expertise does not carry over into the area of contract interpretation.

Employee relations stability would be further strengthened by providing for injunctive enforcement in Federal courts of contractual no-strike clauses where there is a dispute over what has prompted a union strike in violation of the no-strike pledge. Unions, as well as management, should be forced to live up to their contractual obligations.

Any sincere effort at labor law reform should also recognize that unions should be held accountable for their acts as well. Employers are generally unable to seek relief from the Board against the most blatant kind of industrial coercion, picket line violence. The State court injunction, with its attendant vagaries, is essentially the only legal means an employer has to stop mass picketing and violence. An NLRB remedy for such abuses should be provided.

Mr. President, I certainly do not want to take credit for what I consider to be this learned dissertation on the bill. It was produced, for whom I do not know, by the firm of Seyfarth, Shaw, Fairweather & Geraldson, with offices here, in Chicago, in Los Angeles, and in Miami; and I just want to thank whoever the author of this piece was for what I consider to be an exceptionally good job of diagnosing a bill.

Mr. President, I do not know what my colleagues engaged in this prolonged discussion care to do. I have no further remarks to make today, although I have a terrific backlog of speeches I made 20 years ago that I would be very happy to get into. They probably would not do any more good today than they did then.

So I would yield the floor, and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SARBANES). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. HAYAKAWA. Mr. President, the so-called labor reform bill, S. 2467, to which I wish to address myself today is a piece of legislation that deserves serious consideration by each and every Senator. The importance of truly understanding the unfair and disastrous impact of each of the bill's sections cannot be understated. We all must make ourselves keenly aware of what will happen should this bill pass.

Before I address myself to one particular section of the bill, that is the debarment from government contracts, I think it necessary to point out three very important items. The first two items are public opinion surveys and the third item is a report from the general counsels, office of the National Labor Relations Board.

In December 1977 the Opinion Research Corp. reported on a national telephone survey it conducted of 1,018 adults age 18 and over. The survey, sponsored by the Chamber of Commerce of the United States, sought to obtain information on the various beliefs and attitudes of the public on various labor related issues. I want to include in the RECORD the eye-opening results of this survey. The results cannot be ignored, especially in light of other opinion surveys that have recently shown similar attitudes amongst our constituents in this great Nation from coast to coast.

I quote directly from the survey's summary:

> Very little support (22%) exists among members of the general public for the passage of Federal legislation that would make it easier than it now is for unions to organize non-union employees. As a matter of fact, as many people (25%) believe that there should be legislation that would make organizing non-union employees more difficult than at present. Four in ten (40%) do not believe the current laws should be changed.

Essentially, then, in opposing this bill we are not defending a minority position. We seem to me very clearly to be defending the position of a majority of the American people, that 40 percent who do not believe the current law should be changed plus the 25 percent who believe that there should be legislation making organizing nonunion employees more difficult than it is at present, which would amount to 65 percent in all.

The lack of support for legislation that would simplify union organizing efforts is evident not only in all parts of the country, but also among people of all political persuasions—Democrats as well as Republicans and Independents. This view is held by those who say they have read or heard about new labor reform legislation as well as by those who say they are not aware of such legislation.

In fact, the proposal to make it easier for unions to organize does not win majority support from current union members. Only one-third (33 percent) support the idea, while almost half (48 percent) think that the present laws should not be changed.

As it is, the majority of Americans think that the power and political influence of organized labor already is too great.

Most people (63 percent) think that there is too much power concentrated in the hands of labor leaders of big unions in this country. This is the attitude of majorities of people in all major political subgroups and among liberals as well as conservatives. Even union members tend to feel this way:

Union members' attitude toward power of labor leaders

	Percent
Too much	51
Too little	11
About right	37
No opinion	1

By better than 4 to 1 (60 percent versus 14 percent), the public thinks that labor unions have more power than employers. Again, this is the attitude of majorities of people in all major political subgroups and among liberals as well as conservatives.

The public today continues to believe that labor unions in this country have "grown too powerful." Half (51 percent) of the people feel this way, while 18 percent would like to see unions have more power and 26 percent believe that the power of unions is "about right." These latest findings are in line with the trend in public attitudes in previous ORC studies, which showed a shift toward the "too powerful" alternative in the public's thinking between 1974 and 1975.

If anything, more people think that present Federal laws favor labor unions (26 percent) than feel that employers are favored (14 percent). Furthermore, almost as many people (39 percent) blame labor unions for frequently violating the current labor laws as blame employers for doing the same thing (45 percent).

Generally speaking, the public does not have a very high opinion of organized labor when it comes to its impact on the economy.

For example, the Government, compared with either labor or business, is singled out as being the prime cause of inflation. However, almost twice as many people (31 percent) blame labor unions for inflation as blame business.

Also, among those who believe the country is making economic progress, labor unions are given the least credit, in comparison with either Government or business, for their contribution to the economic progress of the country. People

[43] The Board's policy of deferring certain cases to arbitration while retaining jurisdiction, as established in *Collyer Insulated Wire*, 192 N.L.R.B. 837 (1971), has been undercut by recent Board decisions. *See, e.g., General American Transportation Corp.* 228 N.L.R.B. No. 102 (1977).

[44] *Sinclair Refining Co.* v. *Atkinson*, 370 U.S. 195, 226 (1962).

who believe that the personal freedoms of Americans are being threatened are more likely to be concerned about labor unions (22 percent) than business (9 percent), although Government is feared the most (62 percent).

That is interesting, how people worry about their personal freedoms. Sixty-two percent fear those freedoms will be threatened by Government; 22 percent fear unions; only 9 percent fear business in this respect.

The public as a whole (61 percent) thinks that labor union leaders do at least a fair job of representing the interests of their members, although union members appear more divided than the public as a whole in this regard.

On the other hand, half of the general public (51 percent) believe that labor union leaders do a poor job of acting in the best interests of the public as a whole, while 44 percent thinks that labor union leaders are doing at least fairly well (35 percent) or very well (9 percent) in this regard.

Significantly, the public believes that, when labor leaders take a public stand on political matters, they usually represent their own views rather than the views of their members.

What is more, the union members feel exactly the same way. The union members feel that their leaders express the leaders' own point of view rather than that based upon a systematic and sincere survey of what their members actually want.

Furthermore, the majority of Americans (56 percent) think that labor unions are too much involved in political action. Four union members in 10 also are of the same opinion.

These pictures represent a startling view in contrast to how the labor unions think of themselves as representing the working class.

Most Americans (73 percent) think that organized labor has at least a fair amount of influence on Congress. Forty-four percent think it has a great deal of influence. On balance, those who think any such influence exists think it is excessive.

Indeed, the majority (54 percent) of Americans would favor a law that would prohibit the spending of union dues for political purposes. In fact, as many union members (51 percent) favor such a law as oppose it (48 percent).

In general, the public favors the enactment of laws that might curb union power and protect employees' rights in unionization and collective bargaining practices.

Large majorities of both the general public (77 percent) and union members (83 percent) continue to approve the secret ballot as the only way to determine whether or not nonunion employees want union representation. This view is in line with attitudes expressed in previous ORC studies.

Similarly, high percentages of both groups (81 percent and 79 percent) would approve a law that requires worker approval by secret ballot before a strike can be called. Again, this is in line with similar findings in previous ORC studies.

As my colleagues well know, very often, strikes are called with no secret ballot at all, simply by decision of the officers.

Large majorities of both the general public (83 percent) and union members (75 percent) approve of a legal requirement that, after a strike has been in effect for 30 days, a secret ballot be taken among members to determine their wishes about continuing or not. This, too, reflects similar views in previous ORC studies.

The public also strongly favors (72 percent) a law that would allow a person to get and keep a job without joining a union, an issue on which even union members themselves are divided.

The public as a whole is pretty much divided in its opinion (48 percent in favor, 45 percent opposed) in respect to a law that might make it easier for labor unions to organize the employees of a small business. The higher the income and the higher the education, the more people are opposed to such a law. Moreover, among those most opposed to such a law are people who say that they work for small companies—and the majority of companies in the United States, after all, are small companies.

Overall, throughout this survey, there are relatively few regional differences in the attitudes of the general public toward the various labor issues studied.

Finally, the majority of people, including union members, appear to be unaware or have little or no knowledge about proposed new labor reform legislation.

With 40 percent of those polled believing that the current labor laws should not be changed, it seems that we must stop and evaluate the reasons for such a large portion of our population holding that view.

Not only has the Chamber's poll shown a credible belief that the current labor laws should not be altered as S. 2467 suggests but in February U.S. News & World Report, the highly respected news magazine, reported the finding of its recent nationwide poll. It clearly showed that the public stands in firm opposition to increasing the power of labor unions. Those surveyed answered the question of whether the U.S. Government should make it easier for unions to organize workers this way: 59 percent said no; 24 percent said yes; and 17 percent had no opinion.

The third and final point I wish to make before getting into contract debarment is the outrageous costs involved with S. 2467. The general counsel at the National Labor Relations Board conducted an in-house analysis of the estimated costs of implementing the House-passed version of their legislation. He found that the Board would require 900 more staff personnel in the Office of General Counsel to handle the extra work that can be expected. This entire situation would cost an additional $28 million. Take this figure and consider it as you realize that the Board's projected 1979 budget without this so-called labor reform bill is up more than $88 million over the 1977 budget.

Under the guise of the ineffectiveness of the current law, proponents of S. 2467 have included in the bill a section they claim would deter flagrant violators of the National Labor Relations Act. In essence the new section of the law would authorize the National Labor Relations Board to find a party in "willful" violation of a Board order and, upon such finding, the Secretary of Labor would be required to debar such person from receiving Government contracts for 3 years.

The proponents of the labor reform bill, so-called, have frequently said the changes are procedural only, tightening up loopholes. They continue to argue there are no substantial changes introduced in S. 2467.

Mr. President, this is a substantial change when it gives the Secretary of Labor the power to debar a company from receiving Government contracts for 3 years.

This is an element with punitiveness that exists in no previous labor law. This, really, is a substantial change. I am surprised that the proponents of this legislation claim that there are no substantial changes, that the changes are merely procedural, as they say.

S. 2467 gives the Secretary discretion as to a lesser period of debarment and restricts debarment in most instances to the particular facility involved.

The overall concept of contract debarment in the context of labor law reform must be discussed in light of some very important facts that I wish to draw attention to:

First. Of over 20,000 unfair labor cases filed against employees annually, less than 25 annually require proceedings in contempt. This hardly supports any claims of rampant employer lawlessness.

Second. The National Labor Relations Board itself has acknowledged that its current broad powers have enabled it to devise extraordinary measures to deal with repeat offenders.

Third. Debarment may actually hurt employees by putting employers out of business, and if we are concerned about the fate of working people, of the employees themselves, we must certainly be concerned about the enactment of such a provision.

Fourth. Debarment hurts the public interest by imposing additional costs in the form of higher prices or inferior products—reduces competition in bidding for Government contracts.

For these above noted reasons and for many more I will express in the next few minutes I submit that the contract debarment provision of S. 2467 is a dangerous and unnecessary attempt at overkill.

The concept itself was admirably analyzed by a Mr. Peter Nash, general counsel of the National Labor Relations Board from 1971–75. In a paper he prepared in July 1977 he discussed the original House version of contract debarment. Although the Senate bill is a bit different I believe his words bear listening to. He states:

1. Contract Debarment—Contract debarment has not proven to be a satisfactory sanction in the field of labor relations. In fact, the Administrative Conference of the United States recently recommended that the sanction be dropped because "contract cancellation is in many cases too severe or impracticable as the primary sanction for non-compliance with equal employment opportunity regulations" and because a debarment penalty fails to take into account the special circumstances of major employment categories. Nor can the contract debarment provision be justified on the ground that it is the only available means of dealing with repeat offenders. For the Board itself has acknowledged that its current broad grant of power has enabled it to devise a number of extraordinary measures to deal with repeat offenders. Further, presumably the debarment litigation will not stand alone, but will be accompanied by administrative litigation leading to a new Board order plus contempt litigation in the circuit court.

As such, the proposal compounds the already serious problem of multiple litigation of a single fact situation.

The proposed contract debarment provision is particularly ill-advised because it tends to punish the very employees whom the act was intended to protect. Thus, a necessary effect of federal contract debarment is the elimination of jobs of employees working for such contractors, and this provision has been rightfully objected to on these grounds by unions representing such employees.

Furthermore, the contract debarment proposal punishes the public by imposing additional costs in the form of either higher prices or inferior products and services, or both. Since Federal regulations require that contracts be awarded to the lowest qualified bidder, higher public costs are inherent in the proposed provision which would deny Federal agencies the ability to make contracts with any employer who can offer the best product or service at the least possible cost.

So, Mr. President, even if the impact of contract debarment were to be confined to the employer and not affect his employees or the public, it represents overkill. It has the potential for putting many employers completely out of business. Significantly, once the General Counsel has decided to issue a complaint seeking debarment and the Board determines that a willful violation occurred as alleged, the statute removes any discretion on the part of the Board to determine whether debarment is an appropriate remedy in the circumstances; it provides that the Board "shall" issue the order which will result in debarment. Thus, the debarment penalty would be applied irrespective of the sufficiency of the normal Board remedy and could well result in punishing the employer with a sanction which far exceeds that necessary to neutralize the violation.

Mr. President, in California, I encounter very frequently companies that simply close up business and move to Mexico or Taiwan or Singapore or South Korea to continue their businesses. because of the harassment of labor unions, or because of the harassment of labor regulations that limit their use of teenagers, that demand for unskilled training work too high at a minimum wage.

The effect of all this is not to increase the prosperity and well-being of the American workers. It means simply that these companies move their operations, as I say, to Mexico, Taiwan, Singapore, South Korea, and in one case I know of, a very well-known case, a great plant was moved by a California grower to Guatemala where it can operate more cheaply.

If we want to drive American industry out of America and give work to the workers of Taiwan, Guatemala, Mexico, and South Korea, and so on, this act is just fine. It is perfectly calculated to drive American businesses out of the country.

We have already driven out too many, Mr. President. Therefore, I want to register my urgent objection to the passage of S. 2467.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

The Senator from Utah.

Mr. HATCH. Mr. President, yesterday I chatted for a while about some of the objections to the punitive provisions of the labor law reform and I went through a number of those objections. I will continue on here today.

When the Senate and House committees were so vigilantly overseeing the operations of our national labor policies and were so carefully drafting legislation that would further those policies do they consider such actions as the International Union of Operating Engineers in this case? I see not a single provision in the bill relating to "willful violations" by unions of the National Labor Relations Act. Perhaps the union did not realize that loading and aiming a cannon at employees might have some tendency to restrain and coerce those employees in the exercise of their right to refuse to join the union's activities.

So perhaps the House and Senate committees concluded that this was not a "willful violation" which needed remedying. This must be why there is no reference in the so-called labor law reform bill of 1978 to willful violations perpetrated by unions.

In that regard, I have been criticized on the floor for not having offered amendments to this bill in committee. I think there are a few things that need to be known about the Human Resources Committee, and basically they are these: It is not much use for Senator HAYAKAWA and me, the only two opponents of this bill, to waste the time of the committee by submitting amendments, because none of them would have been accepted.

To be honest, I think there was a procause of the harassment of labor regupensity on the part of those in the committee that they could not be wrong in this matter; that regardless of what two freshman Senators decided to do, whether or not we took the battle to the Senate floor, which we have chosen to do, because we have a chance of getting more Senators to stand up against this type of repressive legislation than we did in the committee—it was two out of 15—they did not think anything could stop the steamroller effect of a big-labor sponsored piece of legislation which is detrimental to everybody but big labor and basically, if it comes right down to it, the big labor leaders here in Washington. This bill does not really help employees, it does not help employers, and it is particularly devastating with regard to small business.

Perhaps another example—one striking a little bit closer to home—might be useful when considering the merits of this bill. Most of us will remember a period beginning on October 1, 1975, when one of our two newspaper in this Nation's Capital, the Washington Post, was the object of a strike conducted by local 6 of the International Printing and Graphic Communications Union. Now the Washington Post has never been considered an enemy of liberal causes. It has consistently supported the cause of organized labor throughout the Nation. The Post's contract with the union expired on September 30, 1975. Prior to the expiration of that contract the Post met with the union nine times, with and without Federal mediators in an attempt to negotiate a new contract. The parties were unable to do so and a strike ensued.

The Washington Post was well known throughout the newspaper industry as being the "flagship." The wages and benefits paid to Washington Post employees including those employees who were members of local 6, were among the best if not the very best in the newspaper industry. Therefore, one might expect that the Post deserved better treatment than it experienced in this strike. Let me recount for you the story of some of that treatment.

The strike commenced shortly after midnight on October 1, 1975, with what only can be described as a riot in the pressroom. During this riot, a number of union members including officers of the local union engaged in a rampage in the Washington Post pressroom during which they completely disabled all nine of the Washington Post's printing presses. Moreover, they severely beat the pressroom foreman who was, incidentally, also a union member, and threatened his life if he should report who was responsible for committing the violence in the pressroom. To punctuate their threats of violence they slashed him across the forehead. They also set fire to the pressroom. For a number of days the Washington Post was utterly unable to print its newspaper within the plant and had to have the paper printed by other newspapers outside of Washington.

What follows will be taken from findings of fact by Judge Braman, a judge of the Superior Court of the District of Columbia civil division in an action filed

by the Washington Post against local 6—civil action No. 8972–75. I am now quoting from Judge Braman's findings of facts:

7. On October 1, 1975, between 125 and 150 members of local 6 engaged in mass picketing on the 15th Street side of the Post building. Marching two abreast in an oval pattern approximately 100 feet long, they blocked ingress into and egress from both entrances. Police officers were present throughout this activity which lasted all day.

8. On October 1, 1975, Cathy Sawyer and Bill Peterson, both Post reporters, were walking north on 16th Street, having left the Post via the loading dock. Edward Lee Nowacki, a member of Local 6, ran from the alley and threw a piece of wood at Miss Sawyer, striking her head over the right eye. Mr. Peterson gave chase and Nowacki was subsequently apprehended by a member of the executive protective service. Nowacki was convicted of simple assault.

9. On October 2, 1975, Frank Giambalvo, manager of the Post's advertising art department, left the Post premises at about 10:45 a.m. He was heckled ("rat," "scab") by the pickets as he left the building and headed north on 15th Street. A quarter of a block from the entrance he was grabbed by the shoulders by an unidentified man and thrown to the ground. Giambalvo suffered two hairline fractures of the right leg.

10. On November 3, 1975, at about 9:00 p.m. Jules Witcover, another Post employee, was struck in the face by Jack McIntosh, a Local 6 member, who had followed Witcover to a nearby garage. Six stitches were required in the area of Witcover's eye and several of his teeth were chipped. . . . McIntosh's trial on a criminal charge of assault, after several continuances, is now set for July 20, 1976, in this court.

11(a) On December 28, 1975, Thomas J. Matthews, assistant foreign editor of the Post, left the Post to visit a drug store at the southwest corner of 15th and L Streets. He observed three or four pickets near the entrance (one with a Local 6 sign and one with a photo engraver's sign) as well as a policeman watching television near the door. He was followed into the drug store by one of the Local 6 pickets, Walter Garner, who bumped into him several times. When Matthews left the store, Garner was waiting outside. He walked alongside Matthews as the latter headed back to the Post and, after vilifying him for "going through my picket line," shoved Matthews into a low wall alongside the Pick Lee House, which is just south of the Post. Matthews fell, bruising his left thigh and Garner returned to the picket line. A warrant for Garner's arrest on simple assault is outstanding.

(b) Previously, on either October 1 or 7, 1975, Matthews was spat on and kicked by one of about twenty pickets in front of the employees' entrance.

12. On January 5, 1976, Edward Montgomery and Willie Williams, employed as paper handlers, left work at about 4:15 a.m. Crossing 15th Street, they passed a parked recreational vehicle belonging to Mark Kelso, an assistant chapel chairman of the pressmen, and picket captain of Local 6. Four men emerged from the vehicle, three of them wearing ski masks, and they followed Montgomery and Williams several blocks to the People's Drug Store at 14th Street and Thomas Circle. At the entrance to the drug store, one of the masked threw a shoulder block at Williams knocking him into Montgomery. All four men then fled. Montgomery was unable to identify the one man not wearing a ski mask, although he was certain that the man was a pressroom employee of the Post.

13. On the evening of January 6, 1976, about 100 to 145 members of Local 6 assembled in front of the 15th Street side of the Post building and during the hours of about 7:00 p.m. to 10:00 p.m. engaged in mass picketing and acts of violence in the manner hereinafter set forth.

(a) This rally was planned by Local 6 in deliberate defiance of the preliminary injunction [which had been issued by the Superior Court of the District of Columbia on October 2, 1975]. The week before the demonstration, Alan D. Smith, a member of Local 6, who later resigned from the union and returned to work at the Post, was told by Mark Kelso (the picket captain and assistant chapel chairman, . . .) that there would be a "rally" at 7:00 p.m. on January 6, 1976 at the Post. This conversation took place in Kelso's van, which was parked near the Post; Smith and the other pressmen present were urged to attend. . . . Further, the unlawful conduct which took place at the rally was personally aided and abetted by Messrs. Dugan (the president), Davis (a vice president), Collins (secretary-treasurer), Joe Harrington (chapel chairman of the Post pressmen) and Wallace McDonald (chapel chairman of the Post stereotypers), each of whom attended and supported the rally.

(b) The more than 100 members of Local 6 who responded to the union's call for the rally on January 6th, formed a racetrack pattern, slow-marching in serried ranks of four abreast, in front of the Post. Their formation extended from the junction of the main building and the alley on the north to the employees' entrance on the south, a distance of some 50 to 100 feet. The men yelled, shook their fists, and shouted obscenities at Post officials visible through large plate glass windows in the lobby. During the demonstration, two of these large windows were broken. . . . The pickets obstructed the sidewalk. . . .

(c) Allen Hounshell, assistant labor relations manager of the Post, testified that he left the Post shortly before 7:00 P.M. on January 6th. When he saw a large group of pickets in front of the Post—a group that included Local 6 officials Dugan, Collins and Davis . . . He stopped at a nearby telephone and called his office to report what he had seen and to say that he was coming back. Returning to the Post 10 minutes later, Hounshell parked his car in the Post garage. Policemen were on the scene and others were arriving. As he crossed the alley separating the garage from the main Post building and headed to the loading dock entrance to avoid the pickets, chapel chairman Harrington, who was standing about 15 feet away with a group of 6 to 8 pressmen called out to him, "Allen, why don't you come down the sidewalk?" Hounshell, who understandably interpreted this as a threat, ignored him and continued into the building . . . Later that evening Hounshell and Lawrence Wallace, vice president for labor relations of the Post, went to the lobby of the Post building to view the scene outside. Besides the obscenities and fist shaking, the picketers taunted the witness and his co-worker to come out and threatened to get them later . . . On a later visit to the lobby, a similar scene presented itself to Hounshell. One member of Local 6, Joe Schumacher, gestured at Hounshell as if he had a gun in his hand, cocking the imaginary gun, and saying, "I'm going to get you."

(d) At about 8:00 p.m. that evening, two employees of the Post, Jane Brooks and Marianne Tortorello left the loading dock entrance of the Post building and crossed the alley to the garage. The women got into their respective cars and began to drive down the ramp leading to 15th Street. Ms. Tortorello's car, which was in the lead, was surrounded by 15 to 20 men when it reached the bottom of the ramp. The men cursed Ms. Tortorello and pounded on her car. A Metropolitan Police Officer interceded and Ms. Tortorello was able to leave. Ms. Brooks then proceeded to the bottom of the ramp and the scene was repeated, i.e. Pickets surrounded her car, shouted epitaphs and pounded the car. Again, a Metropolitan Police Officer interceded and Ms. Brooks drove off. Eugene O'Sullivan, a picket captain, was arrested in the course of the Brooks incident. . . . The records of this court show he forfeited collateral on January 6, 1976 on a charge of disorderly conduct.

(e) Sometime after 8:00 p.m. that evening, a truck tried to leave the Post premises when a large group of pickets approached it. One man, subsequently identified as James Yost, threw a rock at the truck. Metropolitan Police Officer, Paul G. Dumm, who witnessed the incident, extricated Yost from the crowd and arrested him. Yost gave the fictitious name of James Earl Turner. As Dumm and fellow officer Carey Himes escorted Yost to the transport vehicle a man whom both the officers identified as James A. Dugan, blocked Officer Himes' path and said, you know you're wrong officer . . . under the name of Turner, Yost forfeited $50 collateral that same night on a charge of "throwing missiles."

(f) On January 26, 1976, this court issued a rule to show cause why defendants and certain additional persons (i.e. Collins, Harrington, McDonald and Kelso) should not be adjudicated in civil contempt of the preliminary injunction. Opposition was filed, but upon the return date, February 9, 1976, a settlement was effected and restitutional fines were agreed upon, as recited in a formal stipulation approved on February 19, 1976: (1) Local 6 was fined $1,600; (2) the defendant Davis and the four additional parties were each fined $100. In addition, and again by consent, the court issued supplemental findings and conclusions, dated February 19, 1976 in which it found as a fact that the rally had occurred and that it violated paragraphs 1(b), (c), and (e) of the preliminary injunction. Finally, the stipulation provided that the injunction and the supplemental findings and conclusions be distributed by Local 6 to each member who was to certify in writing that he had read the enclosures.

14. The violence that began on the evening of January 6, spilled over into the early morning hours of January 7th. Benjamin F. Bartolome, a post advertising artist, left the post premises by the loading dock at about 12:30 a.m. on January 7th. He walked to his car about a block and a half from the Post, got in and was warming up the engine when a man wearing a ski mask knocked on his car. Another man in a ski mask appeared at the rear of the car. One man said, "Let's teach this Chinaman where he is supposed to be." (Bartolome, of Philippine ancestry, was also called a "Chinaman" by Local 6 pickets in the past). Bartolome, who is trained in karate, threw open the door on the man standing at the window, knocking him to the ground. The second man tried to hit Bartolome with an object which Bartolome intercepted, and then Bartolome elbowed him several times. The other man began to get up, and Bartolome kneed him in the face and again in the ribs. Both assailants then ran off.

15. The lawlessness of January 6th also contributed to another incident of January 7th. Allen Hounshell left the Post building at 1:30 p.m. and headed south on 15th Street. Crossing L Street, three Local 6 pickets began to follow him at a distance of 20 to 30 feet, yelling at him as they walked. Hounshell entered the Rothschild Cafeteria (a block south of the Post) and, joined by three other Post executives, sat at a table next to the window. Between 7 and 10 pickets peered in through the window, among them Local 6 members John Raffo, Jr., Joe Schu-

macher, John Zarbough and Juan Tenorio. About 5 minutes after the Post executives began eating, the picketers entered the cafeteria.

They surrounded the executives' table and villified those who were seated before them. Raffo, who knew Hounshell from the days when both worked at the daily news, pointed a finger at Hounshell and threatened "Allen, I'll get you later." Raffo then spit in Hounshell's face and into his food. The pickets kept up their harrangue for about 2 minutes and began to leave when the restaurant manager walked towards them. As they left, Schumacher (the pressman who made the gun gesticulations toward Hounshell the night before) struck Post employee Richard Luck, seated with his back toward his assailant, in the back of the head. Although Hounshell reported the incident to police. Luck was frightened to do so. Like Schumacher, Raffo was also part of the rally of the preceding night.

16. On January 11, 1976, Gwendolyn Mitchler, a 56 year old telephone operator for the Post, was cursed and struck on the left side of the face by a young man after she had disembarked from a bus about a block from the Post and paused to open her umbrella. When she dropped her umbrella, her attacker smashed it, and told her that it would teach her to "work for that ——— Union/Buster Wallace." She suffered a black eye and still has occasional draining of the ears. . . . After the incident, the Post arranged for its security service to drive Ms. Mitchler home when she worked past dark. On the evening of February 26, while in a Security Service car in the Post Alley, Ms. Mitchler saw three men with local 6 picket signs step into the car's headlights and then into the dark again. One of the men said, "there goes the telephone operator. She hasn't learned her lesson yet."

On February 15, Allan Dale Smith, the Local 6 member who went back to work * * * drove a fellow employee to the Trailways bus terminal after leaving the Post premises. Two members of Local 6, James O'Sullivan and Clement, pulled away from the Post at the same time as Smith. After Smith discharged his passenger at the terminal and began to leave, O'Sullivan ran out and kicked his car. O'Sullivan is a picket captain.

The following day, Joe Mozingo, another pressman, threw a brick at Smith's car as it was leaving the Post garage.

I will not belabor my point any further. What I am reading from is not the unauthenticated testimony of a parade of witnesses trucked up to Washington by the union proponents of this bill which will overhaul and eviscerate the National Labor Relations Act. These are the findings of fact after a trial by a congressionally confirmed District of Columbia judge. These events did not occur in some wild backwater of American society, they occurred here in the heart of this city in which this Congress sits. These were not the isolated actions of uncontrolled union members, they were actions taken by union officers. These are not actions provoked by a repressive employer, they are actions against one of the most liberal employers in the Nation. The assailants here are not the desperate working men whose plight has been so vividly painted by the supporters of the bill, these are men who earn an average of $24,000 a year. And who are the victims of these union officers' acts of lawlessness? Not so much the Washington Post as the employees—the very employees who are the intended beneficiaries of the National Labor Relations Act. The victims are the very employees whose rights to refuse to engage in union activities we have guaranteed protection. And what is the price of their exercising their right under the National Labor Relations Act to refuse to engage in a strike with the union? Let me relate one last incident involving another Washington Post employee. This incident also is related in Judge Braman's decision:

On March 12, 1976, Post pressman trainee, Gerald R. Collier, was savagely beaten in the single most vicious incident in the course of the strike. He had been hired 4 days previously, pursuant to the Post's decision to hire permanent replacements for the striking pressmen. Collier left work at the Post at approximately 8:15 p.m. on the 12th. As he crossed 15th Street and declined a picket's pamphlet, the picket harangued:

You don't care do you, you ———?

When Collier stood mute, the striker continued:

That's allright. We'll get you, too, you ———.

Collier got into his car and headed toward the 14th Street Bridge without further incident. On the bridge, a car with three men in it, followed his car very closely. He speeded up to get away. About 35 miles south on Interstate 95 a car carrying three men drew alongside Collier's car and began pulling over toward it, as if they wanted to force him off the road. Collier accelerated to escape the car, reaching a speed of 110 miles per hour. About 18 miles later, Collier exited Interstate 95 at the Thornburg exit, and proceeded east on Route 606. A few minutes later, a speeding pickup truck came from his rear and cut in front of him, causing him to stop. At the same time another vehicle skidded sideways behind Collier's vehicle, blocking the rear.

When a masked man, carrying what appeared to be a lead pipe, got out of the car with two other masked men, Collier tried to run, but the two other men from the pickup grabbed him, wrapped something around his neck and wrists, and pinned back his outstretched arms. One of the assailants said:

Yeah, that's him, you're the ——— that ran a couple of our guys off Jimmy's farm.

The reference to Jimmy referred to an incident with Collier, who had been assigned by the Post to guard pressroom foreman, James Hover's house, forced three union members who were threatening Hover off of Hover's property. Two of the three members were picket captains.

With the two attackers holding Collier in the trussed position, the two other pummeled Collier's face with their fists. Collier kicked one of his assailants who, Collier noted, had a beard protruding below his mask. (One of the picket captains whom Collier had forced to leave Hover's property several days earlier also had a beard.)

Collier was then hit with a pipe on the right kneecap, and he buckled and fell face forward to the ground. The attackers turned him over and, in the course of cutting away his shirt with a sharp object, cut across his shoulders, waist, and chest. He was then dragged "like a dog" by his arm bonds in a face down position up the road, where the men stomped on his chest. Finally, one of the men yelled:

For ———, stop hitting him.

Collier felt a sharp object hit his head and before losing consciousness, Collier heard one of the men mention they were close to Hover's farm. Nothing was taken from him during the attack, although he carried a wallet and wore a ring. Collier was hospitalized twice for his injuries, which, as the court observed by viewing Collier's chest, had not fully healed at the time of the trial. He walks slowly with a slight limp, and complains of spontaneous falls and loss of memory. During his second period of hospitalization, Collier received harassing phone calls from anonymous callers. The court finds that the attack was perpetrated by members of local 6.

I do not intend to recite any further parade of horribles to the Senate. It is enough to say that there are at least as many examples of unions who have "willfully violated" the spirit and the letter of the National Labor Relations Act as there are employers. The action taken by the Operating Engineers and the pressmen's union, which I have recited, are only pale examples of the extent to which union officers and agents flaunt the spirit and the letter of the National Labor Relations Act.

The "remedy" for "willful violations" of the National Labor Relations Act provided in sections 8 and 9 of the bill, mentioned nothing about the willful violations committed by unions and their members. And yet these violations even more than those of J. P. Stevens Co. or Monroe Auto Equipment Co. strike at the very heart and soul of the National Labor Relations Act. Why is it that the members of the House and Senate Labor Committees, who considered the need to reform the National Labor Relations Act, saw no need to correct violations such as these? I submit that to call this bill a reform measure is to engage in a level of hypocrisy seldom seen in this Chamber. If, indeed, there is to be true reform of the National Labor Relations Act, let it be even-handed reform. Let us reassess the entire act—not only those provisions which relate to unfair labor practices committed by employers, but also those which relate to unfair labor practices committed by unions. If we are to lay aside the carrot of voluntarism and replace it with a stick of governmental force, let us apply that stick equally to the violations of unions and employers.

The success of the National Labor Relations Act is dependent upon the respect that the citizens of the country, including employers, employees, and unions, have for its underlying principles. The act has been monumentally successful in the last 43 years not be-

cause of the threat of governmental force but because the parties regulated by the act, employers, employees, and unions, respected the evenhanded treatment given by the law and the Board to all the parties. That respect will dissolve into a sea of acrimonious resistance should this Congress not have the courage to resist the threats of the AFL–CIO and others who attempt to hold this Congress hostage until such time as a bill which tilts the scales of governmental interference in labor management relations solidly in their favor is passed.

Let this Congress once and for all reject the political threats being leveled at us by organized labor. Let us remember that organized labor represents only 20 percent of the total working force of this country. We are responsible not only to those persons who support organized labor—indeed, a minority of the American voting public—but also to those who reject the siren song and silky promises of organized labor. We also have an obligation to men like Gerald Collier, who now remains crippled because he chose to believe in the right which we guaranteed to him in section 7 of the National Labor Relations Act to refuse to submit to the mailed fist of organized labor.

In considering this bill, I pray that we evidence at least a shred of the courage shown by men like Mr. Collier.

Mr. President, I ask unanimous consent that the remainder of my remarks not be considered under the rule as a second speech.

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

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, appoints the following Senators to serve on the President's Commission on the Coal Industry in accordance with Executive Order 12062, May 26, 1978:

The Senator from West Virginia (Mr. RANDOLPH), the Senator from Kentucky (Mr. HUDDLESTON), and the Senator from Illinois (Mr. PERCY).

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, and that Senators be permitted to speak for 5 minutes each.

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

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

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

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

MESSAGE FROM THE HOUSE

At 3:37 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the amendment of the Senate to H.R. 10882, an act to authorize appropriations to carry out conservation programs on military reservations and public lands during fiscal years 1979, 1980, and 1981, with amendments in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 12933. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1979, and for other purposes.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 612. A concurrent resolution condemning violations of rights by the Government of the Republic of Uganda urging the President to take certain actions with respect to those violations.

The message also announced that the House disagrees to the amendments of the Senate to H.R. 11877, an act to authorize appropriations for fiscal year 1979 for the Peace Corps and to make certain changes in the Peace Corps Act; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. ZABLOCKI, Mr. FASCELL, Mr. HARRINGTON, Mr. BONKER, Mr. STUDDS, Mr. PEASE, Mr. NIX, Mr. BROOMFIELD, Mr. WINN, and Mr. GILMAN were appointed managers of the conference on the part of the House.

HOUSE BILL AND CONCURRENT RESOLUTION REFERRED

The following bill was read twice by its title and referred as indicated:

H.R. 12933. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1979, and for other purposes; to the Committee on Appropriations.

The following concurrent resolution was read by its title and referred as indicated:

H. Con. Res. 612. A concurrent resolution condemning violations of rights by the Government of the Republic of Uganda and urging the President to take certain actions with respect to those violations; to the Committee on Foreign Relations.

ORDER TO HOLD H.R. 10173 AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as H.R. 10173, the Veterans' and Survivors' Pension Improvement Act of 1978, is received in the Senate, the bill be held at the desk pending further disposition.

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

ORDER FOR STAR PRINT OF S. 2980

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Senator from Mississippi (Mr. EASTLAND), I ask unanimous consent that S. 2980, a bill to facilitate the work of the U.S. Department of Agriculture, to protect the confidentiality of information furnished to the Department by individuals, establishments, and enterprises, and for other purposes, be star printed.

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

COMMUNICATIONS

The PRESIDING OFFICER laid before the Senate the following communications, together with reports, documents, and papers, which were referred as indicated:

EC–3791. A communication from the Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a cumulative report on rescissions and deferrals, June 1978; to the Committee on the Budget, the Committee on Appropriations, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Armed Services, the Committee on Banking, Housing, and Urban Affairs, the Committee on Commerce, Science, and Transportation, the Committee on Energy and Natural Resources, the Committee on Environment and Public Works, the Committee on Finance, the Committee on Foreign Relations, the Committee on Governmental Affairs, the Committee on Human Resources, and the Committee on the Judiciary, jointly, pursuant to order of January 30, 1975.

EC–3792. A communication from the Secretary of Agriculture, transmitting a draft of proposed legislation to amend the Plant Quarantine Act of August 20, 1912, as amended, to eliminate certain unnecessary regulatory requirements; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3793. A communication from the President of the United States, transmitting proposed amendments to the request for appropriations for the fiscal year 1979 in the amount of $717,860,000 for water resource projects; to the Committee on Appropriations.

EC–3794. A communication from the Secretary of the Navy, transmitting a draft of proposed legislation to repeal section 5153 (c) of title 10, United States Code; to the Committee on Armed Services.

EC–3795. A communication from the Chairman, Federal Home Loan Bank Board, transmitting, pursuant to law, a report on conversions by insured savings and loan associations from the mutual to the stock form of organization; to the Committee on Banking, Housing, and Urban Affairs.

EC–3796. A communication from the Secretary of Transportation, transmitting a draft of proposed legislation to amend the Interstate Commerce Act to continue to allow railroad rate flexibility; to the Committee on Commerce, Science, and Transportation.

EC–3797. A communication from the Administrator, Energy Information Administration, Department of Energy, transmitting, pursuant to law, a report on sales of refined petroleum products, February 1978; to the Committee on Energy and Natural Resources.

EC–3798. A communication from the Secretary of the Interior, transmitting, pursuant

to law, a report with respect to employee responsibilities and conduct; to the Committee on Energy and Natural Resources.

EC-3799. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a prospectus which proposes a succeeding lease for space presently occupied at Center Building II, 3700 East West Highway, Hyattsville, Md.; to the Committee on Environment and Public Works.

EC-3800. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a prospectus for alteration at One Bowling Green, U.S. Customhouse, New York, N.Y., in the amount of $24,720,000; to the Committee on Environment and Public Works.

EC-3801. A communication from the Secretary of Commerce, transmitting a draft of proposed legislation to exempt the Bureau of the Census from the provisions of section 322 of the act of June 30, 1932; to the Committee on Environment and Public Works.

EC-3802. A communication from the Acting Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, international agreements, other than treaties, entered into by the United States; to the Committee on Foreign Relations.

EC-3803. A communication from the Director, National Science Foundation, transmitting, pursuant to law, a planned addition to the NSF system of reviews; to the Committee on Governmental Affairs.

EC-3804. A communication from the Deputy Under Secretary of State, transmitting, pursuant to law, a report of the Department's proposal to alter a record system; to the Committee on Governmental Affairs.

EC-3805. A communication from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, orders in cases of aliens who have been found admissible to the United States; to the Committee on the Judiciary.

EC-3806. A communication from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, 567 reports covering the period of May 17 through May 31, 1978, concerning visa petitions which the Service has approved according the beneficiaries of such petitions third- and sixth-preference classification; to the Committee on the Judiciary.

PETITIONS

The Presiding Officer laid before the Senate the following petitions and memorials, which were referred as indicated.

POM-691. A joint resolution adopted by the legislature of the State of California; to the Committee on Energy and Natural Resources:

"ASSEMBLY JOINT RESOLUTION No. 65

"Whereas, The Santa Monica Mountains of California and areas adjacent to them are distinct and valuable natural resources of this nation; and

"Whereas, Due to their close proximity to a large urban area, many people could use and enjoy the natural, scenic, historic, and archaeological values of the Santa Monica Mountains and the adjacent seashore area; and

"Whereas, The Santa Monica Mountains offer the last undeveloped open-space area in the greater Los Angeles region; and

"Whereas, The mountains provide essential air shed enhancement and protection for the greater Los Angeles area; and

"Whereas, This area, in addition to possessing great natural and historical values, can also be compatibly utilized as a recreation area serving both the central urban area of Los Angeles and the Southern California region, as well as the many, many nonresidents who visit that region each year; and

"Whereas, Urban sprawl is rapidly destroying this resource, particularly for those areas closest to downtown Los Angeles, and delay in adopting protective legislation may permit additional critical losses in the resource; and

"Whereas, Legislation has been introduced which would provide for the establishment of the Santa Monica mountains National Park and the Santa Monica Mountains Urban Park in such areas of the State of California; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress to consult with the California Legislature, the California Department of Parks and Recreation, the local governments of Los Angeles County and Ventura County, the law enforcement and fire prevention agencies of Los Angeles County and Ventura County, the Santa Monica Mountains Comprehensive Planning Commission, the residents of Los Angeles County and Ventura County, the property owners in the Santa Monica Mountains, and all other interested parties in drafting and enacting legislation compatible with the interests of the state and such residents to acquire the Santa Monica Mountains and adjacent areas for a national park or an urban park, or both; and be it further

"Resolved, That the Congress appropriate funds to assist the State of California to acquire property in the Santa Monica Mountains and adjacent areas for the development of an urban park; and be it further

"Resolved, That fair and equitable provisions for the transfer and sale of real property be included in the legislation, as well as provisions for a transition zone around the national park or urban park, or both, if necessary; and be it further

"Resolved, That the Legislature of the State of California urges the Congress and the President to establish a national park or an urban park, or both, as soon as possible; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-692. A joint resolution adopted by the Legislature of the State of California; to the Committee on Finance:

"Assembly Joint Resolution No. 17.

"Whereas, The cost of living as reflected by the Wholesale Price Index has significantly increased each year; and

"Whereas, The federal income tax brackets have not been adjusted accordingly; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to index the federal income tax brackets, the personal exemptions, and the standard deduction to the growth in the cost of living; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

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

Special Report on Allocation of Budget Totals from First Concurrent Resolution, Fiscal Year 1979 (Rept. No. 95-930).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. ROTH:

S. 3194. A bill to prohibit the issuance of regulations on the taxation of fringe benefits; to the Committee on Finance.

By Mr. ROTH (for himself, Mr. BIDEN, and Mr. SCOTT):

S. 3195. A bill to provide for the establishment of a national cemetery on the Delmarva Peninsula; to the Committee on Veterans' Affairs.

By Mr. SCHWEIKER:

S. 3196. A bill to amend title XI of the Social Security Act to provide that a Professional Standards Review Organization shall not be considered to be an agency of the Federal Government; to the Committee on Finance.

By Mr. BUMPERS (for himself and Mr. HODGES):

S. 3197. A bill for the relief of Hot Spring County, Ark.; to the Committee on the Judiciary.

By Mrs. HUMPHREY (for herself, Mr. ABOUREZK, Mr. ANDERSON, Mr. EASTLAND, Mr. HODGES, Mr. MCGOVERN, and Mr. MELCHER):

S. 3198. A bill to increase the maximum amount of aggregate payments which may be made in calendar years after 1977 to carry out conservation agreements under the Water Bank Act, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DOMENICI:

S. 3199. A bill to provide for a program of benefits for persons afflicted with lung cancer as a result of employment as a uranium miner; to the Committee on Human Resources.

S. 3200. A bill entitled the Congressional Budget Limitation Act of 1978; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, provided that, if one committee orders the bill reported, the other committee has 30 calendar days of continuous session in which to order the filing of a report.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ROTH:

S. 3194. A bill to prohibit the issuance of regulations on the taxation of fringe benefits; to the Committee on Finance.

EMPLOYEE FRINGE BENEFITS AND THE IRS

● Mr. ROTH. Mr. President, I am today introducing legislation to prohibit the Internal Revenue Service from issuing final regulations on the taxation of fringe benefits before December 31, 1979.

This legislation is needed to prevent the Internal Revenue Service from issuing regulations, which are now being drafted, to tax dozens of employee fringe benefits.

Last year, Treasury officials gave me their firm commitment that no regulations dealing with the taxation of fringe benefits would be issued prior to July 1, 1978.

The Treasury commitment was given to me to head off Senate Finance Committee action on legislation I sponsored with my distinguished colleague from

Utah (Mr. HATCH), who has been a leading opponent of the IRS attempt to tax employee fringe benefits.

However, the Internal Revenue Service is now drafting regulations to tax as many as 40 employee fringe benefits and legislation is needed to stop the IRS.

The Constitution of the United States requires that all revenue raising measures must originate in Congress. Therefore, I am deeply concerned that the IRS is on the verge of issuing regulations that could cost taxpayers billions of dollars in new taxes.

The impact of an IRS move to tax fringe benefits would not be limited to high-salaried corporate executives. Virtually every worker in this country receives some form of fringe benefit, and the IRS regulations could result in higher taxes for the average middle-income workers of this country.

The fringe benefits the IRS are considering include taxing employee parking spaces, airline and railroad passes, employee discounts for company products, employer-provided child care, annual health checkups, and tuition discounts for children of college employees. The IRS is even considering imposing a tax on employees for receiving "free" on-the-job training, attending a "free" company picnic, and receiving Christmas gifts from employers.

Mr. President, the taxation of fringe benefits is in reality an increase in the tax rates on working Americans. If the IRS Commissioner wants to increase the tax burden on working Americans, I believe he should submit his proposals to Congress for our consideration.

Furthermore, if the IRS Commissioner believes the average worker should pay higher taxes on their fringe benefits, he should submit proposals to tax the Government perks enjoyed by Cabinet officials and Federal bureaucrats. These perks include free parking for Government employees, subsidized meals in Government cafeterias, and chauffered cars for Government officials.

Mr. President, government at all levels is already taking too much away from the taxpayers of this country, and taxpayers have reached the breaking point. This IRS backdoor grab at more of the working people's hard-earned dollars must be stopped, and I intend to push for quick enactment of this legislation to prevent the IRS from taxing employee fringe benefits.●

By Mr. ROTH (for himself, Mr. BIDEN, and Mr. SCOTT):

S. 3195. A bill to provide for the establishment of a national cemetery on the Delmarva Peninsula; to the Committee on Veterans' Affairs.

DELMARVA NATIONAL CEMETERY

● Mr. ROTH. Mr. President, I am pleased to be introducing legislation to provide for the establishment of a national cemetery on the Delmarva Peninsula. My distinguished colleague from Delaware, Senator BIDEN, and the distinguished Senator from Virginia, Senator SCOTT, join me in this endeavor.

I am aware there are over 79,000 veterans in Delaware and thousands more on the Eastern Shore of Maryland and Virginia. Mr. President, these veterans have served the United States with honor when duty called. They deserve to be buried in a national cemetery, close to where their loved ones and friends live. The families and friends who survive these patriotic veterans should not have to travel long distances to the grave sites. Yet there is no national cemetery in the State of Delaware, and the ones in the adjoining States of Maryland, Pennsylvania, or New Jersey are closed. The closest one is Arlington National Cemetery in Virginia. However, Arlington is already overcrowded and most veterans cannot be buried there. This is all the more reason a centrally located cemetery should be established on the Delmarva Peninsula.

Mr. President, the people of Delaware through the General Assembly have made their feelings known concerning the establishment of a national cemetery in close proximity to their homes.

Pursuant to Delaware General Assembly resolutions, Gov. Sherman W. Tribbitt of Delaware on March 7, 1975, appointed a group of prominent leaders of Delaware's veterans service organizations—including the Disabled American Veterans, the American Legion, the Veterans of Foreign Wars, the Paralyzed Veterans of America, and the Jewish War Veterans—to study the feasibility of a State veterans cemetery.

A fitting answer to the lack of a national cemetery in Delaware and to the lack of burial space in the cemeteries in Virginia, Maryland, Pennsylvania, and New Jersey is to establish a national cemetery on the Delmarva Peninsula. This would make it possible for veterans from all five States to be buried close to their homes.

I feel it is most fitting to recognize the outstanding service of veterans of Delaware, Virginia, and Maryland by introducing this bill establishing a national cemetery on the Delmarva Peninsula.

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

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

S. 3195

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Administrator of Veterans' Affairs is authorized and directed to (1) establish a national cemetery on the Delmarva Peninsula, (2) acquire by donation, purchase, condemnation, or otherwise, such lands in the State of Delaware, Maryland, or Virginia, as may be required for the establishment of such cemetery. In determining the location of such cemetery, the Administrator of Veterans' Affairs shall take into consideration such factors as the Administrator determines will best serve the needs of veterans and their families in the States of Delaware, Maryland, and Virginia and adjacent States.

SEC. 2. The national cemetery established under authority of this Act shall become part of the National Cemetery System and shall be administered in accordance with the provisions of chapter 24 of title 38, United States Code.

SEC. 3. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.●

By Mr. SCHWEIKER:

S. 3196. A bill to amend title XI of the Social Security Act to provide that a Professional Standards Review Organization shall not be considered to be an agency of the Federal Government; to the Committee on Finance.

STATUS OF PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS

● Mr. SCHWEIKER. Mr. President, I am today introducing legislation to insure that Professional Standards Review Organizations (PSROs) will not be subject to the full range of information disclosure requirements of the Freedom of Information Act.

My bill is made necessary by a decision of the U.S. District Court for the District of Columbia on April 25, 1978, holding that a PSRO is an "agency" of the Federal Government for purposes of FOIA and is thus subject to its disclosure requirements. Section 1166 of the Social Security Act, enacted prior to FOIA, sets forth principles on the basis of which HEW is to promulgate regulations governing both disclosure and confidentiality of information acquired by PSROs in the exercise of their duties. Since the court decision may have the affect of subordinating the delicately balanced requirements of the PSRO law to the more sweeping provisions of the Freedom of Information Act, I believe it is necessary that Congress affirm its original intent on this important matter.

As my colleagues are aware, PSROs are independent peer review organizations authorized by the Social Security Act Amendments of 1972 to determine whether services reimbursable under medicare, medicaid, and the maternal and child health programs conform to appropriate professional standards, are medically necessary; and, in the case of hospital or other institutional services, are rendered in an appropriate setting. PSROs may also extend their activities to a broader range of health care services. The PSRO program is administered by the Secretary of HEW, who is charged with designating PSRO areas across the country and entering into contractual agreements with qualified organizations to perform PSRO functions. Where the PSRO determines that health care services do not conform to applicable standards, reimbursement under Federal programs may be denied. The law provides for hearings and secretarial review of PSRO determinations, as well as sanctions for cases that voluntary and educational efforts fail to resolve.

Mr. President, one of the primary purposes of the 1972 PSRO legislation was to allow private, professional organizations to review the quality and appropriateness of medical care. The legislative history of the PSRO statute notes that "it is preferable and appropriate that organizations of professionals undertake review of members of the profession, rather than for Government to assume that role." The District of Columbia's District Court's conclusion that PSRO's are agencies of the Federal Government and thus subject to FOIA is clearly inconsistent with Congress' belief in passing the original legislation that private,

nongovernmental agencies should perform quality and utilization review functions. The decision would also effectively supplant the Social Security Act's directive to HEW to develop specific regulations governing the disclosure of information acquired by PSRO's.

It would be hard to exaggerate the detrimental impact on the developing PSRO movement of subjecting these nongovernmental organizations to the broad requirements of FOIA. PRSO's rely on voluntary service by local physicians. Should all data acquired by PSRO's be disseminated without safeguards, recruitment of physicians to perform PSRO functions would become increasingly difficult. Moreover, the intent of peer review, as opposed to Government regulation, is to allow the profession to attempt to regulate itself with some degree of privacy. In addition, subjecting PSRO's to FOIA would result in increased administrative burdens, large additional expenses for the defense of lawsuits, and great uncertainty and delay in the performance of PSRO functions. Indeed, the district court, in issuing its ruling, noted it is potentially detrimental effects:

. . . The court is well aware . . . that the peer review mechanism which Congress wisely established in enacting the PSRO program, will experience a severe setback, if not a fatal blow, should PSRO records become generally available through FOIA. But, the remedy for alleviating these justifiable concerns lies with Congress, not the courts.

Mr. President, I am well aware that the decision of the District of Columbia District Court is being appealed and also that further litigation may determine that PSRO's fall into one or more of the various exceptions to the Freedom of Information Act's requirements. However, I think it important that Congress respond immediately to the court's invitation and clarify its intent on this matter. I have no doubt that the specific regulations under section 1166 of the Social Security Act are a more sensitive approach to the difficult disclosure issues surrounding PSRO's than wholesale application of the Freedom of Information Act, particularly since Congress never intended PSRO's to be Government agencies. I hope that, through passage of this legislation, Congress can affirm its original intent and avoid prolonging the disruption and uncertainty which the court decision has caused in the PSRO community.●

By Mr. BUMPERS (for himself and Mr. HODGES):

S. 3197. A bill for the relief of Hot Spring County, Ark.; to the Committee on the Judiciary.

HOT SPRING COUNTY, ARK.

● Mr. BUMPERS. Mr. President, the bill Senator HODGES and I introduce today is aimed at assisting Hot Spring County, Ark., in its completion of a bicentennial park for the people of that area. As you are aware, during the year of our Nation's Bicentennial anniversary, many public recreation projects were funded virtually overnight by the short-lived American Revolution Bicentennial Administration. The Hot Spring County government made application for these one-time-only funds and was fortunate enough to receive a grant of $767,000 for the construction of a 124-acre park on Lake DeGray. I will not attempt to relate the history of the problems that this project has encountered since that time, but today, over 2 years later, all of the grant funds have been exhausted, and only 75 percent of the park has been completed. In addition, there are $36,686.37 in unpaid bills which were incurred by the county for construction and miscellaneous costs incidental to construction. The county has no funds available for the payment of these debts. My bill would provide immediate relief to Hot Spring County by authorizing Federal funds to pay this debt.

I have taken a personal interest in the plight of this county for several reasons. As in the case of so many projects of this nature, Hot Spring County fell victim to the rapidly rising costs of materials and labor. These increased costs were not covered by the original grant. Secondly, the assistance provided by the American Revolution Bicentennial Administration left much to be desired. In fact, its assistance ceased once the funds were actually awarded to Hot Spring County. I find this problem to be particularly disturbing. When is the Federal Government going to learn that more assistance is needed than the simple dishing out of money? We must understand that the vast majority of our country's small towns and communities lack the expertise and available funds to secure the expertise to assist them in the proper management of such costly and complicated projects. This is not to suggest that more redtape is needed, but we must be willing to work with local officials as they attempt to monitor construction. Unfortunately, the American Revolution Bicentennial Administration failed to maintain a relationship of assistance in this case. Furthermore, as Hot Spring County currently struggles to cope with this dire financial situation, the Bicentennial Administration has long since closed its doors.

I would like to stress a final point concerning the need for the Federal Government to follow up on the substantial investment it has made in this project. In a successful attempt to get this project back on the road to completion, the Hot Spring County judge has secured a commitment from the Army Corps of Engineers to complete the remaining 25 percent of this park. In addition, the corps has also agreed to handle all future maintenance of this park. Only one obstacle remains which the Hot Spring County government has been unable to eliminate. This obstacle is the $36,686.37 in construction debts for which there are no funds available. Our Federal Government has already expended over $700,000 for the construction of this park. When the project was approved, it was envisioned to be a great source of future recreation and pleasure for the people of Arkansas. If completed, I still believe that it will prove to be money well spent. However, this final obstacle must be removed, and passage of the bill I now introduce is the only course of action remaining. I would appreciate favorable consideration of this bill.

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

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

S. 3197

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of the Treasury is authorized and directed to pay, out of sums in the Treasury or otherwise appropriated, the sum of $25,686.80, to Hot Spring County, Arkansas, such sum representing the amount of indebtedness incurred from August 9, 1976 through January 24, 1977 for construction of a bicentennial park on Lake DeGray located in such county, that, due to increased costs of materials and labor, was not covered by the original grant (Grant No. 76-19-8124) from the American Bicentennial Administration for the park's construction.

(b)(1) Hot Spring County, Arkansas, is relieved of all liability for repayment to the United States of indebtedness in the amount of $10,999.57 incurred from August 9, 1976 through January 24, 1977. Such agreement represents—

(A) taxes imposed on the county under Chapter 24 of the Internal Revenue Code of 1954 for wages paid in connection with the construction of a bicentennial park on Lake DeGray in such county for the taxable year of 1977, and

(B) indebtedness relating to interest earned on a grant advance from, and proceeds from the sale of fixed assets owed to, the American Revolution Bicentennial Administration in connection with a grant to such county for the construction of such bicentennial park.

(2) In the audit and settlement of the accounts of any certifying or disbursing officer of the United States, full credit shall be given for the amount for which liability is relieved by this Act.●

By Mrs. HUMPHREY (for herself, Mr. ABOUREZK, Mr. ANDERSON, Mr. EASTLAND, Mr. HODGES, Mr. MCGOVERN, and Mr. MELCHER):

S. 3198. A bill to increase the maximum amount of aggregate payments which may be made in calendar years after 1977 to carry out conservation agreements under the Water Bank Act, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

IMPROVING WETLANDS CONSERVATION

● Mrs. HUMPHREY. Mr. President, today I am introducing a bill which will increase the maximum amount of aggregate payments that can be made to farmers for conserving wetlands under the so-called Water Bank Act (16 U.S.C. 1310). Presently, the Agriculture Department, which administers this act, cannot enter into wetlands conservation agreements with farmers, that would result in payments of more than $10 million in any given year. For reasons that I will outline below, this ceiling on payments—in effect since 1970—is far too low to assure the degree of protection for our interior wetlands that is required today. My bill, which is similar to H.R. 1653 in the House, would help to provide this urgently needed protection by au-

thorizing up to $50 million in payments in a given year. I am pleased that Senators ABOUREZK, ANDERSON, EASTLAND, HODGES, MCGOVERN, and MELCHER have joined in sponsoring this legislation.

Congress passed the Water Bank Act in 1970 in order to help ameliorate an increasingly severe problem—the conversion of our Nation's wetlands to agricultural uses that are incompatible with the critical natural functions wetlands provide. One of the water bank program's primary objectives is to provide essential habitat for migratory waterfowl. However, there are many other benefits derived from this program. As an example, the prairie potholes and marshes of this country provide a great filter system for the tremendous amounts of fertilizer and herbicides used in the agricultural community. They provide for ground water level maintenance and recharge. Of course, one of the primary benefits of these areas is the protection of many animal species, such as furbearers, song birds, pheasants, and deer.

Because wetland resources are "fugitive," however, the great benefits which wetlands provide to society as a whole cannot even partially be recaptured by individual landowners, and, in fact, wetlands may constitute a liability to the individual farmer or landowner. I believe the waterbank program should be an incentive program. It should be economically feasible and attractive to the farmer or landowner to place these acres in the waterbank. It should not be just a pat on the back for doing a good deed. If it is not economically feasible, the landowner will not continue to participate in the program.

The protection, improvement, and management of eligible wetlands and critical adjacent lands are vitally important to maintaining waterfowl populations and other associated values. The waterbank program provides that landowners with eligible wetlands in important migratory waterfowl nesting and breeding areas may enter into 10-year agreements. Landowners receive annual payments for the conservation and protection of wetlands from drainage, filling, flooding, or other land use practices which will destroy the wetland character and value to nesting waterfowl.

I believe that the amendments I have proposed to the Water Bank Act will insure that wetlands which are currently being lost at an alarming rate are not needlessly put to alternative uses due to the insufficient funding of the waterbank program. We need to substantially increase the authorization, and to bring the payment rates more realistically in line with increasing land and crop values, by requiring that the Secretary review and adjust the payment scales of existing 10-year contracts periodically.

Unfortunately, a number of participants have dropped out of the conservation program, primarily because the payment rates have not kept pace with the value of our agricultural land. Many landowners who placed their lands in the water bank program in the early 1970's are breaking contract. Between 1972 and 1977, farmland values more than doubled. Under the existing water bank program, no provision has been made for increasing the payment rate to farmers to reflect increasing agricultural and alternative wetland values during the 10-year contract period. My amendment would correct this deficiency.

According to William Nye, commissioner of the Minnesota Department of Natural Resources, in a letter to Representative LEGGETT, chairman of the Merchant Marine and Fisheries Committee,

> Presently, the Federal water bank program in Minnesota is shackled by low payment rates. The national $5 per acre payment rate for wetlands is close to what it should be in northern Minnesota, but is 800 percent too low in some of the southern counties. If the WBP is to be an incentive program, the total amount of funding must be raised and payment rates must reflect average local cash rental rates.

The second problem arises from the very success that the water bank program has experienced. The program has proven highly popular in Minnesota. About 60,000 acres, held by some 1,100 landowners, are now under water bank program contracts in Minnesota. Every year there are far more landowners who want to participate than available funds will allow.

With more money allocated to the preservation of wetlands, other parts of the water bank program could be implemented—parts like the restoration of wetlands. Presently, this provision of the Water Bank Act has not been adequately funded. There has been only enough money to save existing wetlands. Land that should go back into wetlands hasn't been touched, although it should and could be, if incentives were better.

The temptation to convert wetlands to other uses has always been high. Farmers who cooperate in the water bank conservation program receive payments for their lands at a fixed price, while rental values have been increasing. As a result, the future of our Nation's wetlands and the habitats of our waterfowl are seriously threatened.

We as a Nation have drained or otherwise irrevocably altered 40 percent of all the naturally occurring wetlands that existed when the Nation began. While we still have over 75 million acres of wetlands remaining, conversion continues at a rate of 2 or 3 hundred thousand acres a year. And certain regions of the country have recently experienced intensified wetland conversion activities that could have extremely adverse consequences for wildlife.

For example, the wetlands of prairie pothole regions of the Midwest—consisting of North and South Dakota and Minnesota—constitute a centrally important breeding ground for migratory ducks. This area provides habitat for about 18 percent of all breeding migratory ducks in North America. Most of the other breeding habitat is located in Alaska and Canada. Yet the prairie pothole wetlands have been subject to rapid conversion into farmland. Between 1964 and 1974, the last year for which figures are available, Minnesota alone lost 95,000 acres of high quality wetlands—nearly one fourth of all the high quality wetlands breeding habitat for migratory ducks within the State. North and South Dakota lost 7 and 4 percent, respectively, of their similar wetland duck breeding habitat in the same period.

The water bank program, along with the migratory waterfowl habitat purchase and easement programs administered by the Interior Department's Fish and Wildlife Service, are the Federal Government's primary tools for protecting these high quality breeding areas. Under the water bank program, the Agriculture Department in effect leases important waterfowl habitat from landowners for a 10-year period; in return, the landowners agrees not to drain, fill, farm or otherwise destroy the wetland character of the area during the period of the contract. The Fish and Wildlife Service programs involve either the fee simple purchase of land for National Wildlife Refuges or waterfowl production areas, or the purchase of a restrictive easement to the habitat—an action which permanently prevents conversion of the wetland area, but leaves the title to the land in private ownership.

These programs complement each other. For example, through purchase of easements and title to the land, the Fish and Wildlife Service can assure the permanent protection of key wildlife habitat and wetlands once and for all. But while such permanent protection may be desirable, there are certain disadvantages to this approach. For one thing, many landowners do not wish to sell their land or grant an easement, and the Fish and Wildlife Service is understandably reluctant to exercise its condemnation powers.

Thus, the water bank program provides a convenient middle ground, a compromise that can safeguard the landowner's future options, while at the same time provide temporary protection to the waterfowl habitat. Another advantage of the water bank program is its flexibility: The process of negotiating an easement or purchase of title to land by the Federal Government is frequently protracted, and difficult, while the water bank program may accomplish short-term protection of the wetlands more quickly.

It is precisely for this reason that the $10 million ceiling on annual payments in the Water Bank Act needs to be raised. The initial ceiling was put into effect in 1970. Since that time, the pressures brought to bear on our wetland resources have intensified greatly. First of all, farmers accelerated conversion of wetlands in order to meet burgeoning world demand for U.S. food in the middle-1970's. Then, drought hit many wetland areas hard—an unfortunate situation for waterfowl and farmers alike. Finally, there has been a great increase in the cost of farmland since 1970—farmland prices have more than doubled nationwide since 1972, a fact that makes purchase of wetlands more expensive.

By increasing the ceiling for the water bank program, we will give the Agriculture Department the capability of responding quickly to changing conditions affecting migratory waterfowl habitat. This capability was lacking in the mid-1970's, when pressures upon our wetlands

intensified. We cannot afford to risk our wetland resources further. Therefore, I urge the Congress to act speedily on this legislation.

Mr. President, I ask unanimous consent that the text of my amendment to the Water Bank Act and Commissioner Nye's correspondence endorsing the water bank program and the proposed changes be printed in the RECORD.

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

S. 3198

To increase the maximum amount of aggregate payments which may be made in calendar years after 1977 to carry out conservation agreements under the Water Bank Act, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the third sentence of section 3 of the Water Bank Act (16 U.S.C. 1310) is amended to read as follows: "The Secretary shall reexamine the payment rates at the beginning of the fifth year of any such ten-year initial or renewal period in the light of the then current land and crop values and make needed adjustments in annual rates for any such renewal period, in any calendar year after 1977."

SEC. 2. The last sentence of section 11 of the Water Bank Act is amended to read as follows: "In carrying out the program, the Secretary shall not enter into agreements with owners and operators which would require payments to owners and operators under such agreements in excess of $10,000,000 in any calendar year before 1978 or in excess of $50,000,000 in any calendar year after 1977."

STATE OF MINNESOTA,
DEPARTMENT OF NATURAL RESOURCES,
St. Paul, Minn., May 19, 1978.

Representative ROBERT LEGGETT,
Chairman, Merchant Marine and Fisheries Committee, Longworth House Office Building, Washintgon, D.C.

DEAR REPRESENTATIVE LEGGETT: I strongly support Congressman John Dingell's bill (H.R. 1653) which would increase funding for the Water Bank Program (WBP) from $10 million to $50 million per year.

Presently, the Federal Water Bank Program in Minnesota is shackled by low payment rates. The national $5/acre payment rate for wetlands is close to what it should be in northern Minnesota, but is 800 percent too low in some of the southern counties. Likewise, adjacent acres in Minnesota's most intensively farmed counties are assigned a WBP rate which averages 68 percent lower than the average local cash rental rates (Blue Earth County—WBP cropland rate, $45/acre; average local cash rental rate, $90/acre).

Low WBP payment rates are a problem recognized by the Minnesota ASCS Committee. However, they recommended the same low 1977 WPB rates for 1978 because they feared bringing the rates up would run them out of funds too fast. As a result, low rates have stalled the program by discouraging sign ups. Who is going to sign up a wetland worth $2.000/acre at a rate of $5/acre, or, $2,500 cropland at $45/acre when he could drain the wetland and receive $90/acre cash rent for the whole acreage? Expected inflation over a ten year period makes landowners even more hesitant.

If the WBP is to be an incentive program, the total amount of funding must be raised and payment rates must reflect average local cash rental rates. (See attached sheets on deficiencies in Minnesota WBP rates.) Failure to recognize this fact is the "kiss of death" for wetlands owned by landowners who do not wish to sell their wetlands but have to realize a fair rate of return.

An increase in WBP funding could replace part of the huge $7.5 billion annual appropriation for set aside and price support programs. The suggested $50 million figure would amount to less than 1 percent of the larger appropriation. However, the money would accomplish set aside objectives under the WBP's more desirable long term (10-year) feature while protecting wetlands at the same time.

I recommend that you support Representative Dingell's bill (H.R. 1653) to revive an extremely valuable program. I also suggest that the legislation include language in support of restoration and creation of wetlands. The result (assuming fair payment rates) would be thousands of new wetlands.

I appreciate any consideration you can give to this important matter.

Sincerely,

WILLIAM B. NYE,
Commissioner,
Department of Natural Resources.●

By Mr. DOMENICI:

S. 3199. A bill to provide for a program of benefits for persons afflicted with lung cancer as a result of employment as a uranium miner; to the Committee on Human Resources.

URANIUM MINERS' COMPENSATION ACT OF 1978

● Mr. DOMENICI. Mr. President, I am introducing to you today a bill entitled the "Uranium Miners' Compensation Act of 1978."

The problem of lung cancer among uranium miners was first brought to my attention by the Navajo Nation, many of whose members work in the uranium mines of the Southwest. However, after some study, it became apparent that all uranium miners, regardless of origin, are seriously endangering their lives by entering the mines. Despite marked improvements in mine conditions since 1969, many miners are still exposed to high and unsafe levels of uranium radiation, thereby causing many of them to die from anaplastic carcinoma. Furthermore, significant numbers of uranium miners in the States of New Mexico, Wyoming, Colorado, Texas, Utah, and Washington who began their mining careers prior to the 1969 improvements still face the threat of lung cancer since the latency period for the disease is anywhere from 10 to 15 years. It is important that this problem be addressed at this time since the number of uranium miners will increase dramatically as our Nation turns its attention to the underdeveloped mineral resources contained in uranium mines.

The thrust of the bill is threefold: First, the measure seeks to upgrade existing State workmen's compensation laws by requiring the Secretary of Labor to publish a list of those States with inadequate coverage for uranium miners. Those State plans which do not pay benefits for total disability or death will be declared inadequate and those plans providing case benefits which are not equivalent to the amount of benefits prescribed by the Federal Coal Mine Health and Safety Act of 1969 shall also be deemed inadequate for purposes of this bill. Mine operators in States with inadequate compensation plans will be required to purchase insurance so that they may provide benefits to miners working in their mines.

Second, the measure contains a rebuttable presumption that miners afflicted with lung cancer after 10 or more years in the mines shall be said to have contracted the disease as a result of employment in the mines. This provision should serve to hasten the litigation process for miners and their survivors. After enactment of this bill, claims of miners who have violated mine antismoking regulations may be denied as a result of such violations.

Third, the bill authorizes the Secretary of the Department of Health, Education, and Welfare to make research grants to public and private agencies and organizations and individuals. Grants will be directed to those institutions having particular expertise in the problem of lung cancer in uranium mines. Special consideration will be given to institutions on the basis of location and past research efforts.

Mr. President, I am pleased to introduce this bill to you today, and look forward to its prompt and favorable consideration.●

By Mr. DOMENICI:

S. 3200. A bill entitled the Congressional Budget Limitation Act of 1978; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, provided that, if one committee orders the bill reported, the other committee has 20 calendar days of continuous session in which to order the filing of a report.

CONGRESSIONAL BUDGET LIMITATION ACT OF 1978

● Mr. DOMENICI. Mr. President, today I am introducing legislation which would amend the Congressional Budget and Impoundment Control Act of 1974 to provide a limitation on total budget outlays approved by Congress in any one year.

Under the provisions of my legislation, which is titled, "The Congressional Budget Limitation Act of 1978," total budget outlays in any concurrent resolution passed in accordance with the Congressional Budget Act could not in any calendar year exceed 20 percent of the Nation's gross national product.

My reasons for introducing this legislation are clear cut. Continuing and overpowering Federal budget deficits are bringing the Nation's economy to its knees. The evidence has accumulated for years.

Voters of all persuasions have begun to view their Government as a bloated, inefficient beast, which is causing as many problems as it is solving. At the same time, taxpayers across the entire political spectrum are increasing their specific demands on government for financial intervention in fresh new areas of everyday life.

The traditional political response to these conflicting forces has been to adopt the rhetoric of a political conservative, talking of "hard choices" and "sunset clauses" on Government programs on the one hand, while adding to the Federal deficit with the other hand to accommodate demands of special interest groups.

The elected representative needs help. He needs help for himself, and he needs help with the impossible bind in which the system has placed his constituents.

The most sensible way out of this dilemma is to put a lid on the resources available to the political process. And to meet this challenge, the American Congress needs to be put on a budget that is real; a budget that limits the amount of resources available for it to spend.

Such a limit would allow the elected representative to make good his commitment to reduce Federal spending, while having the advantage of pitting special interest groups against each other in a scramble for scarce taxpayers' dollars.

A law that would limit the Federal budget to 20 percent of gross national product would solve this dilemma, and for the first time allow political action to match political rhetoric.

The rationale for a budget limit of 20 percent of GNP has a cast of supporting arguments. Among these are the following:

First, checking the growth of Government: In the 1930's, Federal Government took 3 percent of GNP. By 1955 this bite had risen to 18 percent. By 1976 it was 22.8 percent. And if the present trends continue, it will be 27 percent by 1985.

Moreover, hidden upward pressures exist in the budgetary process. The military budget underwent a relative decline during the post-Vietnam period. Increases have occurred in the domestic budget. A continuing decline in the military budget remains unlikely in the light of the Soviets' recent track record. Accordingly, any attempt to respond to the perceived Soviet threat by increasing military outlays will increase Government's take of the GNP.

Even though the administration's proposed 1979 budget would reduce total Federal outlays from 23.2 percent of the GNP to 22.6 percent, the level would still remain high by comparison to the 17-percent to 20-percent range of the preceding 25 years; the 1950's, 1960's, and the 1970's up to 1974.

At this point in my remarks, Mr. President, I would like to insert into the RECORD table 7 from the "Budget in Brief" for fiscal year 1979, which illustrates the dramatically increasing percentage of GNP being swallowed up by the Federal sector of our economy.

TABLE 7.—FEDERAL FINANCES AND THE GROSS NATIONAL PRODUCT, 1956-79

[Dollar amounts in billions]

Year	Gross national product	Budget receipts [1]		Outlays [1 2]					
				Unified budget		Off-budget Federal entities		Total	
		Amount	Percent of GNP	Amount	Percent of GNP	Amount	Percent of GNP	Amount	Percent of GNP
1956	411.0	74.5	18.1	70.5	17.1			70.5	17.5
1957	432.7	80.0	18.5	76.7	17.7			76.7	17.2
1958	442.1	79.6	18.0	82.6	18.7			82.6	18.5
1959	473.3	79.2	16.7	92.1	19.5			92.1	19.7
1960	497.3	92.5	18.6	92.2	18.5			92.2	18.5
1961	508.3	94.4	18.6	97.8	19.2			97.8	19.7
1962	546.9	99.7	18.2	106.8	19.5			106.8	19.3
1963	576.3	106.6	18.5	111.3	19.3			111.3	19.2
1964	616.2	112.7	18.3	118.6	19.2			118.6	19.0
1965	657.1	116.8	17.8	118.4	18.0			118.4	18.4
1966	721.1	130.9	18.1	134.7	18.7			134.7	18.7
1967	774.4	149.6	19.3	158.3	20.4			158.3	20.5
1968	829.9	153.7	18.5	178.8	21.5			178.8	21.4
1969	903.7	187.8	20.8	184.5	20.4			184.5	20.5
1970	959.0	193.7	20.2	196.6	20.5			196.6	20.7
1971	1,019.3	188.4	18.5	211.4	20.7			211.4	20.9
1972	1,110.5	208.6	18.8	232.0	20.9			232.0	20.0
1973	1,237.5	232.2	18.8	247.1	20.0	0.1	[3]	247.1	20.9
1974	1,359.2	264.9	19.5	269.6	19.8	1.4	0.1	271.1	19.0
1975	1,454.6	281.0	19.3	326.1	22.4	8.0	.6	334.1	23.9
1976	1,625.4	299.2	18.4	365.6	22.5	7.2	.4	372.9	22.3
1977	1,838.0	356.9	19.4	401.9	21.9	8.7	.5	410.6	22.5
1978 estimate	2,043.2	400.4	19.6	462.2	22.6	11.5	.5	473.7	23.2
1979 estimate	2,274.6	439.6	19.3	500.2	22.0	12.5	.6	512.7	22.5

[1] The amounts of earned income credit in excess of tax liabilities are shown as negative budget receipts rather than as budget outlays. Accordingly, the budget totals have been adjusted retroactively.

[2] The 1975-77 data have been revised retroactively to include the housing for the elderly or handicapped fund in the unified budget instead of with the off-budget Federal entities.

[3] 0.05 percent of less.

Note: Exchange stabilization fund included form 1976.

By contrast, taxes in fiscal year 1979 are estimated to represent 19.3 percent of GNP. Thus even if expenditures could be reduced to 21 percent of GNP, our effective tax rates would have to rise by nearly 10 percent from 1979 levels to raise the receipts necessary to balance the budget.

Second, the practicality of the inefficient samaritan: A second reason for limiting Government's take of GNP is the accuracy of public perception that Government has already done much toward eradicating poverty and much of the money spent on these programs is going down a rathole. In short, better management, not more dollars is needed.

One of the great ironies of discussions on welfare reform is that conservatives are arguing against it on the basis that the current patchwork of Government programs has almost eliminated poverty. The Congressional Budget Office has offered evidence in support of this. Irving Kristol has calculated that if domestic programs were turned into cash programs, a family of four below the poverty line could receive close to $20,000 a year.

Limiting the amount of Federal dollars—which, because they are free, generate infinite demand for themselves—would pit programs against each other and would begin a sorting-out process based more firmly on principles of merit.

Robert Samuelson wrote in the National Journal of April 8, 1978, that even a few liberal economists now suspect that the size of the deficits reflect nothing more than an urge to spend without taxing.

Otto Eckstein, a member of President Johnson's Council of Economic Advisers, says the weakness of modern economic policy has always been that it removes the discipline of the balanced budget. Much wasteful spending, Eckstein says, can be clothed in the virtue of deficit-created stimulus packages.

Third, the workings of interventionist economics: The theoretical support for deficits is that during economic downturns, Government must prime the pump to get the economy going. The flip side of the theory, however, requires that surpluses be accumulated during economic good times, and is honored more in the breach than in observance. Our overheated economy of the Vietnam period failed to call forth a vitally needed tax cut.

The present recovery is well into its third year, yet still the Federal deficit remains at record levels. If theory is to have credibility, it must be applied systematically, not merely when it suits political whim.

The textbook pattern of Federal deficits has sunk like a rock in deep water. Three years after economic recovery began in 1975, the total of unified budget and off-budget deficits as a percentage of GNP has increased from 22.4 percent in 1977 to an estimated 23.2 percent in 1978 and an optimistic estimate of 22.6 percent in fiscal year 1979.

Mr. President, the administration set ambitious 1981 goals—a balanced budget, an unemployment rate approaching 4.5 percent, and an inflation rate nearing 4 percent.

I doubt, frankly, that anyone in the administration feels today that those goals are within grasp.

As the Jarvis-Gann tax proposal in California proved, there seems to be general and forceful agreement across the

country that the only way to obtain permanent decreases in taxes is to control spending.

And it seems the only way to stop our spendthrift Government is to limit its income.

I think Jarvis-Gann proved that taxpayers are convinced of the validity of this new concept; the concept of trying to make taxing bodies responsible for their actions by limiting their bottomless tax barrel; by forcing them to set priorities in the same manner any other enterprise or institution must do.

The consequence of not rigorously applying interventionist economic theory is inflation. Failure of Government to exercise restraint comparable to that being urged upon the private sector is for the poltiical sector to default its leadership role. The inflation rate of the 1950's was 1.4 percent. Today's 10 percent-plus annual inflation rate needs strong leadership to correct; a leadership that requires self-denial on the part of Congress.

Fourth, the effect on taxes and the capital market. Big government means high taxes, and high taxes have several identifiable drawbacks.

First, a decline in morale for productive sectors of the economy. This loss of morale is exacerbated by inflation which pushes people and business into higher tax brackets, with a commensurate decline in living standards.

Second, a loss of vigor in the private sector. Higher taxes reduce investment opportunities because rate of return must be higher to make investment profitable. This is exacerbated by inflation, which increases uncertainty on the return of any project.

Virtual unanimity exists that the American economy needs more investment.

Speaking before the annual conference of the Financial Analysts Federation at Bal Harbour, Fla., on May 8, 1978, Treasury Secretary Blumenthal said that in his judgment, our economy "shows dangerous signs of underinvestment and misinvestment." He said we are not laying an adequate foundation for our future prosperity.

One of the reasons, of course, is that American households in this age of double-digit inflation are presently saving only 6 percent of their disposable income.

This compares to a savings rate of 10 percent in Canada, 14 percent in Great Britain, 15 percent in Germany, 17 percent in France, and fully 25 percent in Japan.

Simply put, we are not setting aside enough of today's income for tomorrow's growth.

The antisavings, proconsumption bias of our present tax structure is beyond the scope of my comments today. At this point, it is sufficient to note that capital for job-creating investment is both scarce and very expensive.

When Continental Illinois National Bank, seventh largest in the country, announced May 25 that it was increasing its prime interest rate to 8½ percent, its chairman forecast a prime rate of 8¾ to 9 percent by the end of 1978. If we consider money as simply another commodity—like bread, autos, or houses—then it is clear the price of borrowing to expand the Nation's productive base is skyrocketing at an unhealthy rate.

This may be one of the reasons the ratio of debt to equity for manufacturing companies has risen from about 25 percent in the early 1960's to 40 percent at the end of last year, thus making business more vulnerable to the ups and downs of the business cycle.

Another measure of underinvestment comes from the Commerce Department, which tells us that we should be investing 12 percent of our GNP in the private sector if we want to have anything like full employment in the 1980's. Yet for the last 3 years, our nonresidential private investment has not exceeded 9½ percent of the GNP, and most years it has been lower.

The administration itself says that to achieve recovery, real fixed investment in productive facilities must rise at a rate of about 10 percent annually. But for the 1970's, the annual rate of increase in real investment has been less than 2 percent.

During the 1960's, productive capital per worker grew at about 3 percent per year. Yet during the last 5 years, productive capital per worker has been virtually stagnant.

As a result, the Treasury Department estimates that productivity—that is, output per worker—has fallen off by about 25 percent since the decade of the 1960's. And as productivity declines relative to money supply, inflation rates increase.

Mr. President, Federal Government policies which result in ever higher budgets—and ever higher deficits—collide head on with the fact that only those surplus funds, which we call savings, can be used to finance both the Federal Government deficit, and whatever private investments the Nation needs to make.

Even the costs of servicing the interest payments on the Federal Government's deficit have become a major item in the taxpayers' budget. Interest on the Federal Government's debt—a debt now approaching $700 billion—was estimated at $50 billion back in January of 1978, when the White House first sent up its budget for fiscal year 1979. That is an increase of $5.7 billion in 1978, and an increase of $5.2 billion in 1979 resulting from back-to-back deficits of over $60 billion.

Nor are we guaranteed that interest payments will remain at $50 billion. As I mentioned earlier, the cost of money is going up, the prime rate is increasing, and the costs to government of going to the money market will rise as surely as the sun will set.

On May 12, 1978, the Wall Street Journal quoted Federal Reserve Chairman William Miller as calling for a balanced budget by fiscal year 1982. He reiterated his call for a smaller deficit in fiscal 1979, which starts October 1, than the $53 billion red ink showing estimated for the current fiscal year. In a period of economic expansion, he said, we should see the deficit coming down.

We do not.

Without a vigorous private sector, funding for social programs stagnates. A cap on the income of Federal Government offers some assurance to the private sector that increased efforts on its part will not be skimmed off by higher taxes.

Taken together, these involve a substantial erosion of the American dream.

Taxpayers making good salaries are having difficulties making ends meet.

American business is discouraged.

A firm limit on the growth of government would be a psychological shot in the arm to the entire Nation.

This proposal is a sensible approach to putting a lid on spending, to reduce the Federal deficit, and to curb an inflation rate that is well on its way to bankrupting an entire nation.

Even Federal Reserve Board Chairman G. William Miller told the National Press Club during the first week in June that one of his "eight points of new direction" is a reduction in Federal expenditures over 5 years to 20 percent from 22 percent of the Nation's total output of goods and services.

And, as specified in my resolution, a two-thirds vote of the Congress could override the limitation should pump-priming be needed in periods of severe recession.

This is a sensible approach to putting a lid on spending, to reduce the Federal deficit, and to curb an inflation rate that is well on its way to bankrupting an entire nation.

Years ago, we here in America decided that economic and social progress comes from everyone pulling together. We reasoned that everyone pulls hardest when his or her own self-interest is directly involved.

The validity of that reasoning has been proven by the performance of the United States in one of the greatest societal miracles of all time; maximizing first, the Nation's overall progress and second, the upward mobility of every one of our citizens within this open democracy.

That miracle is simply too profound to be beaten into the mud for short-term goals.

A congressional budget resolution ceiling of no more than 20 percent of gross national product is a clear, uncomplicated step toward Government getting its own house in order. Sooner or later, we are going to have to take a stand on the deficit, and all the evils it has created.

This measure is a logical place to begin.●

ADDITIONAL COSPONSORS

S. 1066

At the request of Mr. DOMENICI, the Senator from Iowa (Mr. CLARK) was added as a cosponsor of S. 1066, a bill to create an Office for Hispanic Affairs.

S. 1860

At the request of Mr. ROTH, the Senator from Nebraska (Mr. CURTIS), the Senator from New Mexico (Mr. SCHMITT), and the Senator from Oregon (Mr. PACKWOOD) were added as cosponsors of S. 1860, the Tax Relief Act.

S. 1967

At the request of Mr. ROBERT C. BYRD, the Senator from Florida (Mr. CHILES)

was added as a cosponsor of S. 1967, amending section 218 of the Social Security Act to require that States having agreements entered into thereunder will continue to make social security payments and reports on a calendar-quarter basis.

S. 2433

At the request of Mr. GRIFFIN, the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 2433, a bill to amend the Internal Revenue Code to increase certain limitations on the deduction of expenditures by farmers for clearing land.

S. 2738

At the request of Mr. DOLE, the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 2738, a bill to amend the Internal Revenue Code to provide for indexation of certain provisions.

S. 2850

At the request of Mr. EAGLETON, the Senator from Arizona (Mr. DECONCINI) was added as a cosponsor to S. 2850, to amend the Older Americans Act to provide for improved programs for the elderly, and for other purposes.

S. 2910

At the request of Mr. KENNEDY, the Senator from Michigan (Mr. RIEGLE) was added as a cosponsor of S. 2910, a bill to provide for adolescent health, services, and pregnancy prevention and care.

S. 2920

At the request of Mr. HOLLINGS, the Senator from Minnesota (Mr. ANDERSON), the Senator from New Hampshire (Mr. DURKIN), and the Senator from West Virginia (Mr. RANDOLPH) were added as cosponsors of S. 2920, to amend the Trade Act of 1974.

S. 3007

At the request of Mr. DOLE, the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 3007, a bill to disregard certain changes since 1975 of the Tax Code with treatment of individuals as employers.

S. 3062

At the request of Mr. EAGLETON, the Senator from Missouri (Mr. DANFORTH) was added as a cosponsor of S. 3062, a bill for the relief of Mr. Isaac N. Hulver of Kansas City, Mo.

S. 3147

At the request of Mr. DOLE, the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 3147, a bill to prohibit issuance of regulations on taxation of fringe benefits.

S. 3188

At the request of Mr. HELMS, the Senator from Missouri (Mr. DANFORTH), and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of S. 3188, the Maternal, Infant, and Crippled Children's Health Reform Act of 1978.

S.J. RES. 67

At the request of Mr. ABOUREZK, the Senator from Colorado (Mr. HASKELL) was added as a cosponsor of Senate Joint Resolution 67, the voter initiative amendment.

AMENDMENT NO. 2449

At the request of Mr. KENNEDY, the Senator from Colorado (Mr. HART) was added as a cosponsor of amendment No. 2449, intended to be proposed to S. 2850, the National Home-Delivered Meals Act of 1978.

SENATE RESOLUTION 481—SUBMISSION OF A RESOLUTION MAKING LEIF ERICSON AN HONORARY U.S. CITIZEN

Mrs. HUMPHREY (for herself and Mr. ANDERSON) submitted the following resolution, which was referred to the Committee on the Judiciary:

S. RES. 481

Whereas Leif Ericson of Iceland played a significant part in the discovery and exploration of North America; and

Whereas Leif Ericson, a brave Norse navigator, was the first known explorer to sail and land along the coast of North America, around 1000 A.D.; and

Whereas Congress, by a Joint Resolution has proclaimed October 9 as Leif Ericson Day; and

Whereas Leif Ericson's accomplishments are a tribute to Scandinavian-Americans—loyal Americans who have carried on the tradition of exploration first started by their courageous Norse ancestor; and

Whereas Leif Ericson is a symbol of something all Americans can be proud of—man's unending quest for progress and exploration of the unknown that surrounds him: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Leif Ericson shall hereafter be known as a citizen of the United States of America.

LEIF ERICSON HONORARY U.S. CITIZEN

● Mrs. HUMPHREY. Mr. President, today I take great pride in submitting a Senate resolution commemorating the efforts and accomplishments of Leif Ericson, Scandinavian explorer, discoverer, and statesman. Even with existing evidence that substantiates Leif Ericson's discovery of North America, this Scandinavian explorer has often been overlooked as one of the original discoverers of our continent.

Leif Ericson was born around 970 A.D. in Iceland. The son of Eric the Red, a great explorer and warrior, Leif carried on the exploring spirit that was the tradition of his Scandinavian forefathers. According to the most documented version of his discovery of America, the "Greenland Version," Leif heard of a new land mass sighted by a contemporary of his, Bjarni Herjolfsson. On a voyage from which he had just returned, Bjarni's craft had been blown off course by heavy seas, and had sailed very near an unknown land mass.

Leif quickly planned an expedition, and using the rough navigational coordinates supplied by Bjarni, set off for this new land. He and his party became the first to set foot upon North America. They explored many areas along the coast, naming each for the product that could be supplied from that region. He then settled for about 1 year in a region lush with grapes, appropriately named Vinland.

Modern discoveries support the contention that Leif was indeed the first to discover and explore North America. In 1963, Dr. Helge Ingstad discovered evidence of a Norse settlement in Newfoundland. Radioactive carbon tests substantiate that the unearthened remains of these artifacts date back to around 1000 A.D., about the time that Lief was believed to have settled in this region. In 1965, Yale University and British Museum scholars pieced together a map dating back to around 1440, nearly 50 years before Columbus' historic journey to America. This map clearly shows the Western Hemisphere in the upper left-hand corner of the parchment.

By the 15th century, Norse and Scandinavian folklore telling of Leif's discovery and of such new lands had reached the European continent. A strong case can be made that Columbus' original difficulty in securing an expedition to these new lands, was based more on Royalty's reluctance to open such distant trade markets, rather than based upon Royalty's refusal to believe that lands did exist in the Western Hemisphere.

The designation of Leif Ericson as a United States citizen signifies much more than a tribute to a favorits son. Rather, it is a fitting tribute to the variety of Scandinavian qualities that are personified in Leif Ericson and were preserved and passed on by Scandinavian immigrants in this country—such qualities as the willingness to explore, the courage to persevere, and love of discovery.

Organizations like the Leif Ericson Society, the "Sons of Norway" and "Svenskarnas Dag" have done much in keeping the name of such a great man alive and remembered. Previously, Congress set aside, by joint resolution, October 9th as a special day commemorating Leif Ericson for his exploration of America, some 500 years before Christopher Columbus.

On behalf of these organizations and all Scandinavian Americans, I offer this resolution making Leif Ericson an honorary citizen of the United States, in honor of the contributions he and Americans of Scandinavian heritage have made to our Nation, and as a symbol of man's unending ouest for progress and his desire to explore the unknown phenomena that surround him.●

SENATE RESOLUTION 483—A RESOLUTION TO DISAPPROVE WAIVER OF THE COUNTERVAILING DUTY ON CERTAIN ITEMS OF GOVERNMENT SUBSIDIZED FISH IMPORTED FROM CANADA

Mr. HATHAWAY (for himself, Mr. MUSKIE, Mr. MCINTYRE, Mr. BROOKE, Mr. DURKIN, Mr. KENNEDY, and Mr. PELL) submitted the following resolution, which was referred to the Committee on Finance:

S. RES. 483

Resolved, that the Senate does not approve the determination of the Secretary of the Treasury under Section 303(d) of the Tariff Act of 1930, transmitted to the Congress on June 13, 1978.

● Mr. HATHAWAY. Mr. President, I am submitting a resolution to disapprove the

decision to waive the imposition of countervailing duties on Canadian fish. A petition for such duties was filed last year by the National Federation of Fishermen and the Point Judith, R.I., Fishermen's Cooperative.

I am offering this resolution in part to raise the issue with my colleagues of the need for close scrutiny of our national policies in regard to fisheries. The Canadians have agreed to phase out their direct landing subsidies and processing subsidies to the ground fishery. Much of this subsidy will be wiped out retroactively, with the remainder due to end October 1. This, according to Treasury, will leave only a small subsidy which will become countervailable in January unless Canada ends that as well.

I am glad that Canada has agreed to this step. I would hope that this cooperative attitude might also prevail in ongoing United States/Canada boundary negotiations, and in a resolution of the recent fisheries jurisdictional conflict.

Despite these considerations, I cannot simply acquiesce to the Treasury Department's grant of this waiver. This situation points up the conflicting national policies which we are now pursuing which threaten the economic death of the New England fishing industry.

First, while Canada is phasing out these more blatant subsidies to its fishermen, there is no doubt that indirect Canadian subsidies will continue, from insurance programs to possible price supports. Canada, in short, has been far better to its fishing industry than the United States has to its own. As a result, we had a $2.1 billion trade deficit in the fisheries in 1977. And all indications are that deficit may well grow rather than diminish.

In terms of subsidizing its industry, there is little doubt that the past years of assistance which Canada has given its fisheries will be felt for years to come. The assistance given the industry in the past decade, both directly and indirectly, has the overall effect of lowering the operating costs of the fishermen, and of enabling them to capture U.S. markets.

At present between 80 and 90 percent of the Canadian catch is exported and the Canadian groundfish exports alone are worth $200 million annually. These fish come into our New England markets at times when our own fishermen may be tied up at port, unable to fish at all as a result of our national policy of "conservation" of the fisheries. In the past Maine fishermen have even been placed in the absurd position of throwing dead cod and haddock overboard because they could not land them, yet they could not prevent them from coming up in their nets. The choice presented was to return to shore and find another way to make a living for 2 weeks or a month, or throw the dead fish back, all in the name of fisheries conservation.

As a result of situations such as this, the Department of Commerce has at last begun to take into account the growing complaints of Maine and New England fishermen. For the record, I would note that they were against the granting of this waiver.

While the direct economic impact of this waiver may not be great, its symbolic impact for our domestic fishermen is, I think, of great importance. We tell our fishermen they cannot fish because we need to conserve the species; we then tell them we will not impose a duty on the Canadian fish which come into our country even though that industry has been Government subsidized for many years. Then we tell them as a matter of trade policy we would prefer not to grant subsidies to our own domestic fishing industry. This is the underlying irony of the situation. As a matter of policy we stand for free trade, for an end to foreign and domestic governmental subsidies to industry. In the long run, I would agree that this is the ideal. But in the short run we have an industry in this country running up against a conflicting national policy—to "conserve" and manage the resource from which that industry obtains its lifeblood.

We must rationalize these policies. It is the fishermen who are the victims of this conflict in national policies. I hope that we can open a dialog on how to conserve, not only our natural fishery resource, but also our fishermen. As Chairman of the United States-Canada Interparliamentary Conference, I intend to put fisheries at the top of the agenda for next year's conference.

At this time, I ask unanimous consent that correspondence from the Department of Commerce and to the Treasury Department be printed in the RECORD.

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

U.S. SENATE,
Washington, D.C., June 1, 1978.

Hon. MICHAEL BLUMENTHAL,
Secretary of the Treasury,
Washington, D.C.

DEAR MR. SECRETARY: It is our understanding that the Treasury Department is scheduled to make a final determination regarding Canadian subsidies on fish products by June 10, 1978. An affirmative preliminary determination was made last January, and we believe the facts warrant a similar final decision. Your Department must then decide whether or not to grant a waiver of the countervailing duty on fish imports from Canada.

As you may know, the Canadian government has made substantial direct payments to both fishermen and processors on fish exported to the United States. In April, 1977, your Department determined that these payments were bounties or grants (TD 77-107). This decision, however, was limited to only a few of the tariff items covered by the Canadian assistance program. Therefore, a new countervailing duty petition covering a number of other tariff items was filed shortly after the Department's 1977 determination. Your Department has taken the full year permitted by statute to make a determination on the additional tariff items covered by this new petition.

Since April of last year, the Canadian government has been well aware that its Groundfish Temporary Assistance Program and vessel construction assistance programs subjected Canadian fish exports to the United States to countervailing duties. No attempt, however, was made to repeal these subsidy programs. In the interim, we have permitted heavily-subsidized Canadian fish to be sold in U.S. markets.

This situation has created severe economic hardship for New England fishermen. The Department of Labor recently documented the impact of these subsidized imports when it certified employees of several U.S. vessels for Trade Adjustment Assistance.

We recognize that the Multilateral Trade Negotiations (MTN) have entered a sensitive stage in Geneva, and understand that the progress of these discussions will be taken into consideration by your Department when making a final determination on countervailing duties. It is our firm belief, however, that the immediate economic pressures on U.S. fishermen must be given priority consideration. We therefore strongly oppose any waiver of countervailing duties on Canadian fish.

Sincerely,

EDMUND S. MUSKIE, EDWARD M. KENNEDY, WILLIAM D. HATHAWAY, EDWARD W. BROOKE, CLAIBORNE PELL, JOHN H. CHAFEE, THOMAS J. MCINTYRE, and JOHN A. DURKIN.

U.S. DEPARTMENT OF COMMERCE,
Rockville, Md., June 5, 1978.

MR. RICHARD SELF,
Director, Office of Tariff Affairs, Office of the Secretary, U.S. Treasury Department, Washington, D.C.

DEAR MR. SELF: The Treasury Department is currently studying the advisability of imposing countervailing duties on imports of certain fish products from Canada pursuant to the petitions of the Point Judith Fisheries Cooperative and the Fisheries Marketing Association of Seattle, Washington. The purpose of this letter is to indicate the Department of Commerce's strong support for the imposition of countervailing duties on such products.

U.S. trade law clearly requires the imposition of countervailing duties on imported fishery products when the evidence indicates that artificially low prices for imports are made possible by foreign government subsidies. The evidence is overwhelming that the Canadian fish imports in question are so subsidized. The Canadian government has instituted an extensive network of programs that assist the Canadian fishing industry in catching, processing, and freezing fish, and in transporting it to the United States, at prices that are more than low enough to compete effectively in the U.S. market.

Under special circumstances, these countervailing duties may be waived. However, we believe strongly that a waiver cannot be justified for these fishery products, for the following reasons:

(1) Canada has not indicated that it will terminate all of its subsidy programs for the fishery products in question.

(2) Canada has apparently indicated a willingness to terminate some of its subsidies. Our experience in connection with Canadian commitments to reduce subsidies in 1977 casts significant doubt on Canada's willingness or ability to comply with such commitments. This suggests that a far better course of action would be to delay any waivers until commitments made by the Canadian government for the removal of subsidies have in fact been carried out.

(3) The adverse impacts of allowing subsidized products to be imported into U.S. markets will persist long after the subsidies are terminated. Subsidized vessels constructed prior to termination of subsidies will continue to compete with non-subsidized U.S. vessels long after such termination. Markets such as the mid-western market captured by Canadian industry through anticompetitive subsidies cannot easily be recaptured by U.S. industry at a later date.

(4) The purposes of the Fishery Conserva-

tion and Management Act of 1976 are significantly undermined by such subsidies. The Act was aimed at both conserving U.S. fishery resources and developing a strong U.S. fishing fleet. In order to protect fishery resources, the U.S. fleet is required to adhere to rigorous quotas to restrict the amount of fish that can be caught. Without heavy competing supplies of low-priced Canadian imports, the price for fish harvested by the U.S. fishing industry would tend to rise during the period that U.S. fishermen are forced to restrict their catches. Such a price rise would assist the harvesting sector of the U.S. groundfish industry to survive the period of quotas needed to restore our groundfish stocks. And because the price of raw material is only a part of the price of fish products, the impact of countervailing duties on U.S. consumers will be minimal.

The question of whether special circumstances exist that justify a countervailing duties waiver must be considered in light of the significant United States balance of trade problem. The United States balance of trade deficit in fishery products was $2.1 billion in 1977. The waiver of duties on these Canadian imports will further exacerbate this problem.

Even when and if Canada meets the requirements for a waiver of these duties, we believe that a waiver should be withdrawn should it become evident that a subsidy code cannot be achieved in the Multilateral Trade Negotiations.

We would be pleased to provide you with any additional information you may need in connection with this matter.

Sincerely yours,

RICHARD A. FRANK.●

● Mr. MUSKIE. Mr. President, I join my colleague Senator HATHAWAY in offering a resolution to disapprove the Treasury Secretary's decision to waive countervailing duties on imports of fish from Canada.

Mr. Blumenthal's decision was disappointing to our fishermen and has no sound basis in fact.

The countervailing duty system was designed to guarantee the right of Americans to compete on an equal basis with other nations in the American marketplace. The Canadians provide subsidies to their fishermen. As a result, Canadians can catch fish in American waters, and undersell our own fishermen in our own markets. The countervailing duty system was put in place to stop these kinds of practices.

The harm to our fishermen has been documented. The Canadian Government has been on notice for more than a year that action might be taken to protect our own industry.

Yet at the 11th hour, the Canadian Government petitioned for relief from countervailing duties in America. Apparently the importance of Canadian support for other American trade interests prompted the Treasury Secretary to grant their request.

And the interests of our domestic industry were once again brushed aside.

American fishermen are faced not only with financial hardship as a result of competition from Canada. In many cases they are denied markets outright; in other cases they are prevented from developing market strategies to avoid the boom-bust cycle of fish prices; in still other cases unfair Canadian competition blocks Americans from developing onshore processing facilities to take advantage of available markets.

The Trade Act was designed to correct just such problems. And the Trade Act was designed to allow Congress to be the final arbiter in extreme cases through resolutions like the one we introduced today. The case of Canadian fish imports is just such an extreme and obvious case of unfairness. I urge the Congress to act quickly to impose countervailing duties and give the beleaguered American industry the support it merits.●

AMENDMENTS SUBMITTED FOR PRINTING

LABOR LAW REFORM ACT OF 1978—H.R. 8410

AMENDMENTS NOS. 2465 THROUGH 2619

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

Mr. HATCH submitted 155 amendments intended to be proposed by him to Amendment No. 2445 proposed to H.R. 8410, the Labor Law Reform Act of 1978.

AMENDMENTS NOS. 2620 THROUGH 2724

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

Mr. LUGAR submitted 105 amendments intended to be proposed by him to Amendment No. 2445 proposed to H.R. 8410, the Labor Law Reform Act of 1978.

AMENDMENTS NOS. 2725 THROUGH 2727

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

Mr. LUGAR submitted three amendments intended to be proposed by him to H.R. 8410, the Labor Law Reform Act of 1978.

AMENDMENTS NOS. 2728 THROUGH 2734

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

Mr. HOLLINGS submitted seven amendments intended to be proposed by him to Amendment No. 2445 proposed to H.R. 8410, the Labor Law Reform Act of 1978.

● Mr. HOLLINGS. Mr. President, on May 25 I submitted several amendments to the labor law reform bill, H.R. 8410. At that time, I indicated that they would go a long way toward correcting the imbalance this measure, if passed in its present form, would create. In order to preserve the opportunity to have my amendments considered, Mr. President, I am today resubmitting them as amendments to Amendment No. 2445 offered by Mr. BYRD of West Virginia for himself and others.●

AMENDMENTS NOS. 2735 THROUGH 2755

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

Mr. THURMOND submitted 21 amendments intended to be proposed by him to Amendment No. 2445 proposed to H.R. 8410, the Labor Law Reform Act of 1978.

AMENDMENTS NOS. 2756 THROUGH 2776

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

Mr. TOWER submitted 21 amendments intended to be proposed by him to Amendment No. 2445 proposed to H.R. 8410, the Labor Law Reform Act of 1978.

AMENDMENTS NOS. 2777 AND 2778

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

Mr. LONG submitted two amendments intended to be proposed by him to H.R. 8410, the Labor Law Reform Act of 1978.

AMENDMENT NO. 2779

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

Mr. STEVENS submitted an amendment intended to be proposed by him to H.R. 8410, the Labor Law Reform Act of 1978.

AMENDMENT NO. 2780

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

Mr. STEVENS submitted an amendment intended to be proposed by him to Amendment No. 2445 proposed to H.R. 8410, the Labor Law Reform Act of 1978.

AMENDMENTS NOS. 2781 THROUGH 2790

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

Mr. MORGAN submitted 10 amendments intended to be proposed by him to Amendment No. 2445 proposed to H.R. 8410, the Labor Law Reform Act of 1978.

AMENDMENT NO. 2791

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

Mr. GRIFFIN submitted an amendment intended to be proposed by him to H.R. 8410, the Labor Law Reform Act of 1978.

DAM SAFETY ACT—S. 2820

AMENDMENT NO. 2792

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

Mr. DOMENICI submitted an amendment intended to be proposed by him to S. 2820, the Dam Safety Act.

● Mr. DOMENICI. Mr. President, when the Dam Safety Act, S. 2820, comes up before the full Senate for consideration later this week, I plan to offer an amendment that will correct and clarify legislation passed earlier in this session, which extended the deadline for completion of several drought relief projects administered by the Bureau of Reclamation for Indian tribes around the country.

When H.R. 10532, Public Law 95-226, passed the Senate in late January, it provided an extension of the deadline for tribes to complete their projects under the program. The deadline for completion was January 31, 1978, and H.R. 10532 passed just before that deadline. Consequently, I must say that I do not believe all of the needs of the tribes were thoroughly explored during consideration of the bill. The legislation did not address a very crucial problem still present; that is the dilemma of several of the tribes who did not have sufficient funds to complete projects already underway. This shortcoming is clearly the fault of Congress, and as such, requires congressional correction.

Therefore, Mr. President, I would like to offer this amendment, which authorizes to be appropriated funds for the projects which were specifically given an extension of deadline and lack adequate funding for completion.

Although I confess that this amendment does not have anything to do with the issue of dam safety, I see this bill as the only vehicle now available to correct the present problem of the inability of several tribes to complete projects that

have already been started and are nearing completion.

I am not offering an amendment that will incur great expense. From information I have received from the BIA, it appears that about $1.5 million additional funds are necessary to complete the on-going projects. These projects are located in four States—New Mexico, California, Nevada, and Arizona.

The $1.5 million is a small amount, particularly when weighing the fact that just recently something in excess of $45 million of funds appropriated for the drought relief program was returned to the Congress by the Bureau, $45 million of unobligated funds.

Mr. President, I urge my colleagues to support this amendment, and I ask unanimous consent that my amendment be printed at this point in the RECORD.

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

AMENDMENT NO. 2792

On page 4, line 6, insert the following new section:

"SEC. 7. Public Law 95-226 is amended by adding at the conclusion of the first section the following sentence: 'There is authorized to be appropriated such funds as necessary to complete those projects the Secretary authorizes to continue under construction beyond January 31, 1978.'" ●

INTERNATIONAL DEVELOPMENT ASSISTANCE ACT OF 1978—S. 3074

AMENDMENT NO. 2793

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

Mr. SCHWEIKER submitted an amendment intended to be proposed by him to the bill (S. 3074) to amend the Foreign Assistance Act of 1961 to authorize development assistance programs for fiscal year 1979, and for other purposes.

ADDITIONAL STATEMENTS

RALLY AGAINST CAMBODIAN HOLOCAUST

● Mr. DOLE. Mr. President, yesterday about 200 concerned Americans and Cambodians rallied at the Capitol to protest the mass violations of human rights being committed by the Communist government of so-called democratic Kampuchea. Statements of protest were offered by myself, fellow Congressmen, the Deputy Assistant for Human Rights at the White House and by leaders of the Cambodian refugee community in this country.

This rally was intended to bring to the attention of the public the "holocaust" going on in Cambodia right now, which has already claimed more than 1 million lives, through disease, starvation, and execution. A few concerned people have raised their voices, but the cry is barely heard—a cry not nearly as loud as that over American military action in Cambodia 8 years ago. The time for affirmative action is now. Action which would denounce and—to the extent possible—relieve this tragic oppression. To this end, I have already proposed Senate Resolution 323, which I understand will serve as the focus of hearings by the Senate Foreign Relations Committee this summer.

First, an attempt should be made to exert whatever economic sanctions are possible against the Cambodian regime. Last year I proposed legislation to insure that no American contributions to international financial institutions could be used to prop up the Communist regime. Though approved by the Senate, it was watered down in conference committee. I intend to propose this amendment again this year when the International Monetary Organization reaches this floor.

Second, the administration must make more effective use of its contacts with the People's Republic of China, the only country which has close relations with Cambodia, to pressure the Communist government to cease these crimes.

Finally, we can help those Cambodians who were among the fortunate few to escape the ravages of their country, by allowing more to enter this country. Fifteen thousand reside in the refugee camps in Thailand near the Cambodian border, where they are in constant danger and live under severe conditions. I urge special action to ease immigration laws to permit these people to begin a new life in the free world. Education and action are the necessary answers to the problem of overcoming this monstrous situation. These should be initiated by the Senate and by the United States as the leading democratic power of the world, and as a defender of human rights.●

JOSEPH M. MONTOYA

● Mrs. HUMPHREY. Mr. President, the recent death of former Senator Joseph Montoya leaves a void in the ranks of those in public service.

Joseph Montoya lived for 62 years. In that short span of life, he served four decades in public office, in capacities ranging from State representative to U.S. Senator.

Although I was not a Member of the Senate during the late Senator's 20-year career in the Congress, my husband, Hubert spoke highly of Senator Montoya both as a colleague and a friend. Throughout his entire career, Senator Montoya served the people of his State and of this Nation with skill, dedication, and an eager desire to do what he believed was right.

Proud of his Hispanic heritage and his historic roots in the American Southwest, the Senator served as a spokesman for Hispanic Americans and for the American Indians residing in his State of New Mexico.

Serving in Congress during a period of tremendous growth in his State, he was able to accomplish much through dedication and legislative initiatives for New Mexico. He never allowed political considerations to overshadow his concern for his fellow New Mexicans and his desire for real improvement in their lives.

Hubert once said:

In life, it isn't what you've lost, it's what you've got left that counts.

Although New Mexico has lost an important and significant elder statesman, Senator Montoya has made significant and lasting contributions to New Mexico and the Nation through years of public service. He will be missed.●

HITTING THE NAIL ON THE HEAD

● Mr. CURTIS. Mr. President, every so often a constituent letter hits the nail so precisely on the head that nothing further needs to be said by way of introduction or amplification. Such a letter is the one which follows. The writer, who is in a position to know, makes the case in three sentences against the President's hospital cost containment program. I insert this letter in the RECORD:

MAY 16, 1978.

Sen. CARL T. CURTIS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CURTIS: I find it interesting that the H.E.W. Inspector General's recent findings indicate that the Department misspent between 6.3 and 7.4 billion dollars last year through "waste, mismanagement, and fraud". This is the same agency that proposes to control hospital costs. You must admit that it does make one wonder.

Sincerely,

——— ———●

SENATOR JIM ALLEN

● Mr. HATHAWAY. Mr. President, the death of Senator Allen leaves the Senate a diminished place.

While Jim Allen and I did not always agree on issues and on votes—and in fact, we probably disagreed more often then not—he was always faithful to principle and to conscience, which are among the highest qualities to be found in the Senate.

And they are necessary to the working of this body. It is not generally appreciated, outside of Washington, how the procedures of the Senate can serve as a political safety valve by which decisions of a majority are not simply made by sheer force of numbers. Rather, they are made by a majority only after the needs and wants of the minority have been reckoned with.

Over the long course, this system maintains the essential unity of the Republic by guaranteeing that decisions are made not only because they are right, but because they are also acceptable. The two go hand in hand, rightness and acceptability constituting, along with need, the major factors in healthy political tension.

So while Jim and I did not always agree on the issues, I admire and respect the contribution he made to the workings of the Senate and the Nation.

He was a man of integrity, a man of his word. Alabama and the country will miss him, and I join my colleagues in extending my sympathy to his family at this time.●

CLEANING UP ANGEL DUST

● Mrs. HUMPHREY. Mr. President, some time ago Senator BENTSEN introduced S. 2778, the PCP Criminal Laws and Procedures Act of 1978. I have been pleased to join in sponsoring this legislation with 21 other Senators.

PCP, or phencyclidine hydrochloride, is considered the most serious street

drug to appear since heroin and LSD. It is a powerful manmade drug and it is highly unpredictable causing extreme swings in mood. A sharp rise in its usage has occurred over recent years according to the National Institute of Drug Abuse.

The severe problems involved with this drug are:

First, PCP is readily available. It can be purchased for a very nominal sum. It has been estimated that 7,000,000 individuals from ages 12 to 25 have tried PCP. The average age of the person admitted to hospitals suffering from PCP effects is 15.

Second, it can be manufactured by anyone with limited laboratory skills in the back of a van or a kitchen.

Third, the ingredients for making PCP can be obtained at any chemical supply house. The main component is called piperidine.

Fourth, the reactions from the use of PCP are completely unpredictable. The drug produces the symptoms of paranoid schizophrenia, with hallucinatory voices urging self-destructive impulses. It is not known what lasting biological or psychological effects result from its use.

Fifth, doctors are caught without a strategy of diagnosing and treating the effects of this drug.

Finally, reactions may occur up to a week after a single dose. The mental effects may continue for as long as a month.

Senator BENTSEN's bill has taken the direct approach of requiring that the piperidine purchaser be reported to the Drug Enforcement Administration. A fine and jail sentence are levied against those who defy this section of the law.

I urge that the Senate take action on this legislation at the earliest possible convenience, so that PCP, angel dust, or by whatever other colorful name it may be known, may be driven from the marketplace of the school playground and gymnasium.●

PROGRESS IN SOLAR ENERGY

● Mr. GRAVEL. Mr. President, it seems so simple. Harness the Sun to provide a continuing source of renewable energy. Focus our attention within the Federal Government on providing the incentives to the development of solar which will assure that solar energy will be competitive as quickly as possible. Stimulate the production of collectors and solar cells. Use the 50,000 existing dams as an energy source. Encourage the development of energy from agriculture in the form of "energy crops." Benefit from the experiences at Tvind, Denmark, in producing an inexpensive, efficient wind turbine.

Solar energy is no longer an "Alice in Wonderland" concoction, if in fact it ever was. There is proof positive that it is now affordable in many useful circumstances. There has been a significant decrease in the costs of application of solar for heating and cooling, as well as for generation. There have been significant breakthroughs in the storage of solar energy.

More needs to be done by the Federal Government to assure that this reliable source of energy is tapped to its fullest. As Denis Hayes points out so ably in two articles that appeared in Sunday's Post, we policymakers must first realize what is possible, and then place the Government in the position of promoting to the fullest the "small scale, decentralized options best suited to solar equipment." I submit these articles for the RECORD and I urge my colleagues who have not already done so to read Mr. Hayes' articles in hopes that we will all update our information on the progress of solar energy. Then, let us all act on it.

The articles follow:

SECONDHAND SOLAR ENERGY—WIND, WATER, AND PLANTS TRANSMIT SUN'S POWER

Solar energy drives the earth's wind currents and water cycle and is stored in vegetation. Progress is being made in harnessing each of these indirect sources of solar energy.

WIND POWER

The air that envelops the earth functions as a vast storage battery for solar energy. Winds are generated by the uneven heating of our spinning planet's land and water, plains and mountains, equatorial regions and poles.

The windmill played an important role in American history, especially in the Great Plains where it was used to pump water. More than 6 million windmills were built in the United States over the last century, and about 150,000 still spin productively. Prior to the large-scale federal commitment to rural electrification in the 1930s and 1940s, windmills supplied much of rural America with its only source of electricity.

Judging from the experience of the federal wind energy effort, one might be misled into thinking that harnessing the wind is an outrageously expensive proposition. A 100-kilowatt wind turbine at Plumbrook, Ohio, cost $4 million—$40,000 per kilowatt of capacity. A 2,000-kilowatt turbine being built by General Electric in Boone, N.C., on a cost-plus contract is currently expected to cost $16 million—or $8,000 per kilowatt. But these early efforts were highly instrumented, and their construction was riddled with errors. "We're getting smarter as we get older, I hope," says Lou Divone, head of the federal wind research effort.

Some parts of the private sector are already fairly smart. A privately funded, 200-kilowatt wind turbine on Cuttyhunk Island off the Massachusetts coast was built for just $280,000—or $1,400 per kilowatt of capacity. It produced 400,000 kilowatt hours of electricity last year at an average cost of 5.3 cents per kilowatt hour. A Northwest firms sells 275-kilowatt and 600-kilowatt wind turbines for $400 to $480 per kilowatt (uninstalled). And Tvind, a college community in Denmark, has designed and built a massive 2,000-kilowatt wind turbine for $650,000—just $330 per kilowatt including installation. (Local laborers worked for living expenses rather than salaries, while specialized outside laborers were paid regular rates.) This is roughly 2 per cent of the cost per kilowatt of the 2,000-kilowatt GE wind turbine in North Carolina. At the Tvind price, wind-generated electricity is cheaper than just the cost of fuel for an oil-fired power plant.

FALLING WATER

In the United States, hydroelectric development has for four decades focused upon huge projects. We now have 12 dams with capacities of a million kilowatts or more. Small facilities of the sort employed extensively by Japan, Switzerland, Sweden and China have remained largely undeveloped in America. Of the nearly 50,000 existing dams over 25 feet in this country (built mostly for recreational, agricultural and flood control purposes), only 800 are licensed to produce power. An Army Corps of Engineers report last year estimated that 54 million kilowatts—more power than we now get from nuclear power—could be harnessed simply by installing turbines at dams that already exist. This may be the cheapest undeveloped source of electricity in America today.

PLANT POWER

All fossil fuels were once green plants. Existing technology can harvest "energy crops" directly, without waiting hundreds of millions of years for nature to convert them into oil, gas and coal. Dry cellulose contains about 60 per cent as much energy as coal—and the hydrocarbons produced by some plants actually contain more.

In addition to being burned directly, biomass can be transformed into useful fuels in many ways. Some of these were developed by the Germans to cope with the petroleum shortages of World War II. Today, several of these technologies are being pursued much more vigorously abroad than in the United States.

Last December, President Carter examined a biogas plant in India. Observing that this simple, cheap technology converted sewage, animal dung and agricultural wastes into methane, the President joked that it might not be too late to include such devices in the energy bill now deadlocked in Congress. It's no joke. In the last three years, China has built 4.3 million biogas plants. The United States, by comparison, has fewer than 100.

Biomass can also be converted into alcohol. Brazil recently embarked upon a $400 million program to produce ethanol from such "energy crops" as sugar cane and cassava—a starchy South American staple. The Brazilians hope to substitute home-grown ethanol for all imported gasoline before the year 2000. Brazil is thus the only country in the world that is consciously building a transportation system for the post-petroleum era.

In the United States, alcohol produced from agricultural wastes is now comparable in price to gasoline, and gasahol (gasoline mixed with alcohol) is now being sold commercially in several Midwestern states.

Biological energy sources are of many kinds, and their prices vary accordingly. The wastes of the forest products industries are their cheapest potential energy sources. Many other industrial processes also have large waste streams that could be tapped. An Ohio factory that makes truck axles has installed a pyrolitic incinerator to burn paper and other organic wastes. Enough energy is recaptured to meet the total heating and cooling needs of the 290,000-square-foot facility.

Converted to such liquid or gaseous forms, organic fuels can be readily substituted for those fossil fuels—oil and natural gas—that are in shortest supply. The potential biomass harvest in this country could yield more energy than is now derived from imported oil.—Denis Hayes.

WE CAN USE SOLAR ENERGY NOW—THE TECHNOLOGY IS HERE; WHAT IS NEEDED IS GOVERNMENT SUPPORT

(By Denis Hayes)

We all live in solar homes. We think we heat our houses with oil, natural gas or electricity, but 95 percent of their warmth comes from sunbeams. In a sunless world, our dwellings would be 400 degrees Fahrenheit below zero when we turned on our furnaces. The houses of solar pioneers simply squeeze a few more degrees from the sun than do the convential homes of their neighbors.

Twenty years ago, virtually all Americans

hung up their weekly wash on "solar clothes driers." Today, few do. If I hang my wash on a line and you put yours into an electric drier, the solar energy I use will be ignored by statisticians while the electricity you use will be tabulated in next year's almanacs.

We ignore the sun for the same reasons that fish ignore water. It is abundant, free and dependable.

The solar influx is so large that it defies easy comprehension by students of conventional energy sources. Every day, the world receives 10,000 times more energy from the sun than humankind derives from all conventional fuels combined. But the official 825-page United Nations Survey of World Energy Supplies does not even mention the sun.

We know how to harness this solar influx directly as sunlight and indirectly through wind, green plants and running streams. Every essential technological ingredient for a commercial solar energy system has existed for more than a decade, although most of these devices have not yet benefited from mass production. The issue today is whether we will make the necessary policy decisions to develop these resources, or whether vested interests will coerce our continued reliance on sources that are dangerous, vulnerable to disruption and ultimately unsustainable.

Unlike fossil and fissile fuels, sunlight is a flow and not a stock. Once a gallon of oil is burned, it is gone forever; but the sun will cast its rays earthward billions of years from now, whether sunshine is harnessed for human needs or not. Technical improvements in the use of sunlight could lower prices permanently; similar improvements in the extraction of finite fuels could hasten their exhaustion.

SOLAR HEATING AND COOLING

Heating water with sunlight is simple. The collector is, in essence, a box with a black bottom and a glass top. Glass is transparent to sunlight but not to the radiation of longer wavelengths given off by the hot collector itself. Hence, heat is trapped inside. When water is pumped through the hot collector, its temperature rises. The hot water is then piped to a very well insulated storage tank where it is kept until needed.

Other countries are outpacing the United States in this field. About 30,000 American homes heat their water with sunlight. In tiny Israel, 200,000 homes have solar water heaters, and in Japan the figure is over 2 million. In remote northern Australia, where fuels are expensive, the law requires solar water heaters on all new buildings.

There is some controversy over how rapidly we will catch up. The original goal of the Carter administration's energy plan was 2.5 million solar heaters by 1985. In subsequent congressional testimony, Energy Secretary James Schlesinger trimmed this target to 1.3 million.

Wilson Clark, energy adviser to Gov. Jerry Brown of California, finds the federal figures amusing. "We will, beyond a doubt, have more solar collectors installed in California by 1985 than those guys are forecasting for the whole country," says Clark. The Solar Energy Industries Association, which represents most major solar manufacturers, considers 11 million installations a reasonable 1985 goal.

Sunshine can also be used to heat buildings. "Passive" systems store energy right where sunlight strikes the building's walls and floor. Such systems are designed to shield the structure from unwanted summer heat while capturing and retaining the sun's warmth during the colder months. Passive solar architecture is, beyond doubt, the most efficient and cost-effective way to heat and cool new buildings. Modest investments will often provide 80 to 100 percent of a building's space conditioning requirements. But passive features cannot easily be added to existing structures.

"Active" solar heating systems are more expensive, but they can be bolted onto the roofs or southern walls of existing buildings as a substitute for—or supplement to—conventional furnaces. In active systems, fans or pumps move solar-heated air or liquid from collectors to storage areas, from which heat is withdrawn as needed. Solar self-sufficiency will usually dictate a combination of active and passive features in all but the southern rim of the United States.

Buildings can be cooled as well as heated by sunlight. Again, passive solar design is the most important first step, but active solar air conditioners are also now being marketed. Absorption solar air conditioners, which operate on the same principle as gas refrigerators, reach peak cooling capacity when the sun burns brightest, which is when they are most needed. They therefore could reduce peak demands on many electrical power grids. As solar air conditioners penetrate the housing market, the overall economics of active solar heating systems will improve, because solar collectors will begin providing a year-round benefit.

Solar technologies have industrial applications as well. A study of the Australian food processing industry, for example, found that heat comprised 90 percent of the industry's energy needs. Almost all this heat was at under 150 degrees Centigrade and 80 percent was below the boiling point of water. Such low-temperature heat can be easily produced and stored using simple solar devices. In the United States, solar heating is now being applied to a soup-canning plant in California, a fabric-drying facility in Alabama and a concrete block factory in Pennsylvania. Solar-powered laundries and car washes are now operating in California, and a St. Louis brewery has turned to solar pasteurization.

SOLAR CELLS

The most exciting solar electric prospect is the photovoltaic cell—now the principal power source of space satellites and the main element in photographic light meters. Such cells generate electricity directly when sunlight falls on them. They have no moving parts, consume no fuel, produce no pollution, operate at environmental temperatures, have long lifetimes, require little maintenance and can be fashioned from silicon, the second most abundant element in the earth's crust.

Photovoltaic cells are modular by nature, and little is to be gained by grouping large masses of cells at a single collection site. On the contrary, the technology is most sensibly applied in a decentralized fashion—perhaps incorporated in the roofs of buildings—to minimize transmission and storage problems. With decentralized use, solar cells can be combined with compatible technologies to use waste heat for space heating and cooling, water heating, and refrigeration. Last summer a photovoltaic array in Mead, Neb., irrigated 80 acres of corn at a thousand gallons per minute.

The manufacture of photovoltaic cells is currently a low-volume business—only 750 kilowatts of photovoltaic capacity were produced in 1977—and the products are consequently rather expensive. But a recent U.N. report concluded that solar cells would become cheaper than nuclear power if they received a total investment of $1 billion—less than the cost of just one large nuclear power plant.

STORING SUNLIGHT

Solar energy is too diffuse, intermittent and seasonally variable to harness directly to serve some human needs. Interruptions plague all energy systems, however. Electrical power lines snap, gas and oil pipelines crack, dams run low during droughts and nuclear power plants frequently need repairs, refueling and maintenance.

Sometimes the intermittent nature of an energy source causes no problems. For example, solar electric facilities with no storage capacity can be used to meet peak demands, since virtually all areas have their highest electrical demands during daylight hours.

Low-temperature heat can be temporarily stored in such substances as water or gravel; in fact, substantial short-term heat storage capacity can be economically designed into the structural mass of new buildings. The larger the storage container, the less surface area (through which heat can leak) it has per unit of volume. Large storage tanks serving clusters of houses can be designed to have such low leakage rates that seasonal storage becomes economically possible. Princeton physicist Theodore Taylor advocates solar "ponds" serving as many as 100 houses—collecting heat in July for use in February, and producing ice in February for air conditioning in July.

Eutectic salts, which melt at about 90 degrees Fahrenheit, provide a much more compact storage medium than water. These cheap, plentiful salts can hold prodigious amounts of heat. In the past, salt caked on the interior walls of the storage container, interfering with efficient heat transfer. General Electric has overcome this problem by rotating the storage cylinder at 3 revolutions per minute.

Electricity can be stored directly in batteries. Existing batteries are expensive, but new types may soon enter the market. For example, the "iron redox" batteries that will store 2,200 kilowatt hours of photovoltaic-generated electricity for an Arkansas community college are expected to cost less than one-fifth as much as standard lead-acid batteries when mass produced.

But nuclear reactors and large coal plants also require energy storage. These facilities cannot be geared up and down to follow the peaks and valleys of electrical demand; they produce power at a steady rate, and surplus power from non-peak hours must be stored for the periods of heaviest demand. Because more energy is used during the day than at night, the overall storage requirements for a society based on renewable energy sources may prove no greater than those of an all-nuclear society.

SOLAR COSTS

Conventional wisdom holds that while solar energy has many attractive characteristics, it is too expensive today to see widespread application. As is so often the case with conventional wisdom, yesterday's truth has become today's misapprehension.

Five years ago, solar energy could not compete economically with low-priced fuels. Most solar homes used materials that were handcrafted in small workshops. But since 1973, the cost of solar equipment has dropped steadily while the costs of all competing energy sources have skyrocketed. Today, with factory production, a typical solar collector costs about $25 a square foot; by 1981, mass production could bring average costs under $10. Solar technologies already can provide energy for many purposes at no higher cost than conventional energy sources.

Take, for example, solar heating. Throughout the lower 48 United States, solar house heating now makes economic sense at the margin. That is to say, if the energy is to come from a new solar unit or a new nuclear power plant, the solar investment will be cheapest. The homeowner, of course, will not be buying electricity just from the expensive new power plant; the utility will average the expensive new energy in with cheap energy from existing sources, so that the true cost of new power is hidden from the individual consumer (and borne, through rising utility bills, by all consumers). But for society as a whole, the new energy could be most cheaply harnessed with solar equipment.

Even where the homeowner must compare the marginal costs of new solar equipment

with the average cost of competing energy sources, solar investments will generally make sense over the lifetime of the building. The most important first step is to incorporate passive solar design into the building's blueprints. Often this costs little or nothing. For example, it costs no more to place most windows in the southern wall than to place them facing north, but southern windows capture the sun's warmth while northern windows merely leak the building's internal heat. Roof overhangs, masonry floors and working shutters are not expensive. Yet, combined with tight construction and good insulation, they can lower the heating load of the building by 75 per cent and more. In Arkansas, 200 well-designed houses constructed under a grant from HUD cost no more than neighboring houses built using conventional construction standards, but their fuel bills are only one-fourth as high.

More elaborate designs can lead to greater savings. In the relatively mild climate of Atascadero, Calif., Harold Hay's passive solar house was constructed with bags of water incorporated in its roof. These act like "thermal flywheels," capturing energy on winter days and storing it to meet nighttime heating requirements. In the summer, the system collects heat from the interior during the day and radiates it outward at night. The cost of the solar features was about $5,000. The solar system has provided 100 per cent of the home's heating and cooling needs for several years.

In climates where passive solar design will not provide 100 per cent of heating requirements, back-up fuels or active solar systems are needed. In Princeton, N.J., architect Douglas Kelbaugh's passive solar home captures energy through a huge southern window wall during the day and stores it in a concrete interior wall to meet nighttime heating requirements. Like other passive solar homes, the Kelbaugh residence employs no pumps or fans—just careful design. The solar features cost around $9,000, and they provide virtually all of the home's requirements. In the unusually cold winter of 1976–77, the year's heating bill was just $75. Financed with a conventional home mortgage. Kelbaugh's solar energy system would require $1,800 cash at construction with monthly payments of $60—far less than his neighbors' fuel bills.

Many different solar collectors, pumps, fans and storage systems are now on the market. Prices frequently fluctuate severalfold. For example, solar collectors can be built and installed for a materials cost of about $2 per square foot. Prices of professionally installed solar collectors can range from under $10 per square foot to more than $70. The prices of thermal storage containers range from about $10 per cubic meter for hand-built systems to as much as $35 per cubic meter for commercial products. Hand-built solar systems can hold marked advantages over all competing energy sources. At the lower end of the price range, commercial solar systems also make economic sense.

Skeptics often point to the high-cost solar equipment used in some federal solar demonstration projects and claim that the buildings could have been heated with oil for a fraction of the cost. But such buildings incorporate no cheap passive solar features and they generally employ the most expensive solar hardware on the market. Moreover, the price of oil is an average price—not the price of new oil—and even this average price is kept artificially low through oil depletion allowances, intangible drilling cost write-offs, foreign tax credits, unsafe tankers built for accelerated depreciation, polluting refineries in the Caribbean and direct governmental price controls. Even in this loaded contests, solar energy compares fairly well.

THE COST OF SOLAR CELLS

Even photovoltaic cells—the most expensive technology now being used to harness solar energy—are much less expensive than is commonly believed. For example, a panel of distinguished scientists assembled by the Ford Foundation incorrectly reported in 1977 that "current [photovoltaic] collector costs are about $200,000 per kilowatt of peak electrical capacity."

The most charitable thing to be said for this figure is that it is 20 years out of date. Solar cells did cost about $200,000 a peak kilowatt in the late 1950s, but by early 1975, the costs had dropped to $31,000. By September, 1976—eight months before the Ford report was issued—the cost had dropped to $15,500.

Within months of the Ford report's release, the cost of solar cells fell to $11,750 a peak kilowatt. And last December, the Department of Energy awarded a grant for a solar cell array that "tracks" the sun across the sky and concentrates its rays into comparatively small photovoltaic cells. This system, which will be installed at the Arkansas community college, will generate 362 kilowatts at a total installed cost of $6,000 per peak kilowatt.

Making allowances for the average availability of sunshine versus the average capacity factors of large nuclear power plants and considering demand patterns, transmission and storage, solar cells are now probably about 10 times as expensive as nuclear power in the most favorable regions of the United States. Solar cells now cost about one-tenth what they cost 5 years ago, nuclear power now costs about twice as much as it cost 5 years ago.

The United States now has about 48,000 megawatts of nuclear capacity and less than 1 megawatt of terrestrial photovoltaic capacity. With mass production, solar cell costs are expected to continue falling dramatically. A 1977 report by the Federal Energy Administration contends that a $240 million purchase of 150 megawatts of solar cells, staggered over three years, would lead to a cost of just $500 per kilowatt for the 70 megawatts produced the third year.

Both solar-electric and wind-electric devices produce direct current—not the alternating current we are used to. Hence, one occasionally hears the comment that the cost of a solar society should include the cost of replacing all our appliances with devices that run on direct current (as do appliances in many motor homes today). Ignoring the possible merits of converting to direct current, the issue is trifling. Many things—from incandescent light bulbs to stoves—can perform well on direct current. Devices to convert direct current into alternating current are on the market for $180 per kilowatt for home-size units. For large orders, the price can fall to $50 per kilowatt.

WHAT NEXT?

After four years of fumbling, the federal government appears to be on the verge of passing a National Energy Act. This legislative "cornerstone" of the Carter administration is—in essence—an attempt to squeak through 1985 without having to grant Saudi Arabia the mineral rights to Ft. Knox. What it lacks is what America most desperately wants: a vision of where we are going.

The transition to a sustainable, post-petroleum world will require some decades to complete. The National Energy Act—almost totally dependent on the expansion of conventional, centralized energy sources—is not even a step in the right direction. If solar energy is to play an important role in the future, several actions must be taken immediately.

First, there is no substitute for money. While competing energy sources have financially benefited from the diligent efforts of scores of high-paid lobbyists, solar energy has not. Since 1952, when the Paley Commission recommended to President Truman that solar energy be aggressively developed, solar technology has received less than 1 five-hundredth of federal energy funding. Although solar funding increased rapidly after the Arab oil embargo of 1973, it has now remained stalled for two years with less than 4 percent of the federal energy budget.

For solar enthusiasts, the new Carter budget is a great disappointment. Solar, wind and biological energy sources combined will receive less than one-fifth as much as is directly spent on nuclear fission. Renewable energy resources will receive $200 million less than breeder reactors alone. In fact, after adjusting for inflation, the federal solar budget is $40 million lower this year than it was last year.

The current state of solar technology would justify a budget in the $1 billion range. There would be little public opposition to this $5 per capita investment in our most promising energy source. If our current energy crisis requires "the moral equivalent of war," surely the solar, wind and biological answers to that crisis deserve at least the financial equivalent of one small weapons system.

Of course, no one wants to see tax dollars shoveled out stupidly. A good solar program will require clear-eyed managers and sufficient staff to handle the load. The current solar effort is deficient in both respects. Consequently, research has emphasized small numbers of huge projects. It is far easier for an understaffed office to manage a few big projects than many small ones.

In addition to performing research and development, the federal government should actively encourage the commercialization of solar technologies. Such proposals always stick in the craw of people who would prefer to see commercialization handled in the free marketplace. Alas, the free marketplace for energy disappeared long ago, when mineral depletion allowances, investment tax credits, accelerated depreciation schedules, federal assumption of nuclear liability, federal ownership and subsidization of uranium enrichment facilities, federal underwriting of synthetic fuel development, oil and gas price controls, the rural electrification program, and dozens of other financial and regulatory actions were instituted. Without exception, these discriminated against decentralized technologies. Today's need is for policies that will put solar energy on an even footing with its competitors.

HELPING THE BUYER

Because the initial investment is the principal cost for solar technology, prospective consumers must have access to up-front money. Different residential solar tax credits have now passed both houses of Congress; the likeliest compromise will provide a credit of 30 percent on the first $2,500 investment and 20 percent on the next $7,500. Businesses that install solar equipment will receive a 10 percent credit above the existing investment tax credit.

Unfortunately, this will not begin to counterbalance the higher tax credit allowed for investments in nuclear and synthetic fuels facilities in the Senate version of the National Energy Act. Moreover, tax credits are of limited usefulness for millions on fixed incomes who are being ravaged by rising fuel prices. Poor people will require something like a Treasury rebate as a down payment before they will be able to afford solar investments.

A financing authority should be established to give the homeowner and small businessman access to investment capital on terms at least as attractive as those available

to utilities to invest in centralized energy sources. This might take the form of the national Solar Development Bank proposed by Rep. Stephen Neal (D-N.C.), making 30-year loans at very low rates of interest. States could supplement such a federal effort with state institutions funded with revenues from tax-free bonds; several such proposals are now before the California legislature.

Many homeowners are reluctant to purchase solar equipment because such merchandise often carries an inadequate warranty. Warranties are considered important because the initial cost of solar technologies is generally high. Solar investments make economic sense only because they have no fuel costs and low maintenance costs in future years. But if the performance of the equipment is not guaranteed for several years, the economics of solar technologies become more questionable.

However, a warranty system can discriminate against small manufacturers. In a nascent industry, warranties are meaningful only if they are backed by performance bonds. Otherwise, businesses can simply disappear, leaving the consumer holding the bag. But setting aside scarce capital to guarantee the performance of equipment for a decade can pose an unbearable burden on small entrepreneurs.

California Energy Commissioner Ronald Doctor has suggested a solar warranty fund, analogous to the oil spill liability fund. All solar manufacturers meeting certain standards would be allowed to contribute to the fund; if anyone's equipment proved faulty, the fund would guarantee remuneration. The state would be the warrantor of last resort.

The construction of a house or other building involves a 30-to-50-year commitment to energy usage levels. By 1981, it would be reasonable to require at least passive solar design features in all new buildings. At the very least, new buildings should be required to meet vigorous regional weatherization standards, and to be built and oriented in ways that facilitate eventual retrofitting with solar equipment.

A more direct role can be played by the federal government—the largest single purchaser of almost everything in the American economy—through its procurement policies. If, for example, the Defense Department were to make a concerted effort to provide solar heat where possible to its existing residences, a market in excess of 50 million square feet would open up. The total U.S. market for solar collectors in 1977 was about 5 million square feet.

If Defense were to purchase 150 megawatts of photovoltaic capacity for $450 million including storage batteries and power conditioning equipment, it would save $1.5 billion net over the next 25 years in fuel and maintenance costs for displaced gasoline generators. A 1977 FEA report found that such a Pentagon purchase would reduce the cost of commercial photovoltaics to $500 a kilowatt—a price that is competitive for many purposes with conventionally generated electricity.

HELPING THE THIRD WORLD

One of the most dramatic solar effects the federal government could undertake would be in the realm of foreign assistance. Solar energy makes even more sense today in the Third World than it does domestically. Developing countries tend to be richly endowed with sunlight. Their population patterns lend themselves to decentralized energy sources: half the people in Latin America, 70 per cent in South Asia and 85 percent in Africa still live in rural areas. And in remote Third World villages, the current high cost conventional energy, especially electricity, makes virtually all solar options economically competitive today.

Last May, President Carter eloquently proclaimed our national interest in improving the prospects of the world's poor. Energy is vital to economic development. Since Carter is understandably cautious about the proliferation of nuclear power around the world, solar energy poses an obvious answer.

What would it cost to provide a minimum decent supply of energy to each of the world's 1 million rural villages before the end of the century? Quite a bit. If the United States were to shoulder the entire burden, it might amount to one-half of 1 per cent of our gross national product annually.

That would be a very substantial pledge, but it must be placed in perspective. American aid to Europe under the post-World War II Marshall Plan amounted to 2.8 percent of GNP. By comparison, 0.5 per cent for solar assistance is a pittance. Next year, it would amount to over $5 billion—a large figure, but not too intimidating when compared to annual Third World arms receipts of nearly $28 billion.

Much of this foreign assistance would be spent here at home. As American manufacturers begin to mass produce photovoltaic arrays, small wind turbines, etc., the domestic prices of these items should plummet. This would be a boon to U.S. consumers, and it would help American solar companies in the world solar market. As a way to incorporate his concern for poverty, human rights and nuclear proliferation in one package, a "Carter Plan" to bring solar technology to the poor villages of the world may represent the President's most attractive opportunity.

A final area where federal assistance should aggressively harness renewable energy sources is on the farm. U.S. farmers are upset with the low prices their crops are now bringing. U.S. consumers are unwilling to see their food bills rise. One answer would be a major national effort to make America's firms independent of high-priced fuels—thus separating food prices from fuel-induced inflation. Solar, wind and biological sources can be easily tapped to meet the energy demands of American agriculture. A solar equivalent of President Roosevelt's rural electrification program, which provided subsidized loans at 2 per cent interest to extend the nation's electrical lines to the farm, could lead to energy self-sufficiency for the nation's farms by 1990.

THE SOLAR SOCIETY

Energy transitions always bring fundamental social change. In the 18th century, the substitution of coal for wood and for draft animals made possible the Industrial Revolution. The later shift to petroleum made possible the jet plane and the automobile, shrinking the world and reshaping its cities. The coming energy transition, whatever direction we take, will bring similarly far-reaching changes.

Tapping some energy sources demands ever-increasing centralization; solar resources are best used at dispersed locations. Some dangerous sources can be permited widespread growth only under authoritarian regimes; solar energy can lead to nothing more dangerous than a leaky roof. Some energy sources invite profiteering cartels; solar sources would tend to narrow the gap between rich and poor—both within and among countries. Some energy sources will tend to reduce the size of the workforce; solar sources promise large numbers of new jobs. Some energy sources involve technologies that baffle all but a few specialists; solar energy can be harnessed by individual homeowners with simple devices built of local materials.

Of the possible futures we might choose, a solar-powered one appears most inviting. But the transition will not be smooth and painless. Competing energy sources will be vigorously championed by powerful vested interests. Bureaucratic inertia, political timidity, conflicting corporate designs and the simple, understandable reluctance of people to face up to far-reaching change will all discourage a solar transition from occurring spontaneously.

If the solar transition is to be speedily undertaken, the federal government will have to play a strongly promotional role. But thus far the influence of national policy makers has probably been negative. For two years they have caused homeowners to delay solar purchases by promising eventual tax credits—and then failed to pass the necessary legislation. They have invested the lion's share of federal solar research in elephantine technologies to the detriment of the small-scale, decentralized options best suited to solar equipment. They have spared no pains to involve electric and gas utilities in solar applications, ignoring the fact that solar energy is a textbook case of an anti-monopolistic resource.

While still hoping for leadership from Washington, many Americans are no longer waiting for it. With the sure instincts displayed by innumerable inventors, tinkerers and entrepreneurs through our history, these citizens are in the vanguard of a nation that, in the years ahead, must increasingly turn toward the sun.

THE NATURAL GAS BILL

● Mr. PEARSON. Mr. President, one of the most difficult and controversial issues faced by the Congress in all of its history is the pricing of natural gas. Debate on this issue has gone on year after year for nearly three decades and literally volumes have been written and said in pursuit of a national policy which will generate maximum production from this country's reserves of natural gas without causing unacceptable price increases for the users of natural gas.

There are those who feel very strongly that a regulated market which provides greater financial incentives than the present system will produce all the domestic gas that can be discovered and developed. There are others, including this Senator, who feel just as strongly that a regulated market will never generate all the domestic gas that could be produced at prices totally acceptable to consumers. In view of this wide gulf between such strong opposing views, the difficulty in effecting changes from the present system can well be understood.

The country needs a change in its national pricing policy for natural gas. Everyone recognizes that the present system just is not working, that something must be done if we are to improve the output of our domestic gas industry to help address the critical energy needs of the Nation. To date, however, the deep division among national leaders has prevented the adoption of any of the proposed solutions and, in the Congress, has produced a deadly kind of institutional paralysis which may be more serious in the long term than the natural gas issue itself.

One of our colleagues, Senator PETE DOMENICI of New Mexico, has recognized the serious consequences of a failure to act and, based on that recognition, he has played a vital role in the long, tedious hours and days of negotiations that produced the compromise proposal adopted by the conference in an open meeting on May 24, 1978.

At that time, Senator DOMENICI submitted a statement for the conference record which explains his reasons for working so hard to obtain a compromise. I have studied his statement and I feel it reflects a unique understanding of not only the underlying problems related to natural gas pricing, but also of the importance of finding a solution within the institutional framework of the legislative process.

Mr. President, in order that all of our colleagues can have the opportunity to consider this excellent statement by the senior Senator from New Mexico, I request that it be printed in its entirety in the RECORD.

The statement follows:

STATEMENT OF U.S. SENATOR PETE V. DOMENICI ON THE FINAL NATURAL GAS COMPROMISE, MAY 24, 1978

Mr. Chairman: When I came to the Senate in 1973 from one of the major gas-producing States in the Union, I had only a slight understanding about natural gas and I was only vaguely aware of the complexities of existing pricing systems. About the only thing I knew for certain was that the present system just wasn't working. It didn't take a very knowledgeable person to reach that conclusion since certain facts were well known to all.

Under that system, this country had seen domestic natural gas production decline steadily with total annual consumption exceeding the total addition to reserves.

Under that system, we had people and businesses in the States where gas was produced paying substantially higher well head prices than consumers in distant States.

Under that system, we had natural gas being sold and consumed at prices that were nowhere near the true value of this energy resource, allowing and encouraging its misuse and outright waste.

Under that system, domestic producers were denied prices which were several times lower than that we were willing to pay for energy from foreign sources, specifically foreign oil and gas.

Under that system, most of the domestic reserves of this country, whatever they were and are, were destined never to have been discovered, or to be developed and produced since there simply was not sufficient incentives to produce for the vast interstate market.

Under that system, some pipelines in this country were starving for gas with resulting hardship on people and businesses while other pipelines wallowed in excess supplies and some wells were actually shut in. In short, under that system, the most casual observer could only conclude that there had to be a better way.

That better way, it seemed to me, ought also to be obvious to everyone. If there was plenty of gas in the unregulated intrastate market, which there was (and is), and if there was a shortage in the regulated interstate market, which there was (and is), re-regulation must be the deciding factor and deregulation must be the answer. That seems so obvious to me, so logical and indisputable that I accepted as one of my primary objectives as a national legislator, the deregulation of natural gas prices and the return to a free market pricing system. It is in relation to achieving that objective in which I was overly optimistic, for, while all who cared to look could see the obvious deficiencies of the existing situation, obtaining a majority in the Congress behind one solution, any solution, has proven to be extremely difficult and frustrating.

There are those, who while acknowledging the manifold failures of the present system, refuse to accept any of the consequences required for fundamental or meaningful change. They want to avoid those consequences to the brink of tragedy, then point an accusing finger at culprits who conveniently abound and then finally respond by simply spreading the shortage around. Equality, in the view of these people, must be a virtue more important than warmth, health, jobs or economic vitality. I have already acknowledged my initial optimism, but I could not compound that excessive optimism with foolishness by accepting the argument that "I'm O.K., you're O.K., as long as we all have the right to buy gas at a guaranteed low price, never mind that there's not enough gas to go around."

As I learned more about the history and complexity of natural gas price controls and as I dealt with others with strong opposing views, I began to seriously question whether we could ever enact the kind of relatively simply natural gas deregulation legislation I felt would be most beneficial to the country. It began to become clear to me that, in the politically and emotionally charged atmosphere of the United States Congress we would have an awful lot of trouble passing a bill that would decontrol new natural gas at an early, clearly identifiable specific date, that would provide a reasonable and simple definition of new gas and that would maintain the intrastate market free of Federal intervention.

In the Senate, we finally passed a bill which would have met those tests, but all of us knew that looking down the legislative road at the House and the President, the Senate version was only a benchmark from which we could negotiate. After months of negotiating from that version, it appeared we would have no bill at all because the poles still so far apart and bridging that gap was made so difficult by strongly held opposing beliefs and principles.

It would have been entirely consistent with my own personal beliefs and principles to have acknowledged the futility of continuing to try to find accommodation and I was tempted to take that comparatively easy road I was tempted to apply my principles and my own requirements for a desirable natural gas deregulation bill, withdraw from negotiations and remain serenely above the fray.

Remembering, however, the sad condition over two decades of price controls has wrought upon the people of this country, I determined that there was a greater principle to be served than my own notions of what was a desirable natural gas bill. That greater principle was simply that the people of this nation deserve a change in the national policies that are the cause of our present plight. Carried one step further, a basic change in national pricing policy is absolutely necessary to prevent a destructive slide toward greater dependence on foreign sources of natural gas, a dependence like that now existing with relation to crude oil.

Convinced that continuation of the existing disastrous policy was *not* an acceptable alternative, I then had to consider whether we were likely to have another real opportunity in the immediate future to enact a bill similar to the Pearson-Bentsen bill that passed the Senate. I know there are those who will disagree and I know there is room for reasonable men to differ on this question, but in my own mind, I concluded that this is the best chance we are likely to have to change our national natural gas policies for the better.

Those determinations, judgments and conclusions left me with no alternative but to work hard with anyone and in any way I could to try to find a solution which would ultimately achieve deregulation of new gas, provide greater production incentives in the meantime, while preventing sudden and severe adverse consumer impacts.

From last November until the early part of this year, serious negotiations were conducted between the House and Senate Conferees and then between the two factions of Senate Conferees, with all those long, tedious hours resulting in no movement at all. On February 7 I made my intentions known to work for a compromise immediately after negotiations between the major factions on the Senate side had fallen through. Since then I have been tempted many times to give up. I have been tempted to reject my previous judgments as faulty or erroneous. I have been urged to quit the process and scolded for not doing so. The process that has produced this compromise was criticized by friends and strangers from both ends of the spectrum and, though I was critical of it myself, I honestly felt it was the only way we could produce a natural gas bill. For the reasons I have already outlined, I decided to stay with the process.

It would have been far easier to bail out at many points along the way than to hang in there and accumulate the political and personal disadvantages which must accompany legislation of national significance with which no one is entirely satisfied. Only time will tell whether I should have yielded to those temptations, whether I should have heeded the admonitions that were gratuitously offered from all sides, but right now I remain convinced that our nation will be better served by this compromise than would be the case if it were not to be enacted.

To be sure, the detractors of this bill are correct in pointing out many flaws, lots of inconsistencies and what appears to be needless complications. Yet, there are strengths and benefits in the compromise which, to my mind, outweigh its weaknesses and its disadvantages. I'd like to mention some of these weaknesses and strengths which will indicate why I feel, on balance, the compromise will be a plus for the nation as a whole:

While it is true that Federal price controls are extended for the first time to the intrastate market, such extension is required if we are to establish a national market for natural gas while phasing out controls on the interstate market. Such extension greatly expands the interstate market opportunities for most producers and insures that no more will intrastate consumers pay a higher well head price for new gas than interstate consumers.

While it is true that the definitions are complicated and will be difficult to administer, it is also true that less complicated definitions are simply not achievable in this political atmosphere. It is also true that the new gas definitions are broad enough to give initial new gas treatment to virtually every new well and to encourage immediate development of producing areas by infill drilling to complete production from presently producing reservoirs.

While it is true that price controls are extended for another seven years, it is also true that the pricing structure envisioned provides a ceiling price which can be calculated with certainty and which is not vintaged. While others differ on this point, I also feel that this pricing structure will allow and encourage new commitments of risk capital for exploration and production sufficient to generate the activity required to reach the full potential of our domestic reserves of natural gas.

While it is true that there are many different pricing categories for domestic natural gas, it is also true that it will not be difficult to determine the category any specific production falls into and once that categorization is accomplished, the future price treatment of that gas can be determined with certainty. To my mind, this element of certainty more than offsets the uncertainty of the unworkable current regulatory system founded on the vintaging concept.

While it is true that some categories of gas will not be deregulated, it is also true that the Pearson-Bentsen bill did not deregulate

all natural gas and that total deregulation has not been the objective, to my knowledge, of any serious legislation or major interest group. This compromise deregulates the production from nearly all new wells within seven years and from wells deeper than 15,000 feet at the end of one year. Neither of these are elements of the existing regulatory scheme which has suddenly found so many friends and champions.

While it is true that the administration may be difficult and costly and Federal intrusion would be allowed into matters traditionally left to the States, it is also true that such intervention is statutorily limited and that States are expressly not preempted from the exercise of powers and authorities necessary to meet their own unique circumstances. Likewise, Federal monitoring of decisions delegated to the States is on a very limited basis with the substitution of Federal judgment for that of the States expressly forbidden. As to the costs of regulation, I here and now commit to seek Federal appropriations for offsetting increased costs States may incur in complying with the requirements of this legislation if those costs prove to be excessive or oppressive.

In conclusion of my general statement, Mr. Chairman, I will simply say that while I would have greatly preferred a different bill, closer to the Senate version, and while I have apprehensions about elements in this compromise, I intend to support it now and in the future for the reasons given earlier in my statement. To do otherwise would be a violation of my duty as I see it.

If I might use the forum of the Conference Committee Record, Mr. Chairman, I would like to mention specific matters related to this compromise which have significance to New Mexico and New Mexicans:

1. For the producers in New Mexico it provides certainty of price, with increased incentives in the more lucrative interstate market. It provides a special development incentive category for infill drilling which will be especially beneficial for those areas where one well will not adequately drain a normal proration unit. The compromise allows new gas prices for a large percentage of new wells and specificies that there will be no vintaging of any ceiling prices established under the compromise, meaning that both the producer and the State, through additional revenues from higher prices and expanded production, will benefit from the compromise.

2. For New Mexico consumers, it provides for the first time in many years that New Mexico consumers will not pay more for new gas than consumers in far away States. From the date of enactment, New Mexicans will no longer be penalized for the simple geographic accident that they happen to live in the same State where the gas is produced. For too long, we have subsidized the exploitation and exportation of our natural resources, a deplorable situation which, for natural gas, this compromise will bring to an end.

3. Federal regulation of New Mexico's intrastate lines will be limited to price and duration of contracts. As previously mentioned, prices will be the same as interstate prices. In determining contract duration, the Federal agency cannot discriminate against intrastate purchasers or divert gas from the intrastate lines to interstate lines and the special needs of New Mexico purchasers must be taken into account.

4. Under this compromise, neither emergency allocation or incremental pricing requirements will be imposed on intrastate lines. New Mexico is left free, therefore, to establish such laws and regulations if the appropriate State authority deems it necessary.

5. New Mexico intrastate pipelines, which have an unusually high seasonal load factor, will be able to compete with interstate pipelines on non-price factors, such as take-or-pay contracts. This capability will be provided by a provision in the compromise under which intrastate pipelines may sell or assign surplus gas to interstate pipelines without any party to such transactions becoming subject to Federal regulatory jurisdiction. This additional flexibility should ensure an adequate supply of gas to New Mexico consumers during the period of price parity.

6. This compromise presents a reasonable Federal response to the difficult and complex problems associated with indefinite price escalator clauses in existing intrastate contracts. Those escalator clauses will be allowed to operate up to the new gas trend line during the phase out period and close to that trend line after deregulation. As a result, producers will not arbitrarily be denied, by Federal intervention, a substantial benefit from the clauses they contracted for in good faith, at arms length. On the other hand, the impact on intrastate consumers resulting from the higher prices generated by a change in Federal law, will be limited to the new gas trend or close to it. Producing States like New Mexico are left free to go beyond that and further limit the operation or effect of these escalator clauses if felt necessary for the protection of intrastate consumers. This will specifically permit the State of New Mexico to exercise its right and duty to protect New Mexico consumers while at the same time considering the ligitimate interests and rights of producers with escalator clauses in existing intrastate contracts.

7. Under the incremental pricing requirements, which apply only to interstate pipelines, agricultural use of natural gas will receive special treatment.

8. The Federal Government will not be allowed to establish a separate bureaucracy for making the determinations required by this law. Those determinations will be made by the appropriate State agency based on geologic and engineering evidence normally available to that agency. The Federal agency will monitor these determinations and challenge only those felt not to be supported by substantial evidence. In those cases, the Federal agency must present its challenge within 45 days and resolve it within 120. In that challenge, the Federal agency will reverse only if the State's determination is not supported by substantial evidence. The Federal agency may not substitute its judgment for the States.

9. The State of New Mexico will also be able to utilize its own State royalty gas to meet shortages of natural gas that may develop at any point within the State. To that end, interstate lines may be used for transportation purposes, where necessary. The State will also receive the maximum ceiling price on its royalty share of intrastate contracts when they roll over, ensuring that the citizens of New Mexico receive the full benefit of State owned natural gas production. Finally, the inherent authority of the State and local governments to impose severance and production taxes on the depletion of this natural resource is unaffected by this compromise. In addition, the compromise guarantees that the New Mexico severance tax recently enacted will remain intact and will not retroactively be thrust upon producers, but will be borne by the end user, who after all is the one benefitting from the depletion and the production of the resource.●

THE TIME HAS COME FOR CIVIL SERVICE REFORM

● Mr. BIDEN. Mr. President, Government will not work. Many of us, perhaps most of us feel that way. Despite the billions of dollars spent each year by the Federal Government, no one seems to have the answers to the big problems: Inflation, the energy crisis, and unemployment.

But most Americans feel the shortcomings of Government on a far different level than the development of new and comprehensive policies. They encounter Government when their lives are touched directly in some way: The social security check which did not come, high taxes or a confusing new business regulation. They have to deal with bureaucrats, and the experience is frustrating. Too often they find incompetence, callousness, and insensitivity.

The consequences of this failure of Government to respond can be severe. Citizen anger over Government inefficiency and abuse has manifested itself in California's popular proposition 13, tax evasion, and widespread loss of confidence in our institutions of Government.

But as Anthony Lewis so aptly points out (New York Times, April 10, 1978), even though—

> . . . Americans complain a lot about government, few actually want it to do less. The average citizen is no Milton Friedman, fired by a zealot's vision of life in a free market. He wants the government to help the old and the sick—and business and midde-class college students and numberless other interests.

In March, President Carter asked Congress to approve a set of reforms intended to improve the Federal bureaucracy. However, the response of Congress and the press has been lukewarm at best. In fact, much of the resistance to civil service reform has been from liberals who, in the long run, stand to lose the most from Government inefficiency and ineptitude. Public support for many liberal social welfare programs is very low. If Government is incompetent then fewer people will want it to do things.

Lewis writes:

> If anything does set off a wave of right-wing, anti-Government fervor, it will be the failure of liberals to see to it that the government Americans want need not be gargantuan or staggeringly complex, and must be delivered efficiently and courteously.

That being so, liberals in Congress will naturally support President Carter's reforms, won't they? Well, after hearing the employee union spokesmen last week, Representative Herbert E. Harris, Democrat of Northern Virginia said, I'm skeptical the administration is going to get what they want, or get it very fast!

Although almost every bill contains provisions which one can find fault with, I believe that it would be a grave mistake for Congress to pass up this opportunity to make long-needed reforms in the Civil Service System. At stake are the programs and services which so many of us have labored so long for. I welcome the opportunity to reexamine ways in which we can make our Government more responsive and sensitive to the needs of our citizens. I look forward to working with President Carter and with my colleagues in the Senate on this very important issue.●

GAS PRICING

● Mr. ABOUREZK. Mr. President, I received a letter recently from the administrator of a municipal gas system in Iowa, and I thought my colleagues would

find it interesting. It states very clearly that the public is willing to pay more for gas if it costs more to produce gas. It is not willing to pay more for gas to provide greater profits to oil companies that are bloated with revenues already—which is what the new natural gas bill would do.

I ask that Brad Roos' letter be printed in the RECORD.

The letter follows:

CITY OF SANBORN,
June 2, 1978.

Hon. JAMES ABOUREZK,
Senate Office,
Washington, D.C.

DEAR SENATOR ABOUREZK: In light of recent Senate-House Conference developments and administration flip-flopping it seems the only place the customers of the Sanborn Municipal Natural Gas Utility can have their opinions supported is through your efforts in strongly opposing the move to deregulation of Natural Gas.

We watched with interest as you staged the filibuster on the original Senate consideration of the energy bill. We were appreciative of those efforts and would appreciate and morally support any efforts to block passage of the version showing up now. The filibuster would give us one last attempt in showing our contempt of the legislation on Natural Gas pricing coming out of the Senate-House Conference.

We are not against higher prices for our natural gas. We realize that the cost must go up, even as it has so drastically in the past years. The position we hold is this, we feel the price of natural gas should be based on the cost of the gas plus a reasonable profit, rather than a price based on political maneuvering. If the latter is adopted, we have no alternative but to feel that we have been sold out by the Congress and the President.

Anything you and the few people around you can do to fight the measures proposed, regarding the pricing issue would be greatly appreciated.

Good luck in the battle ahead of you, and we're on your side.

Yours truly,

BRAD ROOS,
City Administrator.●

MISSOURIAN SERVES AS PRESIDENT OF THE AMERICAN SOCIETY FOR MEDICAL TECHNOLOGY

● Mr. EAGLETON. Mr. President. I am delighted to share with my colleagues the achievements of Mrs. L'Nora Wells of Columbia, Mo., who will soon be completing a year's term as president of the American Society for Medical Technology (ASMT). ASMT is a national professional organization representing 30,000 individuals engaged in the practice of clinical laboratory science. As the focus of this Congress, and the Nation as a whole, has increasingly been directed toward health care costs, ASMT has served as a valuable resource to the Senate and House committees with jurisdiction in this area.

Mr. Wells has brought exceptional leadership qualities with her to her work with the society. She has served as a board member and president of the Missouri State Society of Medical Technology and has been a representative to the Missouri Health Manpower Commission.

In addition to her dedicated service to activities within the State of Missouri, Mrs. Wells has shown an active interest in national health policy through her positions on ASMT's president's council, board of directors, professional relations committee, and education committee. Despite these demands on her time, Mrs. Wells has maintained an active professional career as chief administrative technologist at Boone County Hospital in Columbia, Mo.

Mr. President, I know that all of my colleagues will want to join with me in commending Mrs. Wells for the outstanding leadership which she has demonstrated to both her profession and the entire health care field during her term as president of ASMT. I look forward to continuing to work with her, and know that she will maintain an important role in the development of health care policy.●

A TRIBUTE TO THE LATE SENATOR JAMES B. ALLEN

● Mr. GRAVEL. Mr. President, it is with deep sorrow that I join my colleagues in paying tribute to Senator James B. Allen of Alabama. In modern times, when the Senate's tradition of great debate and careful deliberation seems to be threatened by the constant press of a heavy legislative calendar, Jim Allen reminded us of the value of our deliberative tradition in formulating the law.

Senator Allen was elected by his fellow Alabamians in 1968 to this body, having already had a distinguished career in Alabama State government. Had he lived to complete his second Senate term, he was a sure winner for another term, so popular was he with the people of his State.

As Senate careers go, 10 years is not a long time. Yet Jim Allen's influence and thinking have contributed to virtually every piece of legislation passed since he arrived.

Indeed, Jim Allen did not limit himself to a few areas of legislation. He was in the heat of the debate on such diverse issues as tax reform, public campaign financing, antitrust law, nuclear proliferation, civil rights, consumer legislation, and most recently labor law reform.

It was not at all unusual for him to draft competent technical floor amendments to bills completely outside of his committee assignments. His quick grasp of the impact of legislation was evidence of a fine legal mind.

Almost always, Jim Allen and I were on the opposite side of an issue But as an opponent, one could never question the sincerity of his position. He had an underlying philosophy which guided him and he argued his principles with truly impressive logic and skill.

With his great knowledge of parliamentary procedure and his unfailing presence on the Senate floor throughout long hours of debate, Jim Allen represented the people of Alabama, in addition to a national constituency, with unmatched skill and dedication.

I salute a dedicated and principled gentleman. My deepest sympathy to MARYON ALLEN and the Allen family. And I hope that in continuing her husband's work, the tragedy of his loss may somehow be softened.●

UGANDA RELATIONS

● Mr. CHURCH. Mr. President, on May 3, I addressed the Senate and outlined the "Ugandan Connection." I pointed out the bloody atrocities inflicted upon the Ugandan people by the despotic rule of Idi Amin. I also raised questions regarding the role played by American companies in perpetuating this regime.

The Ugandan economy has been almost completely wrecked by Amin's rule. It is now virtually dependent on coffee exports as a source of foreign exchange. With Ugandan currency almost completely worthless, the funds for coffee sales are Amin's main resource with which to equip and pay his mercenaries.

Over one-third of Uganda's coffee exports were purchased for consumption in the United States. As a result of public pressure, congressional initiatives, and shortly following announcement of the Senate Foreign Relations Committee hearings on our relations with Uganda, the largest American companies purchasing Ugandan coffee have voluntarily decided to discontinue this practice. I commend and applaud this decision by Procter and Gamble (the Folger Coffee Co.), General Foods Hills Brothers Coffee, Inc., Nestle Co., and the coffee brokerage firm ACLI Sugar Co. I would also like to mention that Chock Full of Nuts took this independent action 2 years ago before public opinion focused on this issue.

The actions of these American companies will deprive Amin's government of over $100 million of American money. Consumers in the United States will no longer be indirectly supporting the Amin regime.

Mr. President, while I welcome these events, I am troubled by the prospect that Uganda coffee will merely be rerouted to other nations. An article in the Journal of Commerce on May 31, 1978, states:

> Ugandan coffee rejected by the U.S. will eventually appear on European markets in greater quantity, London dealers say. So far European, and particularly U.K. coffee buyers have shown no objection to taking Ugandan coffee at competitive prices, so the U.S. ban on Ugandan coffee is likely to result only in a slight restructuring of world coffee trade patterns rather than in a reduction of total coffee supplies.

Mr. President, the U.S. Government cannot speak for other nations. Nor can American companies be held responsible for the actions of other firms around the world. But our Government can and must urge other civilized nations to follow our lead in this most moral issue.

It has also been reported that some of the American companies which have announced that they would no longer purchase Ugandan coffee may in reality merely be shifting these purchases to their European subsidiaries. If these reports are accurate, it would mean that the companies were merely complying with the letter, but not the spirit, of their own pronouncements.

Aside from the coffee issue, I continue to be disturbed by the role of other American companies in Uganda. In view of all the evidence of the horrors of geno-

cide in Uganda, I wonder how they can continue to do business with Idi Amin?

But perhaps it is unfair to expect the private sector to behave otherwise in the absence of a clear U.S. Government policy vis-a-vis the Amin regime. So far, the Carter administration has been unwilling to put direct economic pressure on Uganda. The Department of State testified before a House Subcommittee that it was opposed to unilateral sanctions against Uganda, and the United States has not demanded in the U.N. that international sanctions be imposed against Amin.

Mr. President, I would like to announce the dates of hearings scheduled by the Senate Foreign Relations Committee's Subcommittee on Foreign Economic Policy to examine the nature of U.S. economic ties with Uganda, and U.S. Government policy with regard to those ties. These hearings will be held on June 15, June 21, and June 26.●

COMMONSENSE ABOUT ENERGY

● Mr. ABOUREZK. Mr. President, it occurs to me that President Carter has reason to be pleased, rather than disappointed, with the slow progress of his energy package.

If we had seen speedy passage of the legislation last summer, energy would once again have vanished from the public forum. Newspapers would have lost interest once the congressional struggle ended. The bureaucrats in Government and the oil industry would have returned to managing energy as it has been managed in the past—in quiet cooperation.

If I did not know better, I might suspect that Jimmy Carter had introduced his bill with just this possibility in mind: To create a controversy that would keep the spotlight of public attention on energy for an entire year, and have reporters scurrying around looking for angles to write weekly—or even daily—stories. Sort of the moral equivalent of an energy crisis, since we do not seem to be able to come up with an actual energy crisis.

This is the theme of an article which appeared recently in a bimonthly journal, Working Papers. In it, Steven Schneider argues that we are not in a critical period where fossil fuels are concerned. The critical moment will not come in 1985, as Mr. Schlesinger wishes us to believe; and as the CIA tried to show with trumped up intelligence. It will not be here in 1990, as industry warns. If world fossil fuel supplies are developed, distributed, and consumed with reasonable lack of waste, they should last another 100 years.

Half of that period will be long enough to oversee the maturing of renewable, benign energy technologies like solar and hydrogen fuels, to name just two. This will give us the opportunity to integrate these fuels into our use pattern as they actually become economical, instead of attempting to make them economic by artificially raising the price of still-cheap fossil fuels.

In the struggle over energy policy, the phrase "time is money" takes on a new meaning. I believe that what we need most in order to reduce our energy use is more time—more time to perfect renewable technologies. More time to explore energy paths other than the capital intensive ones that demand prices equal to $25 or $30 per barrel oil. More time to allow individuals and companies to replace their existing houses and businesses with more efficiently designed structures that are lighter consumers of oil, gas and electricity from central generating stations. More time during which people and jobs will move closer together, and more closely knit communities will replace suburban sprawl. More time so that public transportation systems will become convenient, available, and attractive means of traveling. It is time that will allow all of these things to occur without serious dislocation to the large majority of the people of this country—not higher prices spread over some 5-year period dictated by a false sense of urgency. The energy companies know that time is money, too.

Using the cry of "crisis" and the predictions of imminent resource depletion, they hope to boost the basic price of fuels high enough to make their "alternative" technologies—like oil shale and liquefied coal and electricity from nuclear power—the technologies of the future.

Mr. President, I think that it is time we looked a little more closely at the world's oil resources and asked how much time they will provide for the transition to a postpetroleum future. And at the same time, we should look a little more closely at how to produce these resources—most of which may be outside of the United States in countries which would be anxious to sell to industrialized nations. Why is not the Government pursuing ways to bring these resources into the energy distribution system in order to prolong its life at current prices?

I request that an article which does just that, "Commonsense About Energy," be printed in the RECORD. The article is not one whose conclusions I accept entirely, but it is one which thoughtfully addresses questions which we never hear in the supposedly wide-open debate that is taking place over our energy future. The author, Steven Schneider, monitors energy policy for the Ford Foundation-funded Third Century America project at the Institute of International Studies at Berkeley, Calif.

The article follows:

COMMONSENSE ABOUT ENERGY—PART ONE: WHERE HAS ALL THE OIL GONE?

(By Steven A. Schneider)

Last fall, right after its quick and easy ride through the House, Jimmy Carter's energy program hit the Senate. When it emerged, it was legislative mincemeat. Russell Long blocked Carter's oil tax-and-rebate scheme, the centerpiece of the president's plan. Bennett Johnston gutted the proposal to restructure utility rates. The finance committee opposed the tax on gas guzzlers. Bentsen and Pearson spearheaded a vote to eliminate natural gas price controls, despite a filibuster led by Abourezk and Metzenbaum that produced the Senate's first all-night session in 13 years. Carter may have wanted energy to be the moral equivalent of war, but the Senate refused to put an army on the field.

Not, of course, that the army would have been so strong anyway. Carter's proposals were at best modest, at worst wrongheaded. That should not be surprising. Changing America's energy use means confronting powerful institutions and well-established patterns of behavior. The oil companies will oppose, neutralize, or sabotage policies that run counter to their interests. Consumers' short-term interest in lower prices may not coincide with their long-term interest in a stable, fair system of energy production. So the forces for reform are few, the obstacles to reform many. In that situation, no politician will go too far out on a limb. The compromise measures agreed upon by the House-Senate conference reflect this fact.

The energy controversy, however, is not likely to go away. Higher prices and apparently uncertain supplies generate strong pressures on government to intervene in the energy marketplace. Whenever a specific issue flares up—nuclear plant construction, for instance, or a strip-mining bill—the resulting political rhetoric is likely to invoke the already familiar language of long-term options, strategies, and energy "mixes." And whatever becomes of Carter's specific proposals, the assumptions behind them reflect what a lot of Americans believe ought to be done about energy. We should dig more coal and build more nuclear power plants. We should lessen our dependence on imported oil. In the long run we should conserve more and explore "renewable" sources of energy like solar power.

There is something in this program for everyone, and policy makers are likely to pursue some combination of these objectives for years to come. The debate will be over which to pursue and how to pursue them. "Debate," of course, may be too mild a word. If America's energy use is to change substantially, and it will have to in the long run at least, many oxen will be gored. The political battles over whose ox is next will be frequent and intense.

Right now, it may be useful to clear up some misperceptions. Reformers should not waste their time fighting straw men or advocating impossible solutions. The problems and possibilities of each energy option—both conventional fuels and the alternative-energy/conservation route—deserve a careful analysis. This article examines nuclear power, coal, natural gas, and—the elusive missing link—international oil. Part two will look at the economics of conservation and renewable energy sources.

At present, nuclear power supplies about 3 percent of America's total energy consumption and about 12 percent of the nation's electricity (up from 3.1 percent in 1972). In some states—Connecticut, for example, where more than half the electricity comes from nuclear plants—the fractions are much bigger. According to Carter's original proposals, nuclear power was to provide 23 percent of the increase in energy use projected for 1985. If they proliferated at that rate, nuclear plants would then account for a quarter of electric power production.

Once the great white hope of utilities, nuclear power has fallen on hard times. From a record 35 reactors ordered in 1973, the industry slumped to four new reactors ordered in 1975, three in 1976, and only two firm orders in 1977. According to Nuclear Regulatory Commission figures, 170 reactors are currently planned or under construction (it takes at least ten years to get a nuclear plant approved and built). Of these, 145 have been deferred or delayed, some indefinitely. General Electric, which has not had a new order since 1975, recently threatened to withdraw from the nuclear reactor field altogether. Westinghouse is in trouble: to promote the sale of reactors, it agreed to supply utilities with uranium and then got hit by big price increases. Since 1973 the cost of uranium has jumped from $6 to $40 or more a pound.

Safety and technical problems remain un-

solved. The 67 reactors operating in the United States today are shut down, on the average, nearly half the time. Twenty years after the first commercial reactor began opcration, the radioactive wastes produced are still being stored in temporary on-site facilities that Fred Stetson of the Atomic Industrial Forum has described as "swimming pools with steel liners." These wastes can stay under water for decades, but the utilities expect to run out of space by 1985. Meanwhile, no company or federal agency has come up with a practical plan for storing wastes permanently. Though they can in principle be stored deep underground in certain geological formations, locating such formations is difficult. Convincing communities to let nuclear wastes be buried in their region has so far proved impossible.

The emergency safety systems designed to prevent "catastrophic accidents" at nuclear plants (a "meltdown" or other accident causing sizable radiation loss, not an atomic explosion) are uncertain at best. Though none has yet failed completely, at least two systems have come near failure and several have flunked computer simulations of possible accidents. The federal government's Price-Anderson Act limits utilities' liability in the event of an accident to $560 million, with most of the insurance provided by the government itself. Without Price-Anderson, critics believe, the cost of insuring against a catastrophic accident would make nuclear power prohibitively expensive.

The present slump in nuclear reactor orders has less to do with specific economic and safety considerations, however, than with the general slowdown in the growth of electricity consumption. Historically, demand for electricity has increased at 6 or 7 percent a year, but in 1974 there was virtually no increase and in 1975 the increase was 2.7 percent. Since 1976 the rate has been back up to about 6 percent a year, but few in the industry expect that to persist. The slowdown has both reduced the immediate need for new power plants and made it hard for utilities to project demand accurately.

It would be a mistake therefore to assume that nuclear power is dead. Given current federal subsidies for insurance, research, and uranium enrichment, nuclear-generated electricity is still significantly cheaper than coal-generated electricity in the Northeast and Southeast. (It is about the same in the Midwest and is more expensive in the West.) If these subsidies continue, nuclear power is likely to remain competitive with coal for some time.

Politically, the "nuclear lobby" is powerful and effective. It includes most of the major energy companies and utilities as well as most of the staff of the Department of Energy (DOE), the most recent successor to the old Atomic Energy Commission. It also includes DOE secretary James Schlesinger, who told a briefing of House members that 550 nuclear reactors would be on line by the year 2000. The "quick fix" that nuclear power seems to represent is still attractive to many legislators and consumers worried about high oil prices and the difficulties of developing other fuels. To be sure, nuclear plants face continued opposition from environmentalists and others worried about safety. But every such battle pits a plutocracy with massive resources (and the ability to write expenses off their taxes) against an array of small public-interest and activist groups. Given this imbalance, it is surprising that anti-nuclear forces have been able to hold back the floodgates.

The recent controversy over the "breeder" reactor illustrates some of the political difficulties involved in curtailing the growth of nuclear power. The breeder is a second-generation technology that produces power and "breeds" new fuel at the same time. Unlike conventional reactors, which rely on the relatively scarce uranium 235, the breeder employs the more abundant uranium 238. It converts this into plutonium, which it then uses as fuel.

The dangers of plutonium—and of a possible "plutonium economy"—have been widely publicized. As Sheldon Novick has written, plutonium "is extremely poisonous; it can burst into flame when divided into fine particles; and, when inhaled, is one of the most potent causes of lung cancer known." Plutonium can also be used to build nuclear weapons. Unlike the uranium used in conventional reactors, which can be used for explosives only after being processed in massive enrichment plants costing billions of dollars, a 13-pound ball of plutonium can be made into a homemade bomb with relative ease.

President Carter called for a delay in the use of plutonium and for a cutback in funding aimed at developing the breeder reactor. He canceled work on the first breeder demonstration plant, scheduled to be built in Clinch River, Tennessee, and vetoed subsequent legislation restoring full funding to the project. Plans are proceeding apace, however, for breeders that are more popular with engineers than the primitive Clinch River model. And the breeder has wide support in Congress.

If conventional reactors continue to be built, the nuclear lobby will grow stronger than it is today. The cost of uranium 235 will rise, and America will depend more on nuclear power than at present. Nuclear interests will then be in a better position to push the breeder, despite the safety problems. As Schlesinger put it in a *Time* interview, "After the first decade, new energy technology, including perhaps even the breeder reactor, will begin to take up the slack caused by the depletion of domestic natural gas and oil supplies."

On a global scale, nuclear power increases the risks of nuclear weapons proliferation. An expanding civilian nuclear technology spreads many of the skills needed for weapons production.[1] The plutonium that fuels the breeder (and that fuel reprocessing plants separate out) can be used directly for weapons. The facilities that enrich uranium for conventional reactors (facilities possessed at present only by the nuclear powers themselves) allow countries to manufacture weapons-grade material. Nations with such facilities could, working clandestinely, come within weeks of a weapons capability without violating any international agreements. They could then proceed to build nuclear weapons without much risk of detection—and without giving the international community much chance to disuade them.

A more sensible policy for the present would be to curtail the construction of nuclear plants (and halt the operation of existing ones where possible) until their safety has been adequately demonstrated. One way of assuring an effective review of safety measures is to assign the job to responsible scientists who have opposed nuclear power in the past. Another tactic might be to provide public subsidies to nonprofit groups opposing nuclear power. If skeptical scientific review panels and an educated public approve new plant and waste-disposal designs, then nuclear power could proceed. In the meantime, the dangers are simply too great.

An advertisement that became familiar to magazine readers in the past few years pictured a greedy-looking Arab with the righteous caption, "America has more coal than the Middle East has oil. Let's dig it." Like the companies that sponsored the ad, Jimmy Carter wants Americans to burn more coal. His original proposals called for a 69 percent increase in coal use by 1985. That would enable coal to meet 50 percent of the increase in total energy demand projected to occur between now and then. Coal at that point would account for about 54 percent of all electricity produced in the United States. To achieve this goal, Carter proposed to tax industries and utilities that use oil or natural gas, and to offer tax incentives to convert to coal. These measures survived the Senate's meat grinder but in somewhat weakened form.

America does have extensive coal reserves, enough to last hundreds of years. Nevertheless, coal use has not increased much in recent years despite the rise in the price of oil. In 1972 coal accounted for 17.3 percent of total U.S. energy consumption; by the middle of 1977 it had risen to only 18.4 percent. In 1972 coal was used to generate 44.2 percent of our electricity; in 1976 the figure was 46.3 percent. Partly because demand was low during most of 1977, the industry was producing about 15 percent less than the capacity of existing mines.

One reason for coal's sluggish growth rate is the cost of converting (in some cases, reconverting) to coal from oil or gas. The administration estimates that its goals for coal use will require conversions costing a total of $50 billion to $60 billion. Tax credits seem unlikely to speed up this process much. More probably, they will provide a windfall for companies planning to make the move anyway and they will mean nothing to companies that lack the substantial sums necessary for conversion.

From the viewpoint of policy, the "coal option" is laden with enovironmental and safety problems. Deep mining is the nation's most hazardous occupation. Since 1970, 125,000 miners have been injured and 216 killed in major mine disasters. Each miner has a one in eight chance of suffering an injury each year, and 17 out of every 100 miners contract black lung disease. If the true cost of deepmined coal were to be calculated, it would include at least the $1.50 for every $20 ton of coal that the government currently pays to miners incapacitated by black lung disease.

Strip mining can leave permanent scars on the land. Already many states have established strip-mine reclamation standards, and this summer Congress enacted national standards. But the Appalachian Coalition—a group that has lobbied for a national strip-mine bill for years—termed what emerged "a blatant travesty," and President Carter said the bill he signed was "watered down." The main reasons: It exempts "small mines" that produce less than 100,000 tons a year, and it permits the coal industry to cut the tops off Appalachian mountains to reach entire seams of coal. The problem with any strip-mine bill is that restoring the land to its original contour at economical costs requires flat land, good soil, and abundant rainfall. These conditions prevail in the Midwest but not in Montana or Wyoming, where much of the coal industry is currently focused.

Consider also the issue of air pollution. Coal burned in U.S. utilities currently accounts for about a sixth of all fine-particulate air pollution. Coal releases more carbon monoxide, more nitrogen oxide, and more sulfur dioxide than oil or natural gas. According to a National Academy of Sciences study, sulfur dioxide in the stack effluents of a single coal-fired plant causes about 25 fatalities, 60,000 cases of respiratory disease, and $12 million in property damage each year.

Last summer, Congress amended the Clean Air Act in accord with Carter's call for "the best technological system of continuous emission reduction." That means that by 1983 utilities will be required to install "scrubbers," devices that remove pollutants by passing the stack gas through a material (usually limestone or lime) that reacts with sulfur dioxide to form a compound. But

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scrubber technology is still expensive and unreliable. The Environmental Protection Agency estimates that scrubbers add between 6 and 15 percent to the cost of producing electricity. Several utilities that have installed scrubbers have experienced substantial maintenance and downtime problems. No manufacturer of scrubbers will guarantee them for more than 90 days. And there is still a problem with scrubber sludge disposal.

Even with scrubbers in use, government energy officials estimate that the president's coal program would result in a 5.2 percent increase in sulfur dioxide emissions by 1985. That could be lessened if the utilities burned lower sulfur fuel. Yet according to the legislation passed last summer requiring the "best available" emission control technology, utilities would get no credit for burning low-sulfur coal. Also, the scrubbers currently on the market do not capture nitrogen oxides or other fine particulates. According to preliminary figures from an Energy Research and Development Administration study, even with scrubbers nitrogen oxide levels would rise 18 percent by 1985 as a result of the increases in coal usage planned under the president's program. One consequence of this would be more lower respiratory diseases among children.

While utilities at least have the option of installing scrubbers, the technology that would enable small and medium-sized firms to burn coal without polluting the atmosphere, as the president wants, is still not commercially available. So rather than telling industry that it must install the best available technology—a move that seems premature given the state of the art—federal policy ought to maintain clean air standards and let industry decide whether the standards can best be met by installing scrubbers, shifting to low-sulfur western coal, or continuing to rely on oil and natural gas.

With strict clean air, land reclamation, and mine safety standards in effect, coal production could then increase in accord with demand. Until there is further improvement in pollution control technology, that will not result in the sort of increases that Carter wanted. But the continued availability of oil and natural gas—and the potential for conservation and renewable sources—probably make those increases unnecessary.[2]

Oil and natural gas are the elusive lead players in the energy drama. Right now, oil accounts for nearly half of U.S. energy consumption, and gas accounts for about a quarter. Neither fraction has changed much in the last several years, though the price of crude oil has more than doubled and gas has more than quadrupled.[3] Both fuels are safer, cheaper to produce, more versatile, and less damaging to the encironment than coal or nuclear power. Eventually, of course, they will be depleted, and alternative fuels will be necessary. But the longer the world can rely on them in the meantime, the better off we all will be.

The federal government has effectively regulated natural gas prices since 1968, and the price of gas has been a recurrent subject of political debate in recent months. Amidst all the controversy, several generally accepted points of agreement have emerged.

First, even with price controls in effect, natural gas prices are going to rise. Though all natural as was profitably sold at about 20 cents per thousand cubic feet (mcf) in 1970, today the price is up to an average of about 90 cents. The price of newly discovered gas is up to nearly $1.50.

Last spring President Carter proposed allowing the price of "old" natural gas to be recontracted at $1.42 per mcf, despite its low-cost, fully depreciated origins. And he proposed raising the ceiling price on newly discovered gas from $1.45 to $1.75, with an increase to $3.24 by 1985. Proponents of deregulation want no controls at all on new gas. That would send the price past $2.00 right away and possibly as high as $4.00 or $5.00 by 1985.

Second, the United States will probably never again produce as much natural gas—22 trillion cubic feet (tcf—as it produced in 1973. Since that year, production has been declining by about 2 percent annually, despite the big price increases that have already occurred. While proponents of deregulation maintain that the decline can be halted—indeed, preliminary figures for the first six months of 1977 indicate that it has been halted even the more optimistic industry estimates do not predict that 1973 levels will be reached by 1985.

Gas from other countries will not make up for declining U.S. production. Shipping gas from overseas entails liquefying it first, which is expensive and hazardous. Plans are currently underway for pipelines making it possible to import gas from Canada and Mexico. But that gas is expected to be expensive—$2.16 per mcf for the Canadian and $2.50 for the Mexican. Carter's original energy plan projected only 1.4 tcf of natural gas imports by 1985.

Third, homeowners who end up with whatever gas is produced will be getting a real bargain. In 1976 the average residential user of natural gas paid $1.98 per mcf. The same amount of energy from oil would have cost $3.30, while in all-electric homes the cost would have been $10.11. With most "old" gas remaining under long-term fixed contracts, and with transmission costs accounting for two-thirds of the cost, it will be some time before price deregulation erases that gap. In addition, natural gas is our cleanest, most versatile fuel.

Finally, no one really knows how extensive America's reserves of natural gas are. Until now, the industry itself has been the only source of information on this subject. A study released by the Federal Trade Commission in 1975 revealed that the companies keep three estimates of natural gas reserves: one for the Internal Revenue Service; one for the American Gas Association, which gets passed on to the federal government and becomes the official estimate; and one for company management, which is used for planning and for obtaining loans.

The management estimate has consistently been the highest. The IRS estimate was the lowest until 1968, when the Supreme Court upheld a Federal Power Commission pricing system based on the costs of producing and transporting gas in a particular area. It was at that point the federal price regulation of natural gas became effective. It was also at that point that the estimates the companies gave the American Gas Association began to be smaller than those they gave the IRS. 1968 was the first year in which year-end estimates of proved reserves began to decline. From 1968 to 1972, new additions to reserves were only half what they were from 1963 to 1967, though drilling had not decreased.

The industry claims that gas has been getting harder to find. Its critics say that the industry has manipulated reserve figures to bolster its argument for price increases. Official estimates of proven reserves are 216 trillion cubic feet, enough for about ten years consumption. But the Colorado School of Mines estimates that "probable" and "possible" reserves total 578 tcf, with another 354 to 395 tcf in "speculative" reserves. In addition, high-cost gas in the geopressurized zone of the Gulf of Mexico and in the sandstone of the Rocky Mountains could expand supplies tremendously if it became economical to produce.

Depending on where it is, natural gas now costs anywhere from 26 to 90 cents per mcf to produce. The same amount of energy from heating oil, however, would cost $2.48 wholesale. That difference is the source of the policy controversy. Energy companies would like to pocket the difference. President Carter would like to see consumers keep a big chunk of it. Members of Congress from southern states, meanwhile, want to retain the economic advantage the South derives from its disproportionate consumption of the nation's gas.

This regional inequality stems from the fact that most of America's natural gas has come from Texas, Louisiana, Oklahoma, New Mexico, Kansas, and California (which is now a gas importer). Initially, these states used more gas than others because the gas didn't need to be transported so far. In recent years, as demand for gas has outpaced supply, federal price controls seriously aggravated the imbalance. Under current law, the federal government has the authority to regulate only the price of gas that is sold across state lines. By refusing to enact their own price controls (and thus allowing the price to rise to about $2 per mcf), producing states have provided gas producers with a big incentive to sell their gas within the state where it is produced. Intrastate sales now account for about 40 percent of the nation's gas.

President Carter has called for the enactment of price controls on the intrastate market. Representatives of the producing states have resisted this move. Insofar as he seeks to protect consumer interests and eliminate regional imbalance, the president merits support. But his approach still fails to provide adequate incentives for both conservation and production of natural gas. The president evidently believes that the only way to stimulate production is through higher prices; indeed, his plan would offer the producers an additional $15 billion. But no matter how great a return producers receive, there is no guarantee that the money will go into exploration and development. The industry's record of diversification and foot dragging does not bode well on this score.

A better approach would be for the federal government to rely on a public energy corporation, as proposed below, to find and develop more natural gas. To make the gas we have last longer, the administration should develop the kind of rebate scheme that has been proposed for crude oil. Unlike oil, natural gas does not have to be refined, so its price should be set such that the same amount of energy from gas or refined oil costs the same. The revenue accruing from the difference between price and cost of production should be rebated to consumers. The higher price would give consumers an incentive to conserve natural gas, and the rebate would protect their standards of living.

Oil, like gas, is a versatile, efficient, relatively clean fuel. Politically, however, there is one big difference. The skirmishes over gas amount essentially to a civil war, played out on the fields of statehouses and Federal regulatory agencies. Conflict over oil is an international maelstrom, involving top levels of the most powerful companies and governments in the world. The reason for the difference is simple enough: there is a lot of oil outside the United States, and unlike gas it is not hard to import.

As every oil prospector knows there are two kinds of oil fields—subsistence fields, which you get along on, and bonanza fields, which make you rich. Fewer than one percent of the world's oil fields fit into the bonanza category, but those that do account for three-quarters of the world's resources.

Most of the bonanza fields in the continental United States were discovered between 1920 and 1930. Since then, oil companies have come up with few additional bonanzas—only one in the last five years, despite a big increase in drilling. In recent years, U.S. oil has become the most profitable per-barrel source of oil in the world. In 1975, before domestic oil was brought back under price controls, the price of newly dis-

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covered oil had risen to $12.75 a barrel (compared to an average price of $3.50 in 1973). It is currently set at more than $11.00. And there is no OPEC to cut into company profits with high tax or royalty requirements.

Domestic production has been declining by about 4 percent a year since 1970. This downturn is expected to be reversed in the next few years as Alaskan oil comes onstream, and the Carter plan relied upon more domestic oil production to meet 9 percent of the increase in energy use projected for 1985. But the long-term trend is unchanged; even Alaska will not make an appreciable dent in the eventual decline of U.S. production.

U.S. oil consumption, however, has risen. It grew at an average 4.4 percent a year between World War II and 1973, fell during the 1973–1975 recession, rose again by 6.7 percent in 1976, and was up another 8 percent during the first half of 1977. With domestic production declining, the share of imported oil has risen from 23 percent in 1970 to about 48 percent in 1977. The focus of oil politics, then, is the international market.

That market, as is well known, is dominated by the major international oil companies, principally the Seven Sisters. What is less well known is that most of the world has huge untapped reserves of oil and natural gas. Since 1960 geologic estimates of the world's "ultimately recoverable reserves of crude oil"—the amount that lies in the ground and can be recovered at economical costs—have tended to converge at a figure of two trillion barrels.[4] This number was reaffirmed at the World Energy Conference last September, where most of the 29 authorities from major oil companies, the U.S. Geological Survey, and various private consulting agencies put the figure at between 1,875 and 2,250 trillion barrels. (Estimates went as high as 3.7 trillion and as low as 1.6 trillion barrels.)

A recent United Nations conference of 70 leading petroleum geologists and engineers came up with an even more optimistic assessment. These scientists stated that the developing countries alone had between 1.5 and 1.8 trillion barrels of oil; and it was "widely felt," according to their report, "that a possibly equal amount of petroleum remains to be discovered." That led the United Nations to conclude that the world probably has enough oil and gas to last another hundred years, though much of it will be expensive to tap.

Exactly where all this oil and natural gas are, of course, is uncertain. Still, it seems clear that—in contrast to the United States, which is a mature producing area—most of the world has barely begun to realize its oil and gas potential. According to a widely respected 1975 study by John D. Moody, a petroleum consultant and former vice-president of Mobil, the United States has an ultimately recoverable potential of 242 billion barrels of oil. Almost half of that is now gone. Yet the rest of the world has produced only about 15 percent of its ultimate recoverable reserves. Moody estimates that Latin America has a recoverable potential of 166 billion barrels, with three-quarters of it still in the ground. His estimates for Africa are 160 billion barrels, for Asia and the Pacific 131 billion barrels, and for the Middle East 663 billion barrels. In each of these areas roughly 90 percent of the oil is still in the ground (see illustration).

And while the United States has consumed about two-fifths of its 1,267 trillion cubic feet of natural gas, the rest of the world is still well below the 10 percent mark. Moody estimates that the Middle East has 1,492 tcf of natural gas and Africa has 540 tcf, but only about 3 percent of this has been produced. Latin America, with 398 tcf, has produced about 13 percent of its potential, while Asia and the Pacific have produced less than 1 percent of their 786 tcf (see illustration).

Despite these potentials, two-thirds of the active oil rigs in the world operate in the United States. That is largely because the United States offers huge profits per barrel and a high degree of political security. Even in the most promising areas of Latin America, the drilling density is only 4 percent that of the continental United States. There are twice as many oil wells in Kansas as in all of South America, and three times as many in Arkansas as in all of Africa. The continental slopes, most of China, and large parts of the rest of the world have never been explored for oil or natural gas.

It is rather startling, in view of these figures, to remember that a major purpose of Carter's plan was to cut crude oil imports from the projected 1985 level of 11.5 million barrels a day to 7 million barrels a day. Part of the reduction was to be effected through conservation, and part through greater reliance on coal. Oil would then account for 38 percent of U.S. energy consumption, with imported oil making up 38 percent of total oil use.

Reducing our dependence on imported oil is a popular objective in the United States. It might make sense if (1) alternative energy sources were immediately available; (2) the United States was truly vulnerable to the vagaries of the international market; or (3) oil could thereby be made available to other nations, particularly poorer countries, at lower cost. We have already seen that the first condition is implausible. The coal and nuclear power options are seriously flawed, and conservation and renewable energy sources are unlikely to be implemented soon enough.

The motion of strategic vulnerability is no more plausible as a basis for seeking "energy independence." It is true that since the 1973–1974 embargo American dependence on Arab oil has increased. But it still accounts for only about one-fifth of total oil consumption. During the embargo itself, the gasoline shortages experienced by consumers were due more to shortages in domestic refining capacity than to a shortage of crude oil, and federal pricing policies were both discouraging imports and discouraging the production of gasoline. The result, according to the Federal Trade Commission, was that there was plenty of home heating oil while gasoline was in short supply. The Arab nations, meanwhile, quickly backed off from their initial plans to cut production by 5 percent, and the oil companies were quick to replace lost Arab oil with oil from another source. At present, a strategic oil reserve is being built up, and countries like Mexico, China, and the United Kingdom are beginning to export oil.[5] The threat represented by another Arab embargo therefore seems considerably less than the threat of relying on consumption of domestic energy supplies. Yet current policies encourage the oil companies to pump the United States dry while most of the world's extensive reserves go undeveloped.

The third rationale—reducing our demand to give the rest of the world better access to oil—is more persuasive. But abstinence by the United States will not ensure that that will happen. And besides there is a better way of bringing it about.

The fallacy that underlies most American thinking and policy making about international oil is that the world is about to run out of oil—and that, given this scarcity, oil companies and third-world countries are producing it as fast as they can or should.

Rather, as noted, there is probably lots more oil and natural gas in the ground—quite possibly enough for the next 100 years, certainly enough for the next 25. That should not be an excuse for failing to conserve energy or failing to develop renewable energy sources. But it does mean that we do not have to jump headlong into coal and nuclear power. Instead we need to make a major effort to find and develop the world's oil and natural gas resources.

The companies that we depend upon to do this, however, have a strong interest in limiting available supplies. Historically the big oil companyies have always benefited from limiting the supply of oil and thereby boosting prices. At times that meant plugging wells, deliberately understating reserves, refusing to develop new fields, and keeping information about production potentials from host countries. Christopher Rand describes the case of Iraq:

After World War II, IPC [the companies' joint consortium in Iraq] consistently and stubbornly failed to follow up promising geological leads, left the middle third of the nation totally underveloped (while refusing to relinquish it), and kept the information it had acquired regarding the nation's oil potential largely secret from the Iraqi government.

Though it is hard to prove such practices still exist, the oil companies' essential situation is unchanged. Consider, for example, their relationship with OPEC. The OPEC price rise did not hurt the companies. On the contrary, their profits rose substantially as a result of the price increases, and oil-consuming countries have now generally come to accept these increases.[6] The OPEC countries benefit as well from the high international price, which reflects their near-monopolization of Middle Eastern and Latin American oil supplies.

If the companies found sizable amounts of new oil outside the Middle East, however, they would face a series of dilemmas. They could refuse to produce it, in which case they would probably be nationalized. If they did produce it, they would either have to lower world prices or reduce production in Middle Eastern countries, thereby endangering the highly profitable concessions that they have long enjoyed there. That hardly leaves the companies with much incentive to search aggressively for more oil in politically risky third world countries. From their perspective, the existing arrangement is preferable. Right now the companies (principally the Seven Sisters) have preferential access to the Middle Eastern nations' crude oil. In Saudi Arabia, for instance, the four Aramco partners—Exxon, Texaco, Mobil, and Standard Oil of California—still get the Saudi Arabian oil for less than anyone else and still market most of it. They can thus limit the supply and protect the OPEC price.

There are two sorts of evidence that the companies have not been particularly aggressive in looking for new sources of oil. First, when confronted with demands by host country governments for a greater share of the take or more control over future production, the oil companies have backed off from their exploration and development efforts. In 1976, when the Indonesian government attempted to renegotiate its contracts with the oil companies to give the government 86 percent of the profits from production (still less than the 96 percent that the Middle Eastern states get), the companies responded by cutting their exploration and development activity from 66 to 40 drilling rigs. When Malaysia called for production-sharing agreements with the companies, they responded by refusing any further exploration expenditures in the country. As a spokesman for Cities Service Company put it, the efforts by governments to increase their take beyond what the industry considers to be reasonable—particularly in Indonesia and Malaysia—has led to "the present trend of reduced exploration activity in the South East Asian area. "Since mid-1974, he added, there have been "fewer new exploratory wells being drilled than planned previously and fewer new-field wild-

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cat discoveries being made in 1975 and 1976, and possibly for several years beyond."

Similarly, in the winter of 1975–1976, Brazil reversed a 22-year policy of excluding private capital from its oil industry and offered ten areas to both domestic and foreign companies interested in exploring for oil. Though 40 foreign companies had been prequalified, only seven made bids, and there were no bids received in four of the ten tracts offered. Big Oil's chief complaint was that the contracts called for foreign involvement only in bringing oil to the surface. The multinational oil companies wanted an equity interest that would guarantee them a share of the oil that was eventually produced.

Also in early 1976, through a combination of price increases and decreased pumping allowances, Nigeria cut company per-barrel profits by 36 percent. In response the companies have slowed their exploration and development activities, cutting back from 23 drilling rigs at the beginning of 1976 to 15 at the end of that year. Last March *Oil and Gas Journal* reported that little exploration was going on in Nigeria. An American oil expert explained, "In investment priority Nigeria used to be in the top three among producing nations. Now it's dropped down to the bottom."

The second sort of evidence is that rather than forging ahead with exploration and development expenditures, the oil companies have made enormous investments in nonenergy areas. In 1974 Mobil began its acquisition of Marcor, a department store and packaging conglomerate best known for its Montgomery Ward outlets. The move is estimated to have cost the company nearly $2 billion. In May 1975 Standard Oil of California spent $333 million to acquire a 20 percent share of Amax, Inc., a company that mines, processes, and markets aluminum, copper, nickel, and coal. In November 1974 Arco announced that its chemical division had undertaken a billion-dollar, five-year capital expansion program. Then early this year Arco merged with Anaconda, a copper company. Meanwhile Exxon has acquired extensive coal and uranium holdings in the United States and has been developing a chain of small computer-related companies with the aim of becoming a leader in data processing and the office automating field. In May 1977 Union Oil Company reached an agreement to acquire Molycorp, Inc.—a company that produces molybdenum and rare earths. And last summer Gulf spent $446 million to secure control of Kewanee, a company that derives three-fourths of its income from chemical sales. Gulf had previously attempted to purchase CNA Financial Corporation, a big insurance firm, and Rockwell International, a manufacturer of aerospace systems, auto components, and electronic products.

Finally there is some evidence that the companies have been sitting on their capital. The White House's Office of Energy Policy and Planning found that the top 18 U.S. oil companies had $4.9 billion on hand at the end of 1975 versus $1.9 billion at the end of 1973.

The development of world oil and natural gas reserves would benefit both the new producing nations, who would see their current oil-import bills decline and realize new export earnings as well, and the international consuming public, who would have access to a greater supply. The United States government could remove the chief barrier to such development simply by making discretionary capital available to poor countries with promising oil prospects.[1] Recipient countries could then purchase the technology and expertise they currently lack. That would not end their dependence on western technology, but it would change the terms of their relations with the oil companies. No longer, for example, would they have to agree to turn over equity interests or wait until the companies were ready to move. From the United States' perspective, new oil would reduce the upward pressure on world oil prices, lessen the chance of international conflict over oil, and help provide other countries with an alternative to nuclear power, thereby reducing the risks of weapons proliferation.

Domestically, the prime potential for oil and natural gas is in federally controlled offshore areas. Here government policy is to award offshore development rights to the company or group of companies offering the highest initial bonus payment rather than the highest share of total production revenue. The lessee is then taxed at the remarkably low rate of 16.67 percent. In contrast, OPEC nations receive both royalties and an initial bonus payment, and then tax the companies' earnings on production at a rate of 85 percent.

The U.S. policy fails to ensure that the public gets a fair return on its resources. It also does nothing to guarantee production, since the companies can sit on the resources, extending their leases in anticipation of price increases. The high initial bonus payments tie up capital, thereby slowing development elsewhere, and they handicap smaller companies, which lack the money for large expenditures at the outset of a venture. Worse yet, the federal government knows little about the production potential or the environmental risks of many of the areas it controls. It is therefore heavily dependent upon the oil and gas industry in determining what tracts ought to be leased out.

In the short run, the Interior Department ought to begin a series of surveys to determine both the magnitude of its reserves and the likelihood of environmental damage in given areas. When a tract is surveyed and put up for lease, it should go to the company willing to pay the highest share of the total production revenue. If bids are low the Interior Department should be able to cancel the sale.

Once exploratory drilling and production in the outer continental shelf begin, they should be subject to stringent regulatory procedures aimed at minimizing the risk of spills. Oil pipelines should be made common carriers; otherwise smaller companies must resort to tankers, which increase the risk of spills. Regulatory responsibility should remain with the Interior Department or some other agency not directly involved in energy production.

In the long run, as others have already proposed, we will need a publicly owned energy corporation: a company with resources on a par with those of the major oil companies but geared to public needs. Such a corporation would produce and market fuels, providing a yardstick to measure the performance of private companies. It would also be responsible for developing new energy sources in ways compatible with public policy.

Despite all the talk of divestiture and concentration ratios, relations among companies in the oil industry remain collaborative. The major companies regularly swap oil with one another, engage in joint ventures, share commonly owned subsidiaries, borrow from the same banks, and bring their problems to the same law firms. Since no one else is involved in the energy production business, there is no industry expertise that is not tied to the boys in Houston.

The formation of a public energy corporation would create some independent expertise. Its involvement in day-to-day productive activities would give it access to information and patterns of industry behavior that the federal government now lacks—for example, on the apparent withholding of natural gas by some oil companies. To ensure the corporation's independence, statutes would have to forbid a "personnel pipeline" between the industry and the public corporation. And the corporation itself would have to be accessible, regularly holding hearings and providing information about its plans.

The new energy corporation should protect the public interest in new energy development. At present, for example, industry programs to liquefy and gasify coal and to develop the nation's shale oil reserves are stalled. Energy companies believe that the synthetic fuels produced by these processes may be more expensive than OPEC oil, and they want the government to guarantee loan repayment on synthetic fuel projects if the investments aren't successful. The government may want to take that risk. But if it does, commercial development of the synthetic fuels should be in the hands of the public corporation. That way, any profits that are realized could go directly to the U.S. Treasury or be rebated to consumers in the form of lower prices.

The same point holds for the development of federally owned geothermal and fossil fuel reserves—at present, more than half of all such reserves in the United States. Because it is not in the energy business, the government must either let these resources go undeveloped or turn them over to private enterprise, often at bargain prices. The new energy corporation could develop these resources itself.

Whatever its economic merits, a public energy corporation would also be a political vehicle: a device by which the government can begin to implement policy directly, without waiting for agreement from the oil companies. As such it seems more feasible politically than either nationalization or divestiture. Nationalization is unlikely to gain widespread acceptance, and divestiture would require too much cooperation from the industry.

Nor would such a corporation cost too much. Much of its initial budget could be made up from existing energy research and development funding. Additional funds might come from higher energy taxes or from general revenues; and in any case, the corporation would eventually be self-sustaining. Unlike most proposals for public enterprises in a capitalist society, this one would not take over a dying industry. It would instead create a healthy enterprise in the public sector—and might serve as a model for socially owned corporations of the future.

Without such a step, America is likely to fall—or drift—into the patterns of energy use that suit the needs of the big oil companies. And we are likely to dive headlong into the wrong alternatives: a heavy reliance on coal or nuclear power. In the end, energy conservation and the use of renewable energy sources will be the key to a stable, equitable energy system. Steps toward that goal can begin now, as the second part of this essay will show. But in the meantime, focusing entirely on alternatives while ignoring oil is like cultivating a backyard garden while ignoring agribusiness. You can do it, but it won't make much difference.

FOOTNOTES

[1] In 1974 India became the sixth member of the nuclear weapons club by diverting plutonium from a small Canadian-designed research reactor. The United States had trained over 1,000 Indian scientists in nuclear technology. South Africa, which either has or is very close to having a weapons capability, attributes its success in nuclear technology to the assistance provided by the United States in its commercial nuclear power program.

A Ford Foundation-funded report by the Mitre Corporation (*Nuclear Power: Issues and Choices*) estimated that the presence of plutonium separation or enrichment facilities could reduce the lead time between the decision to acquire nuclear weapons and the

achievement of this goal by five to ten years in some less developed countries, and by one to three years in countries with substantial commercial nuclear power programs.

[2] Another possible effect of increased coal use is the so-called greenhouse effect. Whenever any fossil fuel is burned, carbon dioxide is released into the atmosphere. A little less than half of the carbon dioxide is absorbed by oceans or plants, but the rest remains in the atmosphere. Consequently, the amount of carbon dioxide in the atmosphere has increased from 295 parts per million in 1860 to 330 parts per million today. By the end of the century, studies indicate, it may go as high as 385 or 400 parts per million, and by the year 2020 the level may be twice what it is at present. That would raise the earth's temperature an average of four degrees Fahrenheit. Partly because it would depend on how the temperature increase is distributed, scientists still know little about the actual consequences of such a development. But many believe they could be dramatic—flooding coastal cities as polar ice caps melt, interfering with global food supplies as areas become more arid, and turning seawater acid.

While other fossil fuels also contribute to the carbon dioxide buildup, burning coal releases about twice as much carbon dioxide as burning an equivalent BTU amount of oil. But it is impossible to say what the effect of a 69 percent increase in U.S. coal consumption would be. Because there are seasonal variations involved, it will take several years for scientists to determine whether there really is a carbon dioxide problem due to increased burning of coal. And if other countries substitute oil for coal, then a U.S. coal increase may even alleviate the carbon dioxide problem.

[3] Oil rose from 45.9 percent of energy use in 1972 to 47.3 percent in 1976. Gas declined slightly, from 30 percent of energy use in 1973 to 27 percent in 1976. Figures for the first half of 1977 were 48.4 percent and 26.6 percent respectively.

[4] Ultimately recoverable reserves should not be confused with proven reserves. The first includes both discovered and undiscovered reserves, the latter only discovered.

Ultimately recoverable reserves are estimated by comparing historic experience in exploration and production in a particular geologic "sediment" with the extent of that sediment. Magnetic and gravity techniques have enabled geologists to measure the earth's major sediments. If a geologist knows that so much oil is found in a particular sediment and the extent of that sediment, then a reasonable estimate can be made.

Estimates get better as more drilling occurs, because the drilling gives the geologists better data to work with. That's why the estimates are better for oil than natural gas—we have more experience with oil.

Estimates vary because geologists use different data sets and disagree about what is important geologically. They also vary with technology and with the price of oil. Historically the United States has recovered somewhere between 30 and 40 percent of the oil in the ground. In most other parts of the world only about 25 percent is recovered. Estimates of what is ultimately recoverable take this into account. But if the price goes up or technology improves, it becomes possible to boost the recovery rate, thereby increasing the ultimately recoverable reserves figure.

Geologists at the World Energy Conference were told to assume a 40 percent recovery rate. But many believe that technological advances will enable this rate to be lifted to 50 percent or more. Alternatively, price increases may bring resources that were previously considered uneconomical into the recoverable category. With all this uncertainty one can hardly have much confidence in a specific number, but the estimates do suggest an order of magnitude.

[5] The billion-barrel strategic reserve is expected to be fully deployed by 1985. At that point it will be able to supply the nation with 3.3 million barrels per day for almost a year. The United States is currently importing about 8 million barrels per day, but federal officials estimate that 5 million barrels a day could be cut from demand without seriously affecting the economy. In addition, in the event of an embargo, increased supplies can be switched from non-Arab nations to the United States, and Arab oil can be used to supply the countries that previously received this oil. The only way Arab nations could stop this would be to cut back substantially on their total production—something they have not been willing to do in the past.

[6] The multinationals benefit from higher prices mainly because they increase the value of the companies' domestic assets and pull up the price of U.S. energy supplies. In the year following the OPEC price increase, the profits of the five major international U.S. companies increased by 56 percent, while profits of the five major domestic oil companies went up 92 percent. Thus events overseas pull up domestic profits.

[7] One may object that the immediate impact of this move would be to worsen the U.S. balance of payments. However, the current U.S. balance of payments deficit is due mainly to the sluggishness of the other advanced economies, and particularly to the refusal of Japan and West Germany to stimulate their economies further. In this context the deficit is necessary for the economic sustenance of the rest of the capitalist world.

In addition, the cost of such a policy need not be high. To some extent it could be realized simply by changing the lending policies of various international agencies—policies formulated and maintained with U.S. support. For example, the World Bank and the various regional banks will now lend money only for the development of proven reserves And the Agency for International Development does not provide loans or grants for wildcat oil exploration. A change in these policies would not cost the United States anything. And insofar as the United States makes additional capital available, that is not a one-time expense but an investment in lower future energy costs. Such an investment will lessen future balance of payments problems.

COMMONSENSE ABOUT ENERGY—PART TWO: LESS IS MORE CONSERVATION AND RENEWABLE ENERGY

(By Steven A. Schneider)

"The phrase 'energy conservation,' like the term 'budgeting,' has a certain ring of asceticism to it," wrote Columbia University professor Lloyd J. Dumas not long ago. "It conjures up images of working by candle-light, shivering in the cold, and bumping along the streets in a dirty, overcrowded bus."

The notion of "alternative" or "renewable" energy sources conjures up quite a different image, but it also suffers a public relations problem. It is hard to find anyone who is against solar energy, windmills, or any of the half-dozen other ways people might find to utilize the energy flows of nature. But it is easy to find people who believe that solar power is an impossible dream, that geothermal energy is best confined to entertaining tourists at Yellowstone, and that windmills are the province of a few half-crazed back-to-the-landers who eat granola for breakfast. If conservation suggests the coming dark age, then alternative energy suggests the millennium. To many, the chance that either one will help solve our energy problems seems slim.

President Carter's proposed energy plan—even in its original form, let alone the half-cooked compromise emerging from Congress—reflected this "realistic" approach to energy policy. The plan was touted as fostering conservation. Yet its original projections depended on conservation measures to reduce overall energy demand only 4 percent from what it would otherwise be in 1985. Domestic energy supplies, by contrast, were expected to expand some 20 percent.

Alternative energy sources also got short shift. If the administration's original projections were realized, the use of solar energy would increase, but it still would account for only 1.5 percent of the growth in energy demand projected for 1985. This year the government will spend $224 million on research into solar electric power, with another $96 million going into solar heating and cooling research. For comparison, the nuclear program is getting $1.67 *billion* in federal research and development money.

It is true, as I argued in Part One of this essay ("Where Has All the Oil Gone?" *Working Papers*, January/February 1978), that the world is not about to run out of oil—and that ways should be found to tap the reserves that the big companies have so far shown themselves unwilling to produce. It is also true that oil and gas, even coal, will not last forever. Anthropologist Marvin Harris recently wrote, "The real question is not when the last drop of oil is gone, nor is it when the last ton of coal will be mined."

The effect of [resource] depletion on the standard of living becomes unbearable long before the last blade of grass or the last horse or reindeer is gone . . . As coal and oil become scarcer, their costs will go up. And since virtually every product or service in industrial society depends on large energetic inputs derived from these sources, inflation will steadily reduce the ability of the average person to pay for the goods and service now regarded as essential for health and well-being.

How fast and how low standards of living in the industrial nations will fall depends on how long conversion to alternative energy sources is delayed.

In addition to stretching out our supplies of fossil fuels, conservation and renewable energy sources have other advantages. They do less damage to the environment than conventional sources. They are frequently cheaper, and are likely to become more so. They are more labor intensive, and their development is thus likely to have a favorable impact on employment. And they are the only energy options not currently dominated by the big energy corporations.

Right now, saving energy is cheaper than producing more of it. The cost savings are particularly significant when the environmental and public-health damage done by fossil fuels is taken into account. But even in pure economic terms as *Business Week* reported, "An investment in conservation is far cheaper these days than almost any investment in new supplies."

Except in the Mideast, where oil production costs remain extremely low, most new oil or gas wells require a capital investment of $4.5 billion for every quadrillion BTUs of energy ("quads" in energy lingo) that they yield each year. Synthetic oil and gas from coal would probably cost more than $10 billion per quad. New electric power plants range anywhere from $45 billion per quad for coal to nearly $90 billion for nuclear.

By contrast, an investment in capital equipment to save the equivalent amount of energy is often less than $1.5 billion per quad of energy saved each year—and is sometimes zero.[1]

If conservation is so economical, why don't we have more of it? One reason is that people often seek to minimize the initial cost of a purchase (whether an appliance or a house) rather than the item's life-cycle cost. Another reason is that consumers often have

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more trouble coming up with the cash for an investment in energy conservation than utilities have in coming up with the funds to supply more power. Finally, again according to *Business Week*, "Plant managers generally look for a fifteen percent return of investment in their product lines, but they typically demand a return of thirty percent or more on discretionary investments, including those on energy saving equipment."

A serious push for conservation will thus require even greater changes in energy prices than have already occurred. That fact is well appreciated in the corridors of power: hence all the wrangling over price controls, new taxes, and the like. Conservation will also require changes in some of our institutional arrangements. That fact, as yet, may be less appreciated.

For years, the ready availability of low-cost oil and natural gas meant that buildings, machinery, and means of transportation were designed with little regard for energy efficiency. One-third of America's housing has no insulation at all. According to a study by the American Institute of Architects (AIA), between 25 and 50 percent of energy used in older buildings—and up to 80 percent of energy used in newer ones—is wasted. In 1973, U.S. cars weighed an average of 4,275 lbs. If they had weighed 2,500 lbs. instead, they would have used 30 to 40 percent less fuel.[2]

The possibilities for saving energy through conservation are therefore substantial. A Congressional Budget Office study stated that insulation and related improvements could save 35 percent of the energy used to heat a typical home. The AIA estimates that by 1990, 12.5 million barrels of oil a day—the equivalent of roughly one-third of our current energy use—could be saved by installing energy-efficient systems in both new and old buildings. According to administration figures, simply adding one passenger each to 40 percent of commuting cars—and thereby reducing the number of cars on the road—would save about 400,000 barrels of oil a day, or about 2.5 percent of total oil consumption.

Measures that seek to encourage conservation are ordinarily of two sorts. One strategy is to require changes in the way buildings are built, the ways people and goods are moved, and the ways energy is used in industrial production. The other is deliberately to raise the price of fuels and electricity (or allow them to rise as the market dictates), thereby giving people an economic incentive to use less.

In the long run, a nation's use of energy will depend heavily on its price. Since World War II, for example, countries where fuel is expensive relative to everything else (West Germany, France, Japan, and Sweden) have used only about half as much energy per unit of GNP as nations with low fuel costs (the United States, the United Kingdom, Norway, and Canada). In Sweden, primary fuels in the early 1970s cost about 37 percent more than in the United States, and Swedish industry used about 35 percent less fuel per capita than American industry. But electricity in Sweden was 18 percent cheaper, and industrial consumption of electricity per capital was 26 percent greater than in the United States.

In the short run, however, the effect of price increases on energy use is less than is commonly supposed. Following the Arab oil embargo, gasoline prices rose from an average of 40 cents a gallon (October 1973) to more than 62 cents a gallon in 1977. Despite this price increase, consumption rose from 6.7 million barrels of gasoline a day in 1973 to a record level of 7.1 million barrels in 1977. Nor has any other country achieved commensurate reductions in gasoline consumption by increasing gasoline prices. Between October 1973 and January 1977, West Germany boosted gasoline prices from $1.12 to $1.44 per gallon, and France raised them from $.95 to $1.59; but in both countries gasoline consumption declined by only about 6 percent. In the United States it is estimated that a 10 percent increase in the price of gasoline would initially reduce consumption by only 1 percent. Over several years consumption might fall by 2 or 3 percent, still a modest savings relative to the price hike.[3]

There are good reasons for drivers' reluctance to cut back on car use. Many find it difficult or impossible to reduce their driving simply because they have no other way of getting to work or to shopping areas. Fuel accounts for less than a fifth of the total cost of owning a car (18.4 percent for a standard-size automobile and 14.3 percent for a subcompact, according to Department of Transportation figures for 1976). So increases in the price of fuel alone won't do much to change behavior.

A combination of price hikes, regulations, transportation alternatives, and long-term planning, however, can significantly change transportation patterns. Long before the rising price of OPEC oil intensified pressure for energy conservation in the United States, Sweden slapped a 50 cents per gallon tax on gasoline to keep prices up, and taxed new cars between $500 and $900 depending on size. The Swedes also have maintained a rapid, efficient system of public transportation. According to a recent study, Swedish automobiles in 1971 average 2,400 lbs. (60 percent of the American figure), and people used private cars for roughly 55 percent of their trips below six miles (as compared with 90 percent in the United States).

For the Swedish strategy to be even partially effective in this country—which is both larger and less densely populated—American systems of public transportation need to be improved and expanded. Again, higher energy prices alone will not induce many travelers to switch from cars to more energy-efficient forms of transportation; despite the increase in gasoline prices, riders on mass transit systems have increased by only about 3 percent since 1971.

The main reason that public transportation does not attract more riders is that it is slow and uncomfortable. When the traveler's time is counted as part of the cost of using public transportation, mass transit's apparent cheapness relative to the automobile disappears. Evaluating the cost of the traveler's time near the average wage rate of $5 per hour in 1975, the Department of Transportation found that roughly three-quarters of the total cost of both an automobile and a bus varies in proportion to speed. Because the automobile is, on the average, 1.7 times as fast as the bus, it ends up being 75 percent cheaper per passenger mile. Inducing people to ride the bus, therefore, will require express bus lanes, more comfortable vehicles, a more extensive network of routes and, correspondingly, high public investment.

Yet even such inducements, in the short term at least, can go only so far. Cities built during the era of cheap oil are simply too dispersed for the kinds of mass transit systems found in Sweden. And heavy rail systems for intraurban travel (San Francisco's BART, for example) will not save energy in most American cities. In the long run, saving energy on transportation—and freeing the United States of its addiction to the automobile—will require more compact housing patterns. "Thanks from Jimmy Carter" signs in buses will not do the trick. Neither will gimmicks like the standby gasoline tax that Carter proposed and Congress rejected.

In the meantime, we need to continue boosting automobile fuel efficiency. Current federal regulations require automobile manufacturers to increase the average efficiency of their cars to 27.5 miles per gallon by 1985. In addition, Carter has proposed (and at this writing the House-Senate conferees have provisionally accepted) a tax on new cars whose fuel consumption is relatively high.[4]

Making intercity transport more efficient will require a massive infusion of capital into America's railroad system, which suffers from decades of neglect. If U.S. metroliners, for example, could operate at the 160 miles per hour they were designed for, they would be the fastest way of getting from Manhattan to downtown Washington, and would utilize about one-fourth as much energy per passenger as an airplane making the same trip. Yet because track conditions are poor, the metroliner cannot exceed 95 mph.

In general, a well-built system of railroads would be the fastest, safest, and most energy-efficient way of getting from one downtown area to another when the distance between the two is less than 500 miles. Despite this fact, U.S. policy toward the railroads is half-hearted. On the one hand, the federal government is spending $1.75 billion to upgrade the Northeast Corridor rail system. On the other hand, Congress has cut Amtrak's annual request for capital funds by two-thirds in each of the last three years, and has reduced its operating budget as well. Congress is thus forcing Amtrak to order both cutbacks in service and increases in fares, two classic ways of reducing ridership. And it is doing so despite the fact that since Amtrak's first full year of operation (1972) the agency has boosted annual ridership from 16.6 million to a record 19.2 million, reversing the decline in passenger service that plagued the private railroad system. Amtrak currently has a $4.5 billion five-year plan before Congress. The plan, which merits support, seeks new high-speed passenger train corridors and equipment.

In the residential and commercial heating sector, higher prices will encourage more efficient buildings. But there are substantial lags and loopholes in the effect of higher prices. According to a Congressional Budget Office study, the increase in energy prices over the last several years has already made insulation a good investment: fuel savings over a 20-year period are already roughly triple the cost of the insulation. Since 1974 about 8 million owner-occupied homes have been insulated, but it is estimated that 30 million more (and 11.5 million rental units) could still profit from insulation. The main obstacle in owner-occupied homes may be that insulation requires an initial outlay of several hundred dollars. The obstacle in rental units may be that the tenant pays the heating bill and the landlord makes the decision about insulation.

Again, the Swedish case is instructive. Space heating there is twice as efficient as in the United States. That is only partly due to higher Swedish energy prices. It is also due to the fact that Swedish building codes require more energy-efficient construction, that Sweden's mortgage law gives homeowners and builders access to extra funds for energy-saving features in homes, and that the government maintains energy-saving training programs for homeowners and apartment managers.

In industry, a major potential source of energy conservation is termed "cogeneration." Nearly half the fuel used by industry is burned to produce steam. That steam can be reused to produce electricity as well, giving plants a kind of in-house generating capacity. West German industry, for example, now produces 28 percent of the country's electricity by cogeneration. In a 1975 report to the National Science Foundation, Dow Chemical's Industrial Center estimated that by 1985 half of all U.S. industry's need for electricity could be met by cogeneration. That is the equivalent of the power produced by 50 large nuclear reactors.

Other than the initial equipment costs, the main obstacle to cogeneration is the structure of the electric power industry. Plants that utilized cogeneration would sometimes need back-up power supplied by

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the utilities and would sometimes have excess power to sell. Under current pricing arrangements, back-up power would be more expensive per unit than power currently purchased; most utilities reduce prices to large customers. Also, the excess power a firm produced would often be unsalable, since laws in most places allow only the utilities to sell electricity to the public. (Even where such laws do not exist, access to the transmission lines is controlled by the utilities.) If these difficulties were removed, cogeneration should become highly attractive to significant numbers of companies.

Overall, despite its recent public relations campaigns, the utility industry does little to encourage conservation of electricity. Most utilities have resisted flat-rate or "Lifeline" pricing systems under which large users would pay the same (or more) per unit than small residential customers. They have also resisted peak-load pricing, which would raise the cost of electricity during the times of day when use is highest. The reason is not hard to understand. Investor-owned utility companies are typically guaranteed a fixed return on their invested capital. If peak-load demand is high, they can expand their capital by borrowing money to build new plants or improve old ones. They then repay the loans with revenue from the additional electricity they sell. The shareholders, meanwhile, are earning a fixed rate of return on a growing investment base: earnings per share are thus increasing. If demand remains constant and more capacity is not needed, investor earnings can increase only when state utility commissions allow rates to go up. These days, that is an infrequent occurrence.

The utilities were in serious financial trouble during 1974 and 1975, the years of slow energy growth, but have since recovered along with the resurgence in demand for electricity. In 1974, for example, New York's Consolidated Edison omitted its quarterly dividend for the first time in its 90-year history and saw its stock drop from $18 to $6 a share. That same year the Dow Jones utility index fell from 95 to 57.9. With the resumption in demand, Con Ed has raised its dividend to a new high, and its stock is selling at more than $20 a share; the Dow index, meanwhile, has passed the 100 mark.

Economic performance of this sort is good for those who own utility stocks, but it is bad for the cause of energy conservation. As Carter has recommended, the utilities' practice of promotional pricing (discounts to big customers) should be terminated and peak-load prices increased. (These measures were approved by the House but rejected both by the Senate and by the House-Senate conferees.) In addition, local communities should consider taking over privately owned utilities and establishing municipal ownership. While privately owned utilities have consistently opposed rate reform aimed at discouraging consumption, some publicly owned companies have pioneered in this area.

Renewable energy sources, like conservation, become more attractive economically as the prices of conventional fuels rise. The variety of potentially practical alternative sources is quite wide. Hungary, Iceland, New Zealand, and the Soviet Union, for example, all make relatively extensive use of geothermal energy—heat from the earth's core. The one large-scale commercial use of geothermal energy in the United States—Pacific Gas and Electric's dry steam Geysers of California—produces electricity considerably more cheaply than coal-fired or nuclear generating plants.[5] Four plants generating power from mixtures of steam and hot water—a more abundant, but more difficult source to utilize—are currently planned for the Imperial Valley. (Nine other countries already have such plants.) Comparable resources appear to lie in the Rocky Mountain states. This January—in the first effort to develop them—Utah Power and Light Company announced plans to build a plant at Roosevelt Hot Springs. It is not yet known how common the geological configurations allowing geothermal energy to be tapped may be, but these recent developments are encouraging.

Tidal power—harnessing ocean currents to produce electricity—is produced commercially in France and the Soviet Union. Research into its possibilities for the United States is virtually nonexistent. Windmills, another way of generating electricity from natural energy flows, are currently cost effective only in remote locations. By 1980 it is expected that technological improvements will enable them to generate electricity at between 2 and 6 cents a kilowatt hour, roughly twice the cost of conventionally generated electricity today. If conventional costs continue to rise, windmills may become more attractive. Companies like Lockheed and General Electric are reportedly waiting for a market to develop; the Department of Energy is spending some $20 million in research and development money on problems of windmill reliability and back-up generation.

Another promising renewable source of energy is what is known as biomass conversion—that is, burning wood, wastes, sugar cane, algae, or other combustible agricultural products. Some American cities are already burning refuse to generate energy, and roughly a hundred others are studying the process. John Deere and Company, an agricultural equipment manufacturer, burns garbage in energy-generating facilities in Wisconsin nad Iowa.

Other biomass fuels are better than garbage, however. The energy content of wood and dry crop wastes is comparable to that of western coal. (America's half-million wood-burning stoves, in fact, represent the most popular renewable energy source currently in use.) A report by the Mitre Corporation recently concluded that approximately 5 percent of all U.S. energy needs could be produced on just 10 percent of now-idle forest and pasture land. High-yield species would be grown in closely spaced, short-rotation tree farms.

In another form of biomass conversion, it is estimated that harvesting ocean kelp and converting it to methane could generate as much gas as the United States currently consumes each year—23 trillion cubic feet. Land plantations reportedly could generate another 8 to 10 trillion cubic feet a year. Estimates are that the cost would come to between 2 and 6 cents a kilowatt hour, but these figures remain highly speculative.

Despite this potential, biomass conversion has played little role in U.S. energy policy; it is barely mentioned in the Carter plan. In Sweden, by contrast, the forest industry currently produces 60 percent of its own energy needs. Throughout Europe liquid fuels from biomass materials have been blended with gasoline for decades. In Brazil it is now national policy to substitute up to 20 percent ethyl alcohol for petroleum-based liquid fuels. And in China biomass materials converted into a nontoxic fuel are used for cooking, lighting, machinery, and electric power generation.

Of all the alternative energy sources, solar power has attracted the most attention and seems to hold the most potential. Right now approximately 20 percent of U.S. energy consumption goes to provide space heating and hot water Much of this heat could be furnished with existing solar technologies. According to government studies, solar hot water heating makes good economic sense almost everywhere in the United States right now. Solar space heating is not yet competitive with oil and gas, but an Energy Research and Development Administration study of 12 geographically dispersed cities found that it is already competitive with electric heat.[6]

During the past few years the number of solar heating systems has grown between 10 and 20 percent a year, with about 15,000 solar energy systems currently in place. Carter's plan called for 2.5 million to be installed by 1985. The main barriers to realizing this goal are the high initial cost of solar systems, slow turnover in housing stock, the need to retrofit existing homes, and reluctance or ignorance on the part of consumers. These factors may decrease in importance over time. According to an ERDA study, reducing the cost of solar collectors from the present $20 per square foot to $15 would enable solar heat to compete successfully with oil space heating in many areas. If it could be reduced to $10 by 1980, solar space heating would be competitive with gas as well. If the price of oil and gas rises to the extent Carter has proposed, solar will become competitive that much faster.

Solar thermal power plants can also generate electricity. At present the cost of solar electricity is estimated to be between two and four times that of conventionally generated power. But the capital cost of nuclear power plants has grown 16 to 20 percent annually for the past decade, with coal plants close behind at a steady 16 percent. Both increases are significantly higher than the rate of inflation, and both are due largely to new requirements for safety and environmental protection. Solar thermal power plants have none of the safety or environmental problems associated with their competitors, and are therefore apt to become more attractive economically. If present cost trends continue, solar power will be competitive with coal and nuclear power by the year 2000. Additional research into solar technology could shorten that time lag.

Photovoltaics—producing electricity directly from sunlight with a photoelectric cell (and thus bypassing the heat-generating process entirely) currently can provide electricity at about ten times the cost of conventional power. The Department of Energy estimates that it will take ten years and cost $500 million in research and development funds to reduce costs to practical levels.

Present policy does little to encourage the development of such energy sources; instead, it encourages the consumption of oil and natural gas. Existing price controls hold the cost of energy in the United States below the world price, and market prices in any event take inadequate account of the fact that oil and natural gas are depletable resources. If conservation and alternative energy sources are to be fostered, oil and gas prices will have to rise.

Allowing a straight price hike, however—with the proceeds going to oil and gas producers—reduces consumption simply by reducing people's standard of living. That is essentially what has happened so far, and Carter's proposals—not to mention the compromises emerging from Congress—would exacerbate the situation. Decontrolling the price of "new" oil, allowing increases in the price of "old" oil, and raising the price of interstate natural gas—all measures envisioned by the administration—would effectively transfer millions of dollars from consumers to energy producers. Despite the latter's protestations to the contrary, they do not need the money. And energy price increases of this sort fall particularly harshly on the poor, who spend a greater proportion of their income on energy than do those who are better off.

Carter should therefore consign to the dustbin his proposal that oil companies get the full OPEC prices of $13.50 a barrel for newly discovered oil. Instead he should give them the present ceiling price of "old" oil—$5.25 a barrel—for all domestically produced oil. Considering the domestic oil was profitably sold for $3.50 a barrel only five years ago, a price of $5.25 should more than cover the cost of most domestic production.[7] While

Footnotes at end of article.

the companies will complain that such prices give them little incentive to look for more oil in the United States, there is no reason for consumers to pay premium prices so the companies can scurry around after marginal additions to domestic supplies. Most of the continental United States is pretty well drilled already.

The way to keep prices up without hurting people's standard of living is to tax energy use and rebate the money to consumers. Carter proposed such a system, with a $75 per capita across-the-board rebate. His original proposal would have been mildly progressive in impact: under the plan, according to the Congressional Budget Office, families in the lowest income group would come out 2.8 percent ahead by 1980 and those in the highest group would come out .4 percent behind. Within income classes, the system would be less equitable. Since the amount rebated varies only with family size, high energy users within each income class (who would pay the highest tax) would suffer more than low energy users. People without cars would gain at the expense of auto owners, and city dwellers with access to public transportation at the expense of people in suburbs and rural areas.

To some extent, an effective conservation strategy requires these effects: each of them penalizes those who use a lot of energy. But considerations of fairness militate against Draconian measures for the low-income farmer who bought a big car in an era of cheap energy and who still has no access to public transportation. Partial compensation based on locale and income group should therefore be built into the rebate scheme.

For example, a sample survey might be conducted on the amount currently spent on energy by people in different geographic regions and income groups. Data would be gathered both on direct energy expenditures—gasoline, heating oil, etc.—and on indirect expenditures such as energy costs incorporated in a family's food bill. Families could then be compensated for such factors as area of residence and income group. Of course, those who currently use more energy than the average for their income class or region would still be more heavily penalized by the tax, but that is an inevitable effect of any conservation measure.

The reason for such a tax and rebate scheme is that a family that paid $400 extra for natural gas (say) might begin to think seriously about insulation or solar heat even if the $400 were rebated at the end of the first year. To maximize the rewards for efficient energy use, rebates in subsequent years would be based on the family's initial entitlement.

Other than relative price, the greatest barrier to the widespread adoption of conservation measures and solar heating for residential and commercial properties is the high initial cost. Investments in insulation or a solar system may save money even now when figured over the life of the equipment; but the steep initial cost often discourages consumers from purchasing them. Builders too are reluctant to install solar systems in new houses, for fear that the additional cost will scare off potential buyers.

In response to this problem, President Carter has proposed tax credits(25 percent of the first $800 spent and 15 percent of the next $1,400) to families that insulate; similar measures were approved by both Houses of Congress. The difficulties of tax credits, however, are well known. Most of the benefits would go to middle and upper-class families who own homes and who have access to the capital necessary to purchase insulation. The proposal does nothing to stimulate insulation in rental units, or in homes owned by people with lower incomes.

Rather than provide subsidies to the middle class, the government might better ensure that low-interest loans for energy-saving improvements are available to low and middle-income groups, and give tenants the right to compel landlords to make such improvements. The House Senate conferees have taken a step in this direction by approving a plan for $3 billion in federally subsidized energy conservation loans, to be made available to families with incomes below the median in a given area.

A similar policy should apply to solar power. Solar water and space heating will shortly be competitive with oil in several parts of the country, and with natural gas if its price is deregulated. "Competitive," however, means over the 20-year average lifespan of a solar system. Some studies have shown that consumers will not make purchases of that sort unless they are assured of a payback within five years.

Consequently, the pricing strategy needs to be supplemented by measures to provide funds to prospective purchasers of solar equipment. Carter again proposed tax credits for this purpose (40 percent on the first $1,000 and 25 percent on the next $6,400), but to take advantage of the maximum credit available ($2,000) a family would ordinarily need an income of more than $18,000. According to the Congressional Budget Office, each barrel of oil that would be saved by such a tax credit would "cost" the government $11.28. A better measure is simply a low-interest loan program aimed at low and middle-income groups. The House-Senate conferees have agreed on a program of solar loans made by conventional lenders but purchased from them by the Government National Mortgage Association at rates between 7.5 and 12 percent. Most of the benefits of this program, however, will go to the relatively well off.

The auto makers, the oil companies, and the utilities rise regularly these days to laud the future of solar power and energy conservation. But their continued profits depend on our continued use of fossil fuels and nuclear power. Automobile manufacturers have always made their highest profits on the sale of big cars, and they are not exactly bending over backwards to meet Washington's new regualtions on fuel efficiency. The utilities have traditionally increased their profits by boosting demand for electricity and expanding their capacity correspondingly. The oil companies, which have extensive holdings of gas, coal, and uranium as well as petroleum, have profited enormously from an energy-dependent public.

So while they bow in the direction of "soft" energy paths, these companies have done much to persuade us that too great an emphasis on conservation and alternative energy means slow growth and unemployment. The economy, they say, needs cheap, abundant energy—and right now they are the only ones who can provide it. Upon occasion voters and their representatives have bought this argument. Referenda to curtail nuclear power or to institute flat-rate electric bills, for example, have foundered on the rocks of slow-growth threats.

In the long run, there is no necessary connection between levels of energy use and GNP or living standards. Sweden, West Germany, and Switzerland have living standards equal to or higher than our own but consume only about 60 percent as much energy per capita as the United States. Numerous studies have shown that by increasing the efficiency with which we use energy we can reduce future consumption but continue to raise our standard of living. For example, a study by Data Resources for the Energy Policy Project of the Ford Foundation concluded that we could cut our historic rates of energy growth in half and still more than double our GNP by the year 2000.[8]

In the short run, however, high energy prices (with no corresponding rebate) do act as a kind of surtax on people's incomes, lowering discretionary income and thereby depressing aggregate demand. Industries that depend on high energy inputs will be forced to raise their prices substantially, and may have to cut output and employment.

If the economy is to grow with less energy use, energy will have to be employed more efficiently; its productivity will have to increase. Existing technologies can accomplish much of this. West German industry, for example, uses 38 percent less energy per unit of output than American industry, and Sweden uses 40 percent less energy than the United States for each dollar of GNP.[9] Estimates are that by using known methods the United States could save between 20 and 30 percent of energy used in manufacturing (which in turn accounts for some 28 percent of total U.S. energy consumption). Higher energy prices will encourage both replacement and innovation, but the transformation will be gradual. Machinery is replaced slowly, and energy costs in most industries are a relatively small fraction of total costs.

The economy can also grow with less energy as energy-intensive industries decline relative to other sectors. To some extent this has already begun. Since 1945 energy use in the United States has been expanding more slowly than GNP despite (until recently) declining real energy costs. Foreign experience suggests this pattern is typical. One reason for it may be the continued growth of service-providing sectors of the economy relative to manufacturing sectors.

The five most energy-intensive industries, together with the energy-producing industry, consume about one-third of all the energy used by U.S. industry. They also account for roughly half of new investment in plant and equipment. But together they account for only 15 percent of GNP and about 10 percent of employment. Declines in these industries, therefore, would reduce energy consumption significantly without reducing employment by a commensurate amount. If they can be "replaced" economically by labor-intensive sectors—services, for instance, or new conservation and alternative-energy industries—the economy need not suffer.[10] But the transition will require extensive government planning, public investment, and job programs.

It is no accident that conservation and alternative-energy sources suffer from public relations problems, whether of the bumpy-bus-ride variety or the rising-unemployment variety. There are many powerful interests pushing coal, nuclear power, natural gas and oil—provided only that it all can be sold at the right price. There are few interests—and no powerful ones—pushing conservation measures or research and development programs for alternative energy. There are many workers whose jobs and lives would be affected if the price of natural gas rises substantially, or if gasoline is heavily taxed. There are very few who would be immediately affected if we decide to forget about solar energy.

But in the end the energy dilemmas we are constantly reminded of are only political problems to be solved. In the short run we need the oil that the companies are reluctant to produce, and we need new institutions capable of seeing that fossil fuels are produced with the public interest in mind. In the long run we need to use energy more efficiently—to get "more for less." And we need to encourage soft, renewable energy technologies.

Anything less seems foolhardy if not suicidal. But the outcome is nonetheless in doubt for all that. The chances of wisdom winning out over foolishness—and the interests of the many winning out over the interests of the few—have never, in our society, been particularly bright.

FOOTNOTES

[1] Roger Sant, former assistant administrator of the U.S. Federal Energy Administration, found that a $500 billion investment in

energy conservation would save the United States twice as much energy as a comparable investment in new supplies would produce.

[2] Between 1950 and 1973 fuel economy in autos decreased by more than 10 percent.

[3] So far the increase in gasoline prices has not had a major impact on Americans' auto buying habits. In September 1973 small cars (compacts and subcompacts) accounted for 36 percent of the domestic market. Immediately after the major gasoline price increases in January 1974 their share of the market rose to 41.2 percent, but in 1977 they were back down to 36.4 percent. Imported cars, however, modify this picture somewhat. In 1973, imports and U.S. small cars combined accounted for 37.3 percent of the U.S. market. In 1974 the figure was up to 53.2 percent, but last year it was back down to 48.2 percent. (Not all imports are small cars, but most are.)

[4] According to the provision approved by the House-Senate conferees, the tax would begin at $200 in 1979 on cars getting less than 15 miles per gallon. Those getting less than 14 miles per gallon would be taxed $300 and those below 13 taxed $550. These taxes would be increased annually until 1985, when cars getting less than 22.5 miles per gallon would be taxed $400, while those under 12.5 would be taxed $3,850. Carters original proposal to rebate the proceeds of this tax to consumers was rejected by Congress. Even without the gas guzzler tax the Congressional Budget Office estimates that the average fuel economy of cars on U.S. roads will increase by about 20 percent between now and 1990.

[5] Since 1890 residents of Boise, Idaho, have used naturally occurring hot water to heat their homes. Those on the geothermal line pay less than one-half as much as Boise residents who use natural gas for heat. The only other U.S. city to make extensive use of geothermal heat is Klamath Falls, Oregon. But there the results have been only marginally economic.

[6] Electric heat is not so uncommon as is frequently supposed. As a result of the natural gas shortage, about half the new homes built in the United States today are unable to get gas hookups and therefore turn to electric heat. While 30 percent of new dwelling units built in 1971 had electric heat, by 1974 the figure was up to 47 percent.

[7] The only exception to this should be oil that is more expensive to recover. Even here the companies should be required to demonstrate both the reasons for the higher cost and the immediate need for the oil. If both these conditions were met satisfactorily, the companies should then be entitled to a fair return and a higher price. But they should not automatically get the OPEC price, as they would under President Carter's proposals.

[8] From the period after World War I to 1954 the amount of energy used to produce a dollar of GNP in the United States fell from a peak of 92 million BTUs to about 59 million. Then, in the era of cheap Middle Eastern oil, little progress was made: in fact by 1970 the energy/GNP ratio was back up to 62 million. But with the rise in the price of energy during the past few years, the ratio has fallen below 58 million. In West Germany and Sweden it is already down to about 41 million.

[9] In 1972, West Germany used only 67 percent as much energy as the United States to produce a ton of petroleum products; 68 percent as much for a ton of steel; and 57 percent as much for a ton of paper. Measured on the basis of a dollar's worth of shipments, West German output in 1972 required 70 percent as much energy for food production, 37 percent for paper, 57 percent for chemicals, 50 percent for petroleum and coal products, 73 percent for stone, clay, glass, and concrete products, and 80 percent for primary metal production. The average for these six energy-intensive industries was 69 percent.

[10] A Bonneville Power Administration study found, "High impact conservation programs create more jobs than would be created by building new power plants to generate an equivalent amount of energy." Similarly, Fred Dubin, president of an engineering, planning, and management firm that has done several energy analyses, found that $2 billion invested in solar power and conservation technologies creates four times as many jobs as $2 billion invested in nuclear reactors.●

SENATOR JAMES ALLEN

● Mr. CANNON. Mr. President, the loss of my good friend Jim Allen has saddened me deeply. I had the pleasure of serving with Senator Allen on the Senate Rules Committee for many years. He was a conscientious and constructive voice on every aspect of the committee's business. Among other attributes, he could be counted on to express the sometimes unpopular but always necessary philosophy of fiscal restraint.

For a person who was known as a most formidable opponent of a wide range of legislation, it is remarkable that Senator Allen inspired so little animosity among his colleagues. He was that rarest of individuals who could fight tooth and nail over an issue, but never lose respect for those opposing him and never offend them personally.

Like proud Horatius who gained everlasting fame for his solitary defense of Rome at the gate of the Tiber, Senator Allen became famous for his unswerving support of conservatism and tradition as well as parliamentary procedures. From throughout the country came praise for this indefatigable Senator with the courtly southern manner and voice. His intelligence, verbal agility, and unfailing good humor captivated the Nation.

Senator Allen has been called the undisputed master of parliamentary procedure and no one who has had him as an adversary would deny that. He was, quite simply, a unique figure in the Senate and I doubt we shall see his equal in quite some time.

To his widow MARYON and the rest of his family, I and my wife Dorothy extend our sincerest sympathy and hope for strength to bear up under their loss.●

GAS FROM GULF COAST GEOTHERMAL ZONE

● Mr. GRAVEL. Mr. President, it has come to my attention that many of my colleagues, for one reason or another, might have overlooked an interesting article appearing in the Washington Post some time ago. The thrust of the article is that there may be an extraordinary amount of energy contained in the geothermal zone of the gulf coast area of the country. The unusual aspect of this revelation is that the country could benefit from both the geothermal energy, as well as from the potentially incredible quantities of dissolved methane gas. I have read other accounts of this potential. I remain firm in my belief that there are sources of future energy available, such as this one, if we but encourage the use of imagination in our approach to the Nation's energy crisis—and provide the necessary incentives—of all kinds—to assure that we leave no potential area of energy resource unexplored, if only in the academic sense. While oilmen may call such sources "pie in the sky," we should not be dissuaded from investigating them. This source is not going to replace any other. But collectively, with earnest investigation of all potential sources, we will come closer to lessening our dependence on foreign sources and domestic nonrenewable sources of the conventional variety, while we begin to reap the benefits of conservation of our energy usage. I submit the following article for the RECORD and I commend my colleagues the reading of the article in the hopes that we may begin to approach our energy situation with maturity and optimism.

The article follows:

[From the Washington Post, Jan. 22, 1978]

GEOTHERMAL ZONE'S GAS EXCEEDS EXPECTATIONS

(By Bill Crider)

NEW ORLEANS, Jan. 21.—An effort to tap a potentially enormous new source of natural gas along the Gulf Coast came up a lot richer than expected—and no one is quite sure why.

"People were waiting around to see what we found; from now on, it will be like a snowball rolling," said O. C. Karkalits, dean of the School of Engineering and Technology at McNeese University.

The experiment, still under analysis involves the Gulf geothermal zone—a 100-mile-wide underground formation extending from New Orleans to Brownsville, Texas.

A project headed by Karkalits took over a dead gas well in Tigre Bayou near Delcambre, La., last summer, tapped into the zone, and began bringing up hot salty water so full of dissolved methane gas it fizzed like soda pop.

Scientists expected to find a maximum of 37 cubic feet of natural gas dissolved into each barrel of water by the zone's 11,000-pound-per-square-inch pressure.

"Much to our surprise, the gas we gathered ranged from 40 to 70 cubic feet per barrel," said Karkalits. "Actually, it got as high as 87 or 88 cubic feet."

To try to figure out what was happening, they recombined gas and salt water at the McNeese laboratory in Lake Charles, La., under reservoir conditions—238 degrees Fahrenheit heat and 11,000 pounds pressure.

Karkalits said the water was saturated after 24 cubic feet of gas was dissolved into it. No more than that could be compressed into the water. So where was all that extra gas coming from?

"My theory is that there are little bubbles of gas in the water that couldn't get into solution after the water became saturated," said Karkalits. "When the water came up, the bubbles came out. But the theory is too new to be completely accepted."

Will Osborne of Bryan, Texas, senior partner of the engineering firm of Osborne, Hodges, Roberts and Weiland, said more experimental projects must be undertaken before the theory is proven.

The firm handled operations at the 13,000-foot-deep experimental well.

"We don't think so, but there is a possibility we had a little gas cap down there, or there could have been leakage somewhere up the casting from some other reservoir," he said. "We limit ourselves to cautious optimism."

Oil men long have known that the geothermal belt, a dangerous hazard to early drillers, was gaseous. However, it ever seemed worthwhile to find a way to get the gas out—

not until shortages began forcing gas prices up.

Researchers are fascinated by the geothermal zone because, theoretically, the Gulf zone and another one located in California could feed energy-hungry America for generations.

Oil men call that "pie in the sky."

As a measure of the potential, a U.S. Geological Survey study estimated the Gulf zone contains 24,000 quads of methane gas within normal drilling range.

A "quad" is the equivalent of one quadrillion British thermal units of heat, or roughly the energy in a trillion cubic feet of natural gas, 170 million barrels of oil, 50 million tons of coal.●

FOREIGN INVESTMENT IN U.S. FARMLAND

● Mr. TALMADGE. Mr. President, last January, I asked the Comptroller General of the United States to have the General Accounting Office (GAO) conduct an inquiry into reports that I and other Members of Congress were receiving concerning reports of large-scale purchases of U.S. farmland by foreign investors.

The GAO has completed its preliminary inquiry into this matter and has submitted the report of its initial findings to me as Chairman of the Senate Agriculture, Nutrition, and Forestry Committee on Monday. While the report is somewhat inconclusive in some respects because of the magnitude of the task and the limited time, the findings appear to confirm a considerable amount of interest and activity by foreign investors in U.S. farmland, at least in some areas of the Nation.

For example, a spot check by the GAO of 25 counties in 5 States indicates that 44,016 acres have been purchased by foreign investors since January 1976. This represents 0.3 percent of all farmland in those counties. In one county in my State of Georgia—Johnson—6.3 percent of all farmland was purchased by foreign interests during the period.

The Senate Committee on Agriculture, Nutrition, and Forestry will continue to look into this problem, using the GAO report as a starting point. I have, in fact, taken six actions to broaden and intensify our committee's study and investigation of the foreign farmland ownership question.

Mr. President, because of the extensive interest in this matter, I ask to have printed in the RECORD a letter from the Acting Comptroller General summarizing the GAO report. I am sure many Senators will wish to avail themselves of the entire report.

I ask that my remarks about the future plans of the committee also be printed in the RECORD.

The letter and statement follows:

HON. HERMAN E. TALMADGE,
Chairman, Committee on Agriculture, Nutrition, and Forestry, U.S. Senate.

DEAR MR. CHAIRMAN: By letter dated February 28, 1978 (app. VII), you asked us to (1) obtain information on State laws that place constraints or require reporting on ownership of farmland by nonresident aliens, (2) obtain any data collected as a result of State reporting requirements or available from other sources on foreign ownership of land, and (3) provide observations on possible approaches or follow-on initiatives for obtaining nationwide data on purchases of U.S. farmland by foreigners. You also asked us to determine whether any information was available at the county level to indicate the magnitude of foreign investment in farmland. The Chairman of the Subcommittee on Agriculture, Rural Development and Related Agencies, Senate Committee on Appropriations, expressed a similar interest (app. VIII).

Before receiving your request, we had made some preliminary inquiries on the subject of foreign investment in U.S. farmland. As we reported to you on March 17, 1978, very little aggregate data exists about the ownership of U.S. real estate; there is no national system for obtaining such information; and, although some Federal studies have been made and other efforts are underway, the data produced to date is very fragmentary and inconclusive. The results of our preliminary inquiries are included as appendix VI in this report.

In response to your request, we solicited information from each State's Governor; visited six States (California, Georgia, Illinois, Kansas, Missouri, and Oklahoma) and 25 counties; talked with legislators, State and county officials, lawyers, brokers, farmers, and other agricultural experts; and reviewed various State and county records. We also held discussions with various Federal officials. A detailed description of the scope of our work is in appendix I.

The results of our review are summarized below and are discussed in more detail in appendixes II through V.

LIMITED IMPACT OF STATE LAWS ON FOREIGN INVESTMENT IN U.S. FARMLAND

In the aggregate, State laws do not significantly inhibit foreign ownership of land. The laws range from general prohibitions on such ownership to a total absence of provisions dealing with this subject. There are so many different provisions, exceptions, and stipulations that even classifying the laws into general categories is difficult. These differences seem to mirror the diversity of State perceptions as to whether foreign ownership of land constitutes a present or potential problem in the State.

Classification of State laws

As of May 1978, 25 States had laws that placed some constraints on aliens acquiring or holding farmland. As summarized below and discussed in more detail in appendix II, some of these laws had more than one type of restriction or requirement. Also, 13 States had laws that placed restrictions on corporate ownership of U.S. farmland.

	Number of States
Restrictions on alien ownership of U.S. farmland	25
General prohibition or major restrictions on nonresident alien ownership of land	9
Restriction on size of landholdings or duration of ownership	11
Restrictions on inherited land	9
Restrictions on acquisition of State property	4
Other minor restrictions on ownership	6
No restrictions on alien ownership of U.S. farmland	25
Restrictions on corporate ownership of U.S. farmland	13

Some of the restrictions were major, while others were minor and seemed to be of little practical importance in deterring alien investment in U.S. land.

The nine States that have laws that generally prohibit, or restrict in a major way, individual alien investors residing outside the United States from owning real estate in their names are Connecticut, Indiana, Kentucky, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, and Oklahoma. Most of these States have some exceptions to the general provisions on nonresident aliens, and some have limitations on ownership of land by resident aliens.

Five States have laws that limit the total acreage that aliens can acquire or hold. These are Iowa, Missouri, Pennsylvania, South Carolina, and Wisconsin. The limits range from 5 acres to 500,000 acres. Six States (Illinois, Indiana, Kentucky, Mississippi, Nebraska, and Oklahoma) have laws that restrict aliens from owning land for more than a specified time. Illinois permits aliens to acquire land, either by purchase or inheritance, but requires them to dispose of it within 6 months. The other five States require aliens to dispose of all or part of their landholdings within specified times if they do not become U.S. citizens or, in the case of Oklahoma, U.S. citizens or residents of the State.

The laws of the 13 States that restrict corporate ownership of real estate vary in complexity and degree of severity—some apply to all corporations (regardless of whether aliens are involved); others apply only to corporations that have alien interests behind them.

Pertinent excerpts from and citations to the laws of individual States are shown in appendix V.

Ten States (Alabama, California, Georgia, Illinois, Iowa, Kansas, Nebraska, Ohio, Oklahoma, and Wisconsin) told us of proposed legislation, at the time of our review, that would place additional constraints on foreign ownership of their land or would require periodic reporting of such landholdings. Most of these States already have laws containing some restrictions on foreign ownership of land.

Even recognizing the proposed additional legislation, our overall impression is that effective control or monitoring of foreign investments in U.S. farmland through State legislation is a long way off.

Data collected by States

The States have collected very little data on foreign ownership of farmland. Only two States (Iowa and Minnesota) require nonresident aliens to file annual reports on their agricultural landholdings. These two States and Nebraska also require corporations with agricultural landholdings to file annual reports identifying the names and addresses of alien shareholders. Vermont also provided some information on the amount of farmland purchased by nonresident aliens in certain counties. Data obtained from these four States is as follows.

Iowa reported that 23 nonresident aliens owned about 7,000 acres in 1977, and that 6 of 13 corporations with at least 5-percent alien ownership owned about 2,100 acres. (Data was not available for the other seven corporations.) The 9,100 acres represents 0.03 percent of Iowa's farmland.

Minnesota reported that about 28,200 acres (0.09 percent of Minnesota's farmland) were owned or leased in 1976 by nonresident aliens or by business entities with at least 10-percent alien ownership.

A Nebraska official said that no landholdings were reported under its requirement.

Based on a limited survey, Vermont reported that nonresident aliens bought 951 acres, or about 20 percent, of the 4,746 acres of farmland that were sold in 4 of its 14 counties during 1976 and 1977.

There is no basis for concluding whether the above data provides a good clue as to the nationwide situation.

How foreign investment in U.S. farmland is perceived by State governments

We asked the State Governors whether their States consider foreign investment in farmland to be an actual or potential problem and the reasons for this belief. The re-

sults of this survey are summarized below and discussed in more detail in appendix II.

	Number of States
Not an actual or potential problem	18
Could become a problem in the future	10
Is a problem (or limited problem) at this time	2
No official position—but some legislators and citizens are concerned	7
Mixed views	2
Not enough information for opinion or no response	11
Total	50

States that viewed foreign investment in their farmland as a potential problem generally cited one or more of the following reasons.

Foreign investors might drive up the price of farmland beyond the reach of local residents.

Too much foreign investment could eventually enable foreign interests to gain some control of the available farmland, especially prime agricultural lands. They could then gain some control over food production and possibly food prices.

Too much foreign investment could adversely affect the future of small family farms.

Most of the States that did not consider foreign investment to be a current or potential problem did not provide any insight into the reasons for their belief. Others said that

data was lacking or that available data did not indicate a problem,

foreign investment could benefit agriculture expansion,

the matter was primarily an emotional issue,

the issue has been blown out of proportion, and

farmland prices were being driven up by farmers bidding against each other just as much as by foreigners bidding for land.

DIFFICULTY OF FINDING OUT WHAT IS HAPPENING IN COUNTIES

We visited 25 counties in 5 States to see what kind of information was available on foreign land purchases and to obtain data on the extent of such purchases in those counties. The results of these visits are discussed in appendix III. We came away with the opinion that, generally, county public records are not a useful source of information on foreign investment in county farmland. We were able to obtain some information on the subject from other sources and check it out through various means; however, the completeness of the information is uncertain and its collection depended largely on the knowledge and cooperation of various private and public firms, agencies, and officials.

In trying to obtain information about recent purchases of farmland by nonresident aliens, we talked with persons who, because of their jobs or positions, we thought would be knowledgeable about their county in general and farmland transactions within that county in particular. These persons included county court clerks and tax assessors; members of county committees involved with certain Department of Agriculture activities; real estate agents, brokers, and appraisers; bankers and employees of other types of lending institutions; title insurance companies; local farmers; and others.

We asked these persons for any information they had on specific instances of farmland purchases within their respective counties by nonresident aliens since January 1976. We tried to verify any information obtained by reviewing available public records. We had no means of checking the completeness of the information obtained and therefore cannot say what proportion of all purchases or of all foreign purchases of land in each county was identified.

Also, in cases where the owners of record were corporations or other business entities, we could not identify the beneficial owners of the farmland (for example, the stockholders of a corporation). We therefore considered such farmland to be foreign owned if the corporations were either incorporated in a foreign country or listed foreign addresses for one or more officers or directors. Included in this category were corporations listing addresses in places with significant tax advantages such as the Netherlands Antilles. It is possible, however, that some of these corporations may be totally owned by U.S. citizens.

Identification of farmland owned by nonresident aliens in selected counties

The information we obtained for the selected counties is summarized below by State and is discussed in more detail in appendix III.

State	Number of counties	Total farmland acres in counties	Information indicates foreign ownership: Number of acres	Information indicates foreign ownership: Percent of total acres
California	3	7,367,730	8,786	0.1
Georgia	11	1,611,010	24,239	1.5
Kansas	3	771,000	2,678	.3
Missouri	3	1,055,143	9,013	.8
Oklahoma	5	5,342,872	0	0
Total	25	16,147,755	44,716	.3

Further information on these transactions and on additional scattered land transactions in these States is presented starting on page 25 of appendix III.

Because information is not available for determining whether the above data is representative of foreign investments in the counties visited, the information we were able to gather could be only the "tip of the iceberg"; on the other hand, it could represent a conservative approximation of the situation in the countries involved.

Impact on land prices

We also acquired or developed some data on the prices nonresident aliens paid for farmland in several counties, but we could not determine to our satisfaction whether these prices were on target or were considerably higher or lower than prevailing market prices for comparable property in those locations. Sales prices generally were not recorded on the property deeds we reviewed. For some sales in Georgia, we estimated sales prices on the basis of the transfer tax and other information shown on property deeds.

For example, the estimated prices paid by nonresident aliens for 17,400 of the acres we identified in six counties in east central Georgia ranged from $305 to $717 an acre. According to county sources, the average price of farmland in these counties ranged from $300 to $500 per acre—the better land costing more. Elsewhere in Georgia, prices paid for about 6,000 acres by nonresident aliens ranged from $925 to $3,155 an acre, compared with average prices ranging from $600 to $1,000 an acre. Another example showed domestic investors paying about $150 an acre less for comparable land than a foreigner.

In one case in Kansas where we could determine the price of foreign owned farmland, the price per acre was about $40 less than the average price paid by domestic purchasers in eight sales of generally comparable land.

Opinions of local authorities and others regarding foreign ownership of farmland

Local authorities and others expressed differing views about the implications of nonresident aliens purchasing farmland. Some were concerned that foreign purchases might pose a potential problem; some believed that problems already have surfaced; and others said that such investment was beneficial. Nearly all of the persons we talked with had heard rumors about nonresident aliens purchasing farmland, either in their areas or elsewhere, but none of them knew the extent of such investment in their particular localities. More information on local views is presented starting on page 36 of appendix III.

OBSERVATIONS ON CURRENT EFFORTS AND ALTERNATIVE INITIATIVES

There is virtually unanimous agreement among persons at all levels of government and in the private sector that, currently, there is no reliable data on the amount of U.S. farmland owned by nonresident aliens or on recent trends of such ownership. Such information would be very helpful to the Congress if it wishes to formulate and implement a national policy on nonresident aliens owning farmland in the United States. Clearly, efforts need to be started now to produce useful and meaningful information.

Federal efforts

Several Federal efforts touching on this subject have been started or planned. They are summarized below and discussed in more detail in appendix IV.

A planned Department of Agriculture feasibility study of ways to obtain nationwide land ownership data. (This has still not gotten off the ground because of funding problems.)

A Department of Agriculture questionnaire-type survey designed to obtain data on the characteristics of landowners and land uses.

A Department of Commerce effort (by its Office of Foreign Investment in the United States) to identify all types of foreign investments in the United States, including those in the agriculture area.

A Department of Commerce effort (by its Bureau of Economic Analysis) to require all nonresident alien firms and individuals owning or leasing at least 200 acres of real estate to report the particulars of such landholdings.

A Department of Commerce effort (by its Bureau of the Census) to obtain information on nonresident alien owners of farmland through the 1979 Agriculture Census.

The results of Federal ongoing and planned efforts for obtaining useful data on foreign investment in U.S. farmland are not encouraging.

Recommendation

The effort planned by the Department of Commerce's Bureau of Economic Analysis to identify certain real estate owned or leased by nonresident alien firms and individuals will not separately identify the amount of farmland acres included in the total acreage reported. We suggested to Commerce officials that such a breakout of data would be useful to the Congress, but the officials told us that they do not plan to do this. We therefore recommend that your Committee request the Department of Commerce (1) to adjust its reporting requirements to specifically identify farmland and (2) include such information in its report to the Congress.

Alternative new approaches

Following are some observations on various approaches that have been suggested for obtaining information on nonresident alien investment in U.S. farmland. Before any system is instituted, a number of related legal, procedural and coordination issues need to be addressed. These are discussed below and in appendix IV.

1. As a condition for any individual or entity receiving any benefits through Federal rural/agricultural programs, they could be required to first register their alien status and the acreage they own or lease at the county Agricultural Stabilization and Conservation Service office. This approach has the advantage of being an all-Federal system

which should reduce legal and coordination difficulties. It also has a built-in compliance factor for those benefiting or planning to benefit from such programs. A disadvantage would be that all foreign owners of farmland may not participate in, and some may choose to disassociate themselves from, such Federal programs.

2. As part of a mandatory process of recording land transfer transactions at the county level, new land owners or their agents could be required to identify on a data processing card the alien status and acreage of such ownership. This information could be routed through the States to a central Federal point for tabulation and annual reporting. This would not provide data on existing land ownership. It would require close cooperation of all States and counties, changes in State laws and county ordinances, and uniform data collection and reporting systems. A major advantage would be that information would automatically be generated on all purchases by foreigners.

3. Another approach would be to require that all parties customarily involved in real estate transfers report on any land acquisitions involving foreign interests. Major drawbacks would include uncertainty that all foreign acquisitions have been identified, the large number of data collection points, the probability of much duplication, and the probable strong opposition from nearly everyone concerned in collecting the data. Also this would not provide data on existing land ownership.

4. Periodic and extensive surveys, using scientific sampling techniques and centralized controls, might provide data that could be projected on a nationwide basis. The design and implementation of such an approach could present serious problems, and the resulting data may not be entirely satisfactory.

5. Of the alternatives considered, the most feasible and simplest approach may be to federally legislate a nationwide registration system for foreign owners of U.S. land. Such a system could be generally similar to the alien resident registration system currently used by the Immigration and Naturalization Service—which requires card-type reports to be submitted annually by resident aliens through post offices to a central Federal point. Such a system would place the reporting burden on the landowners (or their agents), would require relatively little involvement by State or county governments, would be conceptually simple, and would provide data on current ownership, rather than only subsequent farmland transfers. The usefulness of such a system would depend on the completeness of the information reported.

Any system used would require the resolution of any problems caused by constitutional and legal issues, and also should include the following:

Standard definitions of terms and clear reporting criteria.

Stipulations that only data on foreign investments in farmland would be collected.

Criteria as to the minimum number of acres to be reported.

Use of a standard card-type form to facilitate data processing.

Meaningful incentives or penalties to insure submission of full and accurate data.

We trust the foregoing information will be useful to your Committee. We plan to consult further with your Committee to decide on a future role for our Office in this area of concern.

To expedite reporting, we did not follow our normal practice of obtaining formal agency comments on the matters discussed in this report.

As arranged with your office, we are furnishing copy of this report to interested congressional committees, Members of Congress, and others.

Sincerely yours,

R. F. KELLER,
Acting Comptroller General
of the United States.

REMARKS OF SENATOR HERMAN E. TALMADGE AT A NEWS CONFERENCE TO RELEASE THE GENERAL ACCOUNTING OFFICE REPORT ON ITS INQUIRY INTO FOREIGN OWNERSHIP OF U.S. FARMLAND, JUNE 12, 1978

During the past several months, I, along with other members of the Congress generally, have received an increasing number of reports indicating unusual interest and activity among foreign investors in the purchase of U.S. farmland.

Many of these reports came to our attention during the time that a large number of farmers and ranchers were in Washington earlier this year to dramatize the financial plight of American agriculture. We were told of many instances in which foreign interests were reported to be buying up large acreages of prime farm and range land, often at prices far out of reach of our own farmers.

This unusual interest by foreigners in acquiring U.S. farmland also has been observed by the national news media and has been prominently reported in numerous articles in recent months.

A number of these articles suggest that the U.S. farmland purchases by foreign interests amount to a billion dollars annually and account for a significant proportion of all farmland ownership transfers.

Whatever the magnitude and the money involved, these reports are a matter of great concern to me and to the members of this Committee. I believe they also are of national concern and raise serious questions of national policy.

It is, however, extremely difficult to obtain an accurate assessment of the actual magnitude and extent of foreign investment in U.S. farmland. That there is some activity and great interest among foreign investors is beyond dispute. But there simply is no reliable system now in existence for keeping track of this activity and no uniform or central sources of information.

Because of the intense concern of many people about this problem and the serious questions of public policy involved, I think it is imperative that the basic facts and figures be obtained so that we may know what is actually taking place and what might be done at the Federal or state level, either in the form of restrictions or reporting requirements.

Accordingly, I asked the Comptroller General in January to have the General Accounting Office (GAO) conduct an initial study of the acquisition of agricultural land by foreigners. Specifically, I asked that GAO provide this Committee with information on various state laws that place restraints or reporting requirements on alien land ownership and on the general availability of reliable data on the subject.

I also asked for any additional information that could be obtained in the space of a few months that would shed light on the problem.

This initial study has now been completed and the report is before you. Members of the GAO team who conducted the study are here and are prepared to discuss it with you.

But before turning the program over to them, I do want to say this: This report, while necessarily inconclusive and tentative on some vital points, clearly confirms and underscores the concern and fears that many people have of growing foreign ownership and control of this country's greatest natural resource. When six percent of the agricultural land of a single county in my state goes under foreign ownership, I say we have a problem.

Therefore, the Committee on Agriculture, Nutrition, and Forestry will continue to maintain a high level of scrutiny over this entire matter. In fact, I intend to enlarge and intensify our investigation of alien ownership of American farmland, using the initial GAO report as a starting point.

To this end, I have today taken the following actions:

(1) Requested the GAO to continue its investigation. I have asked that the next phase of its investigation be focused on nine states that represent the various agricultural regions of the country. Within each of these states, I have asked GAO to analyze all agricultural land transfers that have occurred since January 1, 1977, in several representative rural counties and to identify to the extent possible those transfers that represent foreign interests. From this sample data, we should be able to make some reasonable projections of the extent of the problem nationally. Additionally, I have asked GAO to investigate the reasons why foreigners are investing in our farmland.

(2) Requested that the USDA Extension Service Directors in each state ask local extension agents in all counties to report any knowledge they may have of farmland purchases by foreigners in their respective counties since January 1, 1977.

(3) Requested the Administrator of the Agricultural Stabilization and Conservation Service (ASCS) of USDA to have each of its county offices review its records to attempt to identify any farm or ranch land purchased by foreign interests since January 1, 1977.

(4) Requested the Secretary of Commerce to provide the Committee with whatever information her Department might be able to obtain through its International Investment Division on foreign investment in American agricultural land starting from January 1, 1977. I also have asked Secretary Kreps to include farmland investment by foreigners in a new annual foreign investment survey that her Department is currently developing.

(5) Requested the Congressional Research Service of the Library of Congress to prepare an overview paper discussing Constitutional, International Treaty and other legal questions that would be involved in any Federal or state legislation dealing with the purchase and ownership of U.S. farmland by nonresident foreign aliens.

(6) Requested the Senate Appropriations Committee to add $450,000 to the 1978 Supplemental Appropriations Bill to enable the USDA to conduct a study of the feasibility of the establishment of a system for monitoring foreign investment in agricultural property and a multi-purpose land data system. This feasibility study was authorized by the Congress in the International Investment Survey Act of 1976, but has not been funded.

I hope we will begin receiving this information and data promptly. From all of these sources, plus the efforts of our own staff, the Committee intends to develop the fullest and clearest picture possible of the problem of foreign land ownership. This will provide a sound and rational basis for whatever legislative action might be indicated to deal with this problem.●

THE POLITICAL ECONOMY OF THE CONGRESSIONAL BUDGET OFFICE

● Mr. HAYAKAWA. Mr. President, on April 25, I delivered a major speech during the discussion of the first concurrent resolution on the fiscal year 1979 budget. It focused on the faulty economic

framework used by the Budget Committee to make economic policy decisions and produced by the Congressional Budget Office. The Budget Committee specifically, and the Congress in general, consider the advice of the CBO to be "scientific truth" based on the results of their large econometric models. But, as I pointed out in my speech, these "scientific" econometric models are based on subjective assumptions, many of which are unrealistic and faulty. These subjective assumptions bias the results of the models, which in turn bias policy decisions.

One of the most important biases I have noted is a bias against saving, as if saving were bad for the economy. Basing economic policy decisions upon the results of these models has therefore lead to policies which are biased against saving and which inhibit the real growth of our economy. This is particularly true of our long-term economic growth, since the models focus only on the short term.

Three days after I delivered this speech, two prominent economists presented a paper which focused on some of my concerns to the Carnegie-Rochester Public Policy Conference at the University of Rochester. The paper was prepared by Dr. David I. Meiselman, professor of economics and director of the graduate economics program in Northern Virginia of Virginia Polytechnic Institute and State University, and Dr. Paul Craig Roberts, economic counsel to Senator HATCH, senior research fellow at the Hoover Institution at Stanford University, and adjunct professor of economics at George Mason Universitv. The paper is entitled "The Political Economy of the Congressional Budget Office" and contains some very incisive comments about the politics of the CBO. It explains the failings of the CBO economic analyses. And it focuses on the CBO's bias against saving and its obsession with the short term at the expense of the long term. Dr. Meiselman and Dr. Roberts state:

The CBO multipliers project emphasizes the short run. The CBO's view of long run is found in "Closing the Fiscal Policy Loop: A Long-Run Analysis," (Dec., 1977). It is a combination of the mind-set of a 1930's stagnationist and the computer technology of the 1970's. There are neither resource allocation or efficiency problems nor market solutions. Even economic growth is determined by aggregate demand and aggregate demand management. Thus, saving is a threat to growth.

They go on to say:

Thus, the CBO's long-run analysis has demand without supply, inflation without money, interest rates without capital, output without inputs, employment without wage rates and a labor market, and investment without saving or any change in the capital stock. There are static expectations throughout; either nobody ever learns anything, or people don't give a damn. More than twenty years after the consumption analyses of Friedman and Modigliani and Brumberg, consumption spending is taken to depend on current disposable income; they cannot or do not borrow. They essentially have no assets, and no capital management decisions.

I believe that the country faces real economic trouble if the Congress continues to make decisions based on the faulty advice of the Congressional Budget Office. Unless the biases of the CBO and its econometric models are corrected, the budget process will merely continue to pretend to provide "scientific" economic justification for continued Federal Government spending and high taxes. Professors Meiselman and Roberts share my concerns. I commend their paper to my colleagues in the Senate and ask that it be printed here in its entirety.

The paper follows:

THE POLITICAL ECONOMY OF THE CONGRESSIONAL BUDGET OFFICE

THE CONGRESSIONAL BUDGET ACT

The Congressional Budget and Impoundment Control Act of 1974 established: (1) a new congressional budget process, (2) Senate and House Committees on the Budget, (3) a Congressional Budget Office, and (4) a procedure providing congressional control over the impoundment of funds by the executive branch.

The Act was deemed necessary for the following reasons:

At a time when the federal "budget had become the nation's principal tool for determining governmental goals and economic policy, affecting nearly every facet of American society . . . the Congress lacked a comprehensive mechanism for establishing priorities among its goals and for determining economic policy through the budget process. . . . Budget actions never explicitly decided the size of the budget, whether it should be in surplus or deficit, and precisely by what amount." [1]

Past budget reforms had enhanced and centralized budget authority in the Executive Branch, while permitting increased fragmentation of spending authority within the Congress. The concentration of financial and policymaking authority in the Office of Management and Budget had no counterpart in the Congress. The increasing use of impoundments by the Executive was seen by the Congress to be a direct challenge to its constitutional power to establish spending priorities.

The Congress was disturbed by its lack of control over spending. "Uncontrollables" were the fastest rising part of the budget and had reached 75 percent of the total. Backdoor spending (spending outside the regular appropriation process) was more than half of all spending. With its budget actions restricted only to the authority to obligate funds, the Congress had no control over actual expenditures or outlays, "resulting in little direct relationship between congressional budget actions and actual expenditures in any given year." [2]

Thus, the Act resulted from Congress's desire to: (1) explicitly relate its budget actions to its economic policy, (2) restore its power to establish spending priorities, and (3) gain control over spending. This is the official rationale for the Act, and like many official rationales it may simply be a legend designed to veil the true motives.

OUTLINE AND TIMETABLE OF THE CONGRESSIONAL BUDGET PROCESS

The timetable with respect to the various stages of the new budget process is as follows: [3]

On or before:	Action to be completed:
November 10	President submits current services budget.
15th day after Congress meets	President submits his budget.
March 15	Committees and joint committees submit reports to Budget Committees.
April 1	Congressional Budget Office submits report to Budget Committees.
April 15	Budget Committees report first concurrent resolution on their budget to their Houses.
May 15	Committees report bills and resolutions authorizing new budget authority.
May 15	Congress completes action on first concurrent resolution on the budget.
7th day after Labor Day	Congress completes action on bills and resolutions providing new budget authority and new spending authority.
September 15	Congress completes action on second required concurrent resolution on the budget.
September 25	Congress completes action on reconciliation bill or resolution, or both, implementing second required concurrent resolution.
October 1	Fiscal year begins

The first budget resolution in any fiscal year sets targets, and the second budget resolution establishes actual ceilings for spending, both in the aggregate and for each major functional category,[4] and a floor for revenues.

THE BUDGET COMMITTEES

The House and Senate Budget Committees "are created to guide the Congress in the new tasks of setting national fiscal policy aggregates; that is, total spending, revenue, and debt levels." [5]

THE CONGRESSIONAL BUDGET OFFICE

The mission of the C.B.O. "is to provide the Congress with detailed budget information and studies of the budget impact of alternatives policies" [6] in order to provide Congress with the information necessary to carry out the budget process and to consider the budget "in the context of the current and projected state of the national economy." [7] "The law makes clear that the C.B.O. is to have a nonpartisan, highly professional staff and that it is to provide a wide range of fiscal and budget information and analyses. C.B.O. does not make recommendations on policy matters but provides Congress with options and alternatives for its consideration." [8]

C.B.O. (1) provides periodic forecasts and analyses of economic trends and alternative fiscal policies; (2) keeps score of congressional action on individual authorization, appropriation, and revenue bills against the targets and ceilings in the concurrent budget resolutions; (3) develops five-year cost estimates for implementing any public bill or resolution reported by congressional committees; (4) provides at the beginning of each fiscal year five-year projections on the costs of continuing current federal spending and taxation policies; (5) provides by April 1 of each year "a fiscal policy report which includes a discussion of alternative spending and revenue levels, levels of tax expenditures under existing law, and alternative al-

Footnotes at end of article.

locations among major programs and functional categories, all in the light of major national needs and their effects on balanced growth and development of the United States;" [9] (6) provides additional studies.

A primary motive behind the formation of the C.B.O. was the Congress desire to have its own source of budget information. The Congress's ability to work its own purposes was constrained by its dependence on information supplied by the Executive Branch.

See Attachment A for statutory tasks and organizational chart of C.B.O.

INTRODUCTION

Some months ago Karl Brunner and Allan Meltzer spoke to one of us about writing a paper evaluating the economic analysis and the impact of the Congressional Budget Office for this Carnegie-Rochester Conference. The conference was many months away, and the task seemed manageable, even inviting, especially for somebody who had spent much of his professional career researching and writing about stabilization policy, the main concern of the Congressional Budget Office. Several weeks later, the second author, who had been a staff member of the House Budget Committee, agreed to the joint effort.

As of March 1978, the C.B.O.'s publication list contained 133 studies as well as 21 Congressional Budget Scorekeeping Reports. If each study averages 70 pages, which we roughly estimate on the basis of unsystematic sample, we have a total of close to 11,000 pages. Published C.B.O. reports cover diverse topics and evaluations ranging from "Inflation and Unemployment: A Report on the Economy" (June 30, 1975) and "Advanced Budgeting: A Report to the Congress," (March, 1977) to "Alton Locks and Dam: A Review of the Evidence," (August 26, 1976) and "U.S. Air and Ground Conventional Forces for NATO: Fire Power Issues," (March, 1978).

In addition to these published reports, there is extensive testimony by the C.B.O.'s Director before Congressional committees as well as various unpublished reports, communications, and underlying studies such as the C.B.O. wage-price model.

Given the scope and volume of C.B.O.'s studies, we have limited this paper to an evaluation of the main elements in the C.B.O.'s analysis of stabilization problems and policies. In the concluding section of this paper, we offer some opinions concerning the impact of the C.B.O. and its staggering outpouring of studies, reports, papers, analyses and computer runs.

In the main, the C.B.O. analyses tend to have a *deja vue* quality, because they largely are derived from extreme and relatively unsophisticated Keynesian models, which have generally been superseded by advances in economic science and econometrics over at least the past ten or fifteen years, for example, as reflected in the research and critiques presented at earlier Carnegie-Rochester conferences. Not only is the C.B.O. treatment of money and monetary analysis deficient, but the C.B.O. appears to have responded to the fundamental questioning of the efficacy of much, or all, of discretionary stabilization policy by rational expectations theorists and others by largely ignoring them. As such, the C.B.O. analyses essentially make almost all of the errors of the old Keynesian models and the simple IS-LM models. In keeping with Keynesian focus on short-run stabilization, there is no long run even in the studies that claim to be analyses of long-run issues. In all cases, saving impairs economic performance and growth.

In addition, the empirical and econometric exercises found in the C.B.O. reports are also disappointing. They compound all the errors and deficiencies of the large-scale econometric models by adding still more numerical constraints to those found in the large-scale models themselves. They emphasize estimation and accounting, which are used as the basis for forecasting.

Throughout, there is the fundamental confusion between estimation and hypothesis testing. In common with much of what passes for empirical research and analysis in the nation's capitol and eslewhere, most of the C.B.O.'s empiricism is little more than crude curve fitting and casual empiricism. However, despite the emphasis on curve fitting, there is not a single statistic showing goodness of fit for the C.B.O. estimates or for those of the large-scale econometric models employed in the keystone multipliers study we survey. Thus, there is no way of knowing how well parameter estimates have fit past data. The presumption seems to be that the set of fitted values correctly project the future without error. But even this is never tested because there are no tests of post-sample forecasts.

To be sure, much of C.B.O.'s output, especially their forecasts and their evaluations of the impact of fiscal policy on economic aggregates, is in response to Congressional mandates and inquiries. But we believe that these tasks, as well as the questions themselves, largely derive from presumptions that compensatory fiscal and stabilization policy work, that valid, precise and dependable answers are readily available, that economists can tell Senators and Congressmen about the implications of fiscal policy changes for prices, employment, gross national product and the like, quarter by quarter, at least up to and sometimes even beyond, the next election. The presumption that a valid and relatively precise analysis already exists and that only relatively minor additional efforts are required to yield a host of dependable answers biases the kinds of questions being asked as well as what are perceived to be policy problems and workable policy instruments. For example, if tax cuts have no incentive effects, why ask about the relationship between taxes and aggregate supply, labor force participation and the like.

We have had thirty years of experience with the Employment Act of 1946 and its presumption that the simple Keynesian model is valid and that compensatory short-run stabilization policies, especially by the use of fiscal instruments, are effective. These presumptions follow, in part, from belief in the analytical power of adding up G.N.P. components, the case of forecasting, the efficacy of fiscal policy, essentially static anticipations and the general absence of supply and relative price considerations.

Despite—or perhaps because of—more attention paid to stabilization and departures from full employment, the results have been unimpressive at best, and at worse biased towards inflation, big government and mischievous intervention, and perhaps still greater instability. Because so much of the same set of presumptions also apply to the stabilization orientation of the legislation establishing the new Congressional budget procedure, including the C.B.O. as well as the C.B.O.'s own analyses, we wonder if, realistically, we can expect any more of the new C.B.O. and of the new budget procedure itself.

THE CBO'S STABILIZATION POLICY MODEL

The most explicit statement of C.B.O.'s model is found in a C.B.O. study, "The C.B.O. Multipliers Project: A Methodolgy for Analyzing the Effects of Alternative Economic Policies" (August, 1977). According to the study, "The basic model presented there is in fact the one C.B.O. has used for nearly all its policy simulation work." (page 15).

Because different models often yield different answers, C.B.O. notes, "The Multipliers Project is an attempt to understand and deal with the diversity of results that various models may produce." (page ix). The various models that C.B.O. examines are restricted to the large-scale econometric models of D.R.I., Wharton, Chaste Econometricts, MIT-Penn (MPS) and FAIR. The presumption would seem to be that large-scale econometric models are essentially the only engines of analysis for answering various problems about the impacts of federal tax and expenditure policy. These models, *per se*, may appear to be highly scientific, making use of the latest technology and the most elaborate set of data amenable to answering a whole host of questions, all of which is much beyond the comprehension of any Senator and Congressman, plus almost every one of their staffs. As we all know, the horrible practical problem is that, although there are many common elements in these models, they frequently yield vastly different answers, much to the embarrassment of analysts who have access to more than one model, or who have to defend one set of results against another. And, because of the complexity of the models, themselves, it frequently is difficult to know why these differences exist. Moreover, these differences tend to create a lack of confidence in models themselves as well as in the analytical orientation that they reflect.

The C.B.O. response to this problem has been to act as if they are constrained to using only the large-scale model approach to answering fiscal policy questions, as if truth is essentially limited to these five exercises. To avoid the problem of the diversity of answers, the C.B.O. makes its own estimates of a set of "key ratios," to be discussed below. But these ratios largely appear to be little more than a middle-of-the-range consensus of the five models. The C.B.O.'s study has an extensive list of at least sixty different "key ratio" values for each of the five models plus C.B.O.'s Basic Multipliers Model. In all cases the C.B.O. parameter values are bracketed by the other five!

Obviously, hypotheses cannot be validated by a "consensus test." But the C.B.O. exercises clearly intend to fit or estimate parameter values; it is not intended to test any of the large-scale models or the C.B.O. "key ratios." To be sure, not every empirical exercise is a rigorous test, but unless "key ratios" or some other models or parameters are tested or testable, how is anybody to know whether there is any validity to the whole exercise, and whether the Congress is being supplied with good analysis or numerical incantations.

The C.B.O. "key ratios" approach attempts to make systematic comparisons of the five large-scale model estimates of the impact of changes in fiscal policies. The set of "key ratios" determines an overall multiplier, the responsiveness of nominal G.N.P. per dollar of federal government "spending increase or tax cut." (Does federal government spending ever decrease?) Differences in "key ratios" are resolved by the C.B.O. "on a basis of reasonableness, other empirical studies, and, when necessary, simple averaging across models." The selected "key ratios" are called "a uniform set of procedures for calculating policy impacts". "Key ratios" and multipliers are presented on a quarterly seasonally adjusted basis for ten quarters. Real variables, such as output and unemployment, are also derived from a two-equation wage-price model that we discuss below. We believe that the attempt to make the transition between nominal and real values fails.

In addition, the C.B.O. analysis asserts that "key ratios" and multipliers depend on initial conditions, which are likely to change from year to year. Thus, the C.B.O. report states, "The analysis needs to be redone whenever there is a substantial change in initial conditions. C.B.O.'s tentative plan is to redo it once a year."

This raises the question how one is to

know what a substantial change is, or how to systematically alter the "key ratios" on the basis of new information. There does not appear to be any tested basis for doing so, especially since the various interest, price and substitution elasticities as well as the supply and labor market responses to changes in initial conditions are essentially omitted from the analysis as are expectational considerations themselves.

Although the C.B.O. claims that the coefficients summarize a wide range of price and wealth responses as well as income-expenditure relationships, and are thereby reduced-form coefficients, C.B.O. never explains or makes explicit what price and wealth responses are being summarized or what structure generates the reduced-form. Whatever the partial responses may be, they, too, are omitted. Thus, it would be difficult, indeed, if not impossible, to derive important testable implications to test the validity of the largely unspecified set of structural relations for the overall model. What's mainly left, as in most income-expenditure models, is largely a set of presumptions about a limited range of nominal expenditures.

The model itself is as follows:

BASIC MULTIPLIERS MODEL

(1) $\Delta GNP\$(t) = \Delta C\$(t) + \Delta FI\$(t) + \Delta GG\$(t) + \Delta GE\$(t) + \Delta X\$(t)$

(2) $\Delta C\$(t) = a_{1t}(\Delta INC\$(t) + \Delta TR\$(t) - \Delta TP\$(t))$

(3) $\Delta INC\$(t) = b_{1t}\Delta GNP\$(t) + c_{1t}\Delta GE\$(t)$

(4) $\Delta TR\$(t) = -b_{2t}\Delta GNP\$(t) - c_{2t}\Delta GE\$(t) + \Delta TRO\$(t)$

(5) $\Delta TP\$(t) = b_{3t}\Delta INC\$(t) - c_{3t}\Delta GE\$(t) + \Delta TPO\$(t)$

(6) $\Delta FI\$(t) = a_{2t}[\Delta GNP\$(t) - \Delta GE\$(t)]$

(7) $\Delta X\$(t) = a_{3t}\Delta GNP\$(t) + \Delta XO\$(t)$

(all variables are in current dollars)

where

GNPS=Gross National Product.

CS=Consumption.

FIS=Fixed investment (business and residential).

GGS=Federal government purchases except public employment.

GES=Public employment spending net of displacement, federal and state and local (displaced funds used for tax reduction or general state and local spending enter as TPS or GGS).

XS=Rest of GNPS: inventory investment net exports, state and local spending other than public service employment.

INCS=Wages and salaries and other labor income and nonwage income.

TRS=Federal transfer payments.

TPS=Federal personal tax revenues (including employee payroll taxes).

TROS=Intercept, transfer payments.

TPOS=Intercept, personal tax revenues.

XOS=Intercept, other spending.

†=Time, in quarters.

To derive the nine a, b, and c coefficients for the model, simulations of the fiscal policy in five full-scale models were used. "Each econometric model simulation yields a specific set of values for the key components that together capture the total change in G.N.P implied by that model. The G.N.P. multiplier is an algebraic function of the coefficients of the basic model, called 'key components' of the multiplier."

Then, C.B.O. derived quarterly values for each of the coefficients of the first through tenth quarters. Comparisons of some of these estimated coefficients will be shown below.

Note that the model consists mainly of (1) a simple consumption function, where current personal consumption expenditures per quarter is the linear function of what seems to be disposable personal income, plus (2) a simple investment function where fixed investments is a function of G.N.P. less net public employment spending. The investment function seems little more than a simple accelerator. The other equations are largely identities, or deal with the residuals, or predetermined variables, as in the case of federal government expenditures.

Among other things, the model has such a limited range of implications that many important categories of questions cannot be addressed. Essentially, once we deviate from the broad aggregates covered by the model and ask about the effects of changes in relative prices or the tax structure, the model is mute. The same is generally true for the big models. For example, when the study tried to address itself to an analysis of the G.N.P. implications of a change in the corporate profits tax it correctly noted, "The basic multipliers model does not include dividends, corporate cash flow, or the corporate tax rate as separate determinants of consumption and investment spending and, therefore, cannot account for the effect of change in corporate taxes on spending." (The same general problems also hold for the analysis of money.) To deal with these deficiencies, the study adds several other variables, all of them essentially in the income-expenditure mold. The impacts of a change in corporate profits taxes on the cost of capital or the effect of a differential tax cut on the rate of return on one asset relative to another are simply ignored.

Returning to the basic multipliers model, the quarterly values of a_1, which appears to be close to the marginal propensity to consume out of current disposable income for the five large-scale econometric models plus the C.B.O. Basic Multipliers Model are shown in Table 1. It is copied directly from the C.B.O. paper (See Table 1). Model 1 is Data Resources, Incorporated, (DRI); Model 2, Wharton; Model 3, Chase; Model 4, MIT-Penn (MPS); and Model 5 is due to Fair. These parameter values were derived by simulating a change in federal government expenditures, holding the path of unborrowed reserve constant. As C.B.O. notes, "Selecting unborrowed reserve implies that both interest rates and the money supply rise moderately in response to expansionary fiscal moves."

TABLE 1.—QUARTERLY VALUES OF a_1

Quarter	Models 1	2	3	4	5	Basic multipliers model
1	0.41	0.26	0.55	0.25	0.68	0.35
2	.63	.26	.47	.37	.80	.45
3	.68	.28	.56	.44	.95	.51
4	.71	.30	.65	.51	.97	.55
5	.73	.39	.68	.58	1.02	.60
6	.73	.49	.67	.62	.96	.62
7	.73	.69	.69	.65	.97	.67
8	.71	.83	.70	.70	.98	.70
9	.71	.75	.70	.72	.95	.71
10	.71	.67	.70	.76	.90	.71

Thus, the study does not attempt to distinguish between what might be thought of, on the one hand, as the monetary effects of fiscal policy and the corresponding changes in prices, interest rates and the like stemming from the change in the stock of money and, on the other hand, the purely fiscal policy effects of changes in government expenditures or taxes when the money stock is held constant.

The quarterly values of a_2, which appears to be close to a simple acceleration coefficient, is in Table 4 copied from the C.B.O. paper. (These values are for a sustained shift in one of the disturbances, not a once-for-all increase in the level of, say, government expenditures in a given quarter followed by a decrease the subsequent quarter.)

Taken together the seven equations are combined to yield the following multiplier expression for analyzing the usual fiscal policy disturbances.

TABLE 4.—QUARTERLY VALUES OF a_2

Quarter	Models 1	2	3	4	5	Basic multipliers mode
1	0.02	0.07	0.03	0.04	0.08	0.06
2	.03	.12	.05	.10	.14	.11
3	.04	.18	.07	.14	.17	.17
4	.05	.21	.09	.16	.21	.19
5	.06	.22	.08	.18	.22	.20
6	.06	.23	.06	.18	.25	.20
7	.05	.23	.04	.18	.24	.19
8	.05	.22	.03	.17	.24	.18
9	.03	.16	.01	.16	.24	.16
10	.03	.06	−.01	.16	.24	.14

THE FISCAL MULTIPLIER FORMULA

The seven equations listed in the basic multipliers model on page 4 can be combined through simple algebra to yield the following multiplier expression for standard changes in fiscal policy:

(8)

$$\Delta GNP\$(t) = \frac{1}{[1-(a_{1t}(b_{1t}(1-b_{3t})-b_{2t})+a_{2t}+_{3t})]}$$

$$[\Delta GG\$(t)+\Delta XO\$(t)+a_{1t}[\Delta TRO\$(t)-\Delta TPO\$(t)]$$

$$+[1+a_{1t}(c_{1t}(1-b_{3t})-c_{2t}+c_{3t})-a_{2t}]\Delta GE\$(t)]$$

The first expression on the right-hand side of the equation is the multiplier for changes in government purchases other than public employment programs. It depends on six of the parameters of the model, namely:

a_1, the ratio of a change in consumption to a change in disposable income.

a_2, the ratio of a change in investment to a change in GNP.

a_3, the ratio of a change in "other GNP" to a change in GNP.

b_1, the fraction of a change in GNP going into wages and salaries and other labor income and nonwage income.

b_2, the fraction of a change in GNP serving to reduce transfer payments.

b_3, the fraction of a change in wages and salaries and other labor income and nonwage income going into personal tax payments.

The G.N.P. multiplier derived from the basic multipliers is shown in C.B.O. Table 6 (page 14). Note the implied balanced budget multipliers, the difference between the Federal Government expenditure multiplier and the Federal tax multiplier. They range from .70 in quarter 1 up to .98 in quarter 6, and decline somewhat to .87 in quarter 12.

TABLE 6.—CHANGE IN GNP RESULTING FROM A PERMANENT INCREMENT IN POLICY INSTRUMENT

[In billions of current dollars for each billion dollar permanent increment]

Quarter	Federal Government purchases of goods	Public service employment	Federal taxes or (with opposite sign) transfers
1	1.10	1.15	−0.40
2	1.42	1.34	−.63
3	1.79	1.57	−1.09
4	2.00	1.66	−1.07
5	2.22	1.78	−1.27
6	2.41	1.90	−1.43
7	2.62	2.04	−1.64
8	2.71	2.12	−1.77
9	2.66	2.01	−1.74
10	2.53	1.96	−1.64
11	2.44	1.89	−1.57
12	2.44	1.89	−1.57

THE CBO MULTIPLIERS MODEL AND MONETARY POLICY

The CBO multipliers model also deals explicitly with monetary policy. Monetary policy is assumed to be the path of unborrowed reserves. Fiscal policy simulations

discussed above assume constant paths of unborrowed reserves. Because unborrowed reserves have generally been small over the past two years, this procedure may come close to a total reserve variable for recent observations. In any event, the target of montary policy is not the stock of money nor the monetary base. In other years, however, changes in borrowed reserves were important components of changes in the base and in the money supply process. Thus, functions fitted to earlier periods may be especially inappropriate to the current period. In addition, unborrowed reserves may also be a poor proxy for money because of variations in currency, the currency-deposit and the currency-base ratios, thus making for additional instability in the relationship of unborrowed reserves to the monetary base and to the stock of money. Also, changes in the money multiplier can and do result from reserve requirement changes. These factors account for still greater looseness in the connections between unborrowed reserves and money.

More than two years after the Congress itself adopted Concurrent Resolution 133, which required the Federal Reserve to present money supply targets, it is surprising that the CBO still uses the unborrowed reserve concept. (The Open Market Committee directives do not.) Although the Fed may have problems because its targets are inconsistent, the set of inconsistent targets is made up of essentially the money supply and interest rates and excludes unborrowed reserves.

The five large-scale models may have even more diverse results for monetary policy than for fiscal policy. Table 7 shows the simulation results of a one billion dollar step increase in borrowed reserves for changes in the Treasury Bill rate (in percentage points) and nominal G.N.P. (in billions of dollars). Note the standard Keynesian results that expansionary monetary policy lowers interest rates, and that the initial decline in rates is later moderated as income rises causing an increase in transactions demands for money. Note also the very wide range of simulation results for both interest rates and nominal G.N.P. (Chase shows almost no G.N.P. impact of the change in unborrowed reserves, Wharton only a small change and the others appear to have substantially larger G.N.P. changes.) No attempt is made to reconcile the differences.

TABLE 7.—CHANGES IN 3-MO TREASURY BILL RATE AND GNP DOLLARS IN T-1 RESULTING FROM A STEP INCREASE IN UNBORROWED RESERVES [1]

Quarter	Model 1		Model 2		Model 3		Model 4		Model 5	
	Rate	GNP	Rate	GNP	Rate	GNP	Rate	GNP	Rate	GNP
1	−0.98	3.4	−0.60	0.3	−0.13	0	−0.6	0.5	−1.26	0.1
2	−1.06	5.4	−.42	0.9	−.13	2.5	−.8	1.8	−1.24	3.7
3	−1.08	13.3	−.45	1.9	−.12	4.8	−.8	4.2	−.97	6.8
4	−1.05	19.8	−.45	3.3	−.12	4.9	−.8	7.4	−.97	10.0
5	−.96	25.5	−.44	5.0	−.11	5.5	−.7	11.4	−.83	14.2
6	−.83	30.0	−.42	6.9	−.09	4.2	−.7	15.8	−.65	16.4
7	−.73	33.2	−.39	9.4	−.08	4.2	−.6	20.9	−.54	20.8
8	−.61	34.8	−.35	12.5	−.08	4.3	−.5	26.9	−.33	24.9
9	−.51	35.2	−.33	13.7	−.09	4.1	−.5	33.6	−.29	28.2
10	−.45	34.2	−.32	13.0	−.10	3.7	−.4	40.9	−.17	31.3

In any event, the C.B.O. proceeds with its own analysis. Monetary policy is analyzed by modifying the seven equation C.B.O. basic multipliers model to include unborrowed reserves in three of the equations by simply adding unborrowed reserves as an additional variable. The three equations are the consumption function (equation 2), the fixed investment function (equation 6), and the residual "rest of G.N.P." (equation 7).

$$(2)' \quad \Delta C\$(t)=a_{1t}(\Delta INC\$(t)+\Delta TR\$(t)-\Delta TP\$(t)) + d_{1t}\Delta RU\$(t)$$

$$(6)' \quad \Delta FI\$(t)=a_{2t}\Delta GNP\$(t)+d_{2t}\Delta RU\$(t)$$

$$(7)' \quad \Delta X\$(t)=a_{3t}\Delta GNP\$(t)+\Delta XO\$(t)+d_{3t}\Delta RU\$(t).$$

where RU$=unborrowed reserves.

The parameters d_1, d_2 and d_3 evaluate the impact of the change in unborrowed reserves on personal consumption expenditures, fixed investment expenditures, and "rest of G.N.P." respectively. The coefficients attempt to show what happens to each of the three G.N.P. components as a direct result in changes in unborrowed reserves. Analogous to the usual Keynesian formulation of specific income effects on particular classes of expenditures, it is as if there are separate dependable functions relating changes in unborrowed reserves to consumption, fixed investment, etc.

To derive the formal unborrowed reserves G.N.P. multipliers, equations (2)', (6)' and (7)' are substituted into the basic multipliers model, yielding

$$\Delta GNPS(t)=\frac{[(d_1+d_2+d_3)\Delta RUS(t)]}{[1-(a_{1t}(b_{1t}(1-b_{3t})-b_{2t})+a_{2t}+a_{3t})]} + [\text{Fiscal Multiplier}$$

The denominator is the same as the denominator of a simple government purchases multiplier, and the numerator shows the total *direct* G.N.P. increment stemming from a change in unborrowed reserves.

To be sure, this approach permits the C.B.O. basic multiplier model to include monetary policy without changing the format of the basic set of equations, but again, this seems to presume that only the simple Keynesian framework and transmission mechanism are valid. There is no test of an alternative hypothesis that the dependable link is between the nominal stock of money, or even unborrowed reserves, and aggregate nominal G.N.P., and that relative prices largely determine resource allocation and the components of G.N.P. The alternative view would hold that, for a given stock of money, changes in supplies of, and demands for particular components of G.N.P. change relative prices and resource allocation, but leave aggregate income fixed, so that changes in the demand for any class of expenditures always tend to alter or crowd out some others. Thus, the connections between money and any one specific component may be weak, but the link between nominal money and nominal G.N.P. may be a dependable one. Indeed, the evidence would seem to be consistent with this alternative view.

This may explain why the unusual range of estimated values of d_1, d_2 and d_3 in the five large-scale models summarized in C.B.O. Table 8 (page 19). C.B.O. simply takes the means as the appropriate estimate for its model.

TABLE 8.—QUARTERLY VALUES OF d_1, d_2, d_3, AND b_1

Quarter/parameter	d_1			d_2			d_3			b_1		
	Multipliers model	Range provided by econometric models		Multipliers model	Range provided by econometric models		Multipliers model	Range provided by econometric models		Multipliers model	Range provided by econometric models	
		Low	High		Low	High		Low	High		Low	High
1	0.17	0.03	0.74	0.33	0	1.18	0	−0.33	1.41	0.36	−0.96	0.68
2	.82	1.06	2.81	1.11	.87	2.84	.15	−.84	.80	.51	.00	.70
3	.54	.28	3.38	1.95	1.49	4.40	.55	−.43	1.31	.53	.05	.70
4	1.05	.55	4.48	2.73	1.43	6.00	.87	−.26	2.85	.60	.15	.72
5	1.30	.76	5.97	3.42	1.15	7.50	1.20	−.24	4.02	.62	.24	.74
6	1.70	1.01	6.76	4.18	1.15	9.23	1.26	−.33	4.90	.68	.26	.74
7	2.05	1.05	7.74	4.83	.86	10.54	1.53	−.12	5.47	.70	.26	.76
8	2.38	1.04	8.98	5.56	.62	12.11	1.79	.03	5.83	.70	.26	.77
9	2.64	1.20	9.67	6.01	.37	12.95	2.17	.07	6.46	.71	.28	.78
10	2.85	1.25	10.48	6.43	.32	13.42	2.26	.04	6.26	.73	.29	.78
11	3.00			6.60			2.45			.73		
12	3.00			6.60			2.45			.73		

The general structure that generates these results is essentially a standard unsophisticated Keynesian or Hicksian IS–LM model. The rate of interest equates money supply and money demand. The supply and demand for money depend on income and the rate of interest. The rate of interest is determined when the quantity of money demanded equals the stock of money. Thus, the chain of causation goes from an increase in unborrowed reserves, the proxy for money, leading to lower interest rates, and thereby to more investment, and, by the multiplier process, to higher G.N.P. In turn, higher G.N.P. increases transactions demands for cash, moderating the initial decline in interest rates. In this model there is no way for more money, or for more unborrowed reserves, to cause interest rates to end up higher than before the expansion of unborrowed reserves. There is no mechanism for

dealing with inflation expectations, for distinguishing real from nominal interest rates, or for permitting changes in the real rates resulting from changes in capital-labor ratios.

It is most disappointing that, despite the overwhelming evidence supporting the Fisherian analysis of real and nominal interest rates and inflation and the widespread acceptance of the general Fisherian analysis by economists and financial markets, the C.B.O. continues to depend on a defunct and invalid model.

In addition, the multiplier estimates of the G.N.P. impacts of changes in the unborrowed reserves indicate that an increase in unborrowed reserves lowers income velocity, even after ten quarters. This does not seem to trouble the C.B.O., perhaps because of the consistent absence of hypothesis testing, despite the evidence that, especially over short spans of time covered by major business cycle phases, faster growth of money is generally associated with velocity rising faster than trend, and slower growth of money is generally associated with velocity falling below trend. In other words, M and V generally tend to move together. If C.B.O. had tested the interest rate and velocity implications of its model, the model would have been rejected as having been contradicted by the evidence. But no tests were run, and, as elsewhere, there was curve-fitting with no analysis of goodness of fit.

All in all, we find the analysis of monetary policy sorely deficient.

REAL OUTPUT AND UNEMPLOYMENT

The C.B.O. multipliers model is specified in nominal values. To separate output and price level effects, C.B.O. depends on a 2-equation wage-price model found in an unpublished but easily available paper.[10] The procedure consists of simultaneously estimating wages and prices, largely on the basis of a set of highly constrained and mechanical autoregressive relations. Assuming the additional constraints of Okun's "law" (sic) and two alternative Phillips Curve inflation-unemployment relationships, the procedure claims to yield a set of consistent solutions for nominal G.N.P. (from the multipliers project), wages, prices, real G.N.P. and unemployment.

Despite the complicated estimating procedures and complex notation, we have no confidence in the results. Although the number of equations equals the number of unknowns, we do not see any economics beneath these numerical relations. There must be more to unemployment and inflation than inertia.

THE SHORT RUN IN PERPETUITY

The C.B.O. multipliers project emphasizes the short run. The C.B.O.'s view of long run is found in "Closing the Fiscal Policy Loop: A Long-Run Analysis," (Dec., 1977). It is a combination of the mind-set of a 1930's stagnationist and the computer technology of the 1970's. There are neither resource allocation or efficiency problems nor market solutions. Even economic growth is determined by aggregate demand and aggregate demand management. Thus, saving is a threat to growth.

The report's analysis and statistical projections are generally similar to those found in the multipliers study and they share its general deficiencies when applied to short-period forecasting. These deficiencies and biases are augmented when the Keynesian framework and the C.B.O.'s statistical procedures are applied to long-run analysis. This is an analytical leap confirmed Keynesians, themselves, reluctantly, if ever, take. (Now we know who is holier than the Pope!)

Thus, the C.B.O.'s long-run analysis has demand without supply, inflation without money, interest rates without capital, output without inputs, employment without wage rates and a labor market, and investment without saving or any change in the capital stock. There are static expectations throughout; either nobody ever learns anything, or people just don't give a damn. More than twenty years after the consumption analyses of Friedman and Modigliani and Brumberg, consumption spending is taken to depend on current disposable income. In addition, households only spend current income; they cannot or do not borrow. They essentially have no assets, and no capital management decisions.

CONSEQUENCES OF THE CONGRESSIONAL BUDGET ACT

Does the new budget process and the C.B.O. really matter? To answer this question, economists look to see if the new process caused any changes in incentives and information. Some who supported the new process apparently thought that it would.

Conservative members of Congress seem to have thought that the big spenders had it too easy, because they could indirectly legislate big deficits by voting in favor of many separate bills. Conservatives appeared to believe that if liberals had to vote on an aggregate outlay figure and the size of the deficit itself, there would be lower and firmer limits to spending. Conservatives seemed not to have thought of the budget process as a way to set fiscal policy, but as a way of putting the big spenders on the spot.

The liberals, on the other hand, saw the new process as sanctioning what they were already doing, building spending constituencies. To have the process of building spending constituencies rationalized in terms of official and scientific economic policy was a delightful prospect. By redefining the criteria for control, deficits would originate in the economic policy proposals of the experts in the C.B.O. and Budget Committees and would no longer be evidence that spending was "out of control" but, instead, under control. To liberals, federal spending being "out of control" meant that the appropriation process did not provide them with a mechanism for achieving their spending priorities.

Conservatives seemed to have suffered from constituency ethnocentricism. Representatives from rural districts thought that if representatives from urban districts voted in favor of large deficits, they would be voted out of office. They overlooked that being "liberal" was not entirely a matter of a state of mind, but in many instances was a matter of rational self-interest and entrepreneurial behavior. Members whose districts or states provided opportunities to build spending constituencies took advantage of their chances.

To us it seems that the new budget process has not changed the incentives that produced the "overspending" (deficits) that led conservatives to support the new process. Rather than increasing the costs on the big spenders, it has reduced them by institutionalizing a crude Keynesianism. The information supplied by the C.B.O. and the Budget Committee staffs support the spending incentives that already exist. Deficits now emanate from a professional staff as scientific economic policy upon which the nation's level of employment and rate of economic growth depend. If the information supplied by the C.B.O. were different, it would not affect the existing incentives, but it might increase the costs to the big spenders.

The Budget Act has put a new appearance on the old process: Things have changed in order that they could remain the same. Deficits are now sanctioned prior to the appropriations process. They have shed their political image. Spending is now under control in the sense that the liberals wanted. They now have a formal mechanism that sanctions deficits and through which they can lobby for their spending priorities. Conservatives are in a weakened position, because their resistance to deficits can be portrayed as an attack on the budget process or on scientifically derived stabilization policy. Whether the new budget process has succeeded in one of its main stated goals—to rectify a situation in which spending was "out of control"—depends upon what one meant by spending being "out of control."

Some academics supported the new budget process as a result of their view that Congress could not achieve budgetary control on a year by year basis. They saw the budgetary process in terms of advanced budgeting, or forward planning, through which Congress would decide now what the budget should be for future years. But, given the short-run stabilization basis of Keynesian fiscal policy, it is impossible to know today what deficits will be needed in future periods. The idea of achieving budgetary control through advanced budgeting means that fiscal policy would have to work through tax policy. To try to work it through the outlay side would mean constantly undoing the forward planned outlays.

This would seem to be a fatal strike against advanced budgeting. The usual Keynesian policy prescription is for more stimulus. For given expenditures, more stimulus would require tax reductions, which is not the favored way to go.

The C.B.O. analysis is generally biased against tax reduction and towards more government expenditures for at least several additional reasons. First, the C.B.O. believes that the G.N.P. response to more government expenditures is greater, and the lags shorter, than a corresponding dollar change in taxes. Government expenditure multipliers are systematically higher than tax multipliers. Second, the effects are taken to be more dependable for government expenditures because consumers may decide to save still more of the given tax cut. Third, the general presumption of underemployed resources and a persistent problem of insufficient aggregate demand implies little or no resource cost in more government, anyway.

From the experience of one of us on the House Budget Committee, C.B.O.'s information does not displease the economists on the staff of the Budget Committees. Economists on the House Budget Committee, believe that tax cuts are relatively ineffective compared to government spending increases and public service employment. The Senate Budget Committee staff are intersted in tax reform, in closing "loopholes" and raising effective tax rates, not in lowering them. To have fiscal stimulus provided by tax reductions is inconsistent with goals of income redistributions—unless the budget committees can gain sufficient power over the tax committees to specify the form of the tax reductions as well as the amount.

C.B.O.'s information does not displease the majority of Congress, which is primarily interested in rationales for more spending. There does not, then, seem to be any pressure points from which to change the information content of the budget process in a way that would be more supportive of advanced budgeting.

Advocates of public service employment (PSE) now rely on C.B.O. estimates to document their case that tax reduction is a weak tool of employment policy. For example, Killingsworth and King state:

"There is some doubt that business tax cuts result in reductions in unemployment; the Congressional Budget Office estimating procedure assumes that they do not."[11]

They refer to the September 1975 C.B.O. study, "Temporary Measures to Stimulate Employment," done at the request of Senator

Footnotes at end of article.

Muskie, Chairman of the Senate Budget Committee, which "implies that the gross cost per job created by a tax cut is about $25,000, and the gross cost for a PSE job is about $8,000." (page 23). (The "cost" here is the assumed expense to the Treasury, not the cost to the public or the taxpeyers.)[12] C.B.O., although new and supposedly independent, has a high political survivability quotient. The relevant advantages of PSE over tax cuts are that PSE creates political and economic dependencies, where as a tax rate reduction furthers the independence of people. PSE jobs also reduce the budget pressures on municipalities by producing federal paychecks for municipal employees.

If, as Milton Friedman and some other economists believe, tax reductions limit spending increases, the information supplied by C.B.O., which suggests that tax reductions are relatively ineffective, weakens one possible constraint on spending increases. An economist should have no difficulty understanding C.B.O.'s rationality in supplying the information that it does, regardless of whether he agrees with the information. There is no incentive for C.B.O. to supply information that is inconsistent with the purposes of the Congress.

Two other goals of the new budget process are to gain control over "back-door" spending and to limit presidential impoundment power. It seems to us that since the existing incentives are not changed by the Act, whether the Congress uses the budget process to exercise control over "back-door" spending will depend upon the extent to which the budget can accomodate everyone's spending priorities. If not, "back-door" spending will continue to relieve the pressure.

The purpose of the impoundment control section of the Budget Act, of course, was to reduce presidential constraints on congressional spending. We predict that this section of the act will be the most successful. Future presidents will not have the opportunity, as did Nixon, of attempting to limit the growth of federal spending and the size of the deficit by supplementing the use of the veto with the refusal to spend funds appropriated by Congress. The American people no longer have the option of electing a Republican president to check a Democratic Congress, if they ever did.

If the analysis in this paper is correct, it suggests that far from imposing new constraints on the politicians in the Congress, the Congressional Budget and Impoundment Control Act of 1974 reduced the constraints on spending while leaving the incentives to spend untouched.

At the moment, the constraint on spending is a result of rival power struggles within the Congress. No group wants another's hand-out power to grow relative to its own. One group is attempting a threshold breakout, and the spending process has been deadlocked by another group's defense of its relative power position. Senators Kennedy and Muskie are using the concept of "tax expenditures" to launch an attack on the powers of the tax-writing committees. Tax breaks, they say, are equivalent to government grants and should be handled through the authorization and appropriation process and dispersed through the appropriate federal agency. Senator Long's response has been to block the energy taxes that were intended to finance Kennedy's national health program and "welfare reform." Once the deadlock is resolved or Senators Kennedy and Muskie pull in their horns, greater spending should result from the reduced constraint that results from C.B.O.'s justification of deficits.

Nothing we have said should be taken to imply a lack of ability or integrity on the part of C.B.O. personnel. To understand how they are constrained by the process, consider this question: What would happen if C.B.O. abandoned their Keynesian model? We would predict that either C.B.O. would be ignored (or destroyed) or that the new congressional budget process would be abandoned. C.B.O. does not have the power to change the incentives faced by politicians and bureaucrats in a democracy. The problem is not that the model is wrong, but that there is no such thing as *public* policy.[13] Economists can only expect that economic policy will serve the interests of the policy makers, and Keynesian economic policy will always be judged a success from the standpoint of the private interests of policy makers.[14] Not only does Keynesian Policy aid politicians in building their spending constituencies, it also produces economic instability which justifies an increase in government power and programs to deal with the consequences of the instability.

ATTACHMENT A; STATUTORY TASKS ASSIGNED TO CBO

Listed in the order in which they appear in the Congressional Budget Act of 1974 (PL 93–344). Citations are to the US Code and, in parenthesis, to section numbers of PL 93–344.

(1) In general, provide information to the two Budget Committees on all matters within their jurisdiction, 2 USC 602(a), (202(a)).

(2) On request, provide information to the appropriating and taxing committees, 2 USC 602(b), (202(b)).

(3) On request of any other committee, provide information compiled under 1) and 2) plus "to the extent practicable," additional information which may be requested, 2 USC 602(c)(1), (202(c)(1)).

(4) On request of a Member, provide information compiled under 1) and 2) plus "to the extent available," additional information which may be requested, 2 USC 602(c)(2), (202)(c)(2)).

(5) Perform the duties and functions formerly performed by the Joint Committee on Reduction of Federal Expenditures, 2 USC 602(e), (202(e)), see also 31 USC 571.

(6) Annually on or before April 1, furnish to the Budget Committees a report on fiscal policy for the next fiscal year, to include a discussion of alternative levels of revenues, budget authority, outlays and tax expenditures, plus alternative allocations among major programs and functional categories, all in the light of major national needs and the effect on "balanced growth and development of the United States," 2 USC 602(f)(1), USC 603(b), (203(b)).

(7) From time to time, furnish the Budget Committees such further reports as "may be necessary or appropriate," 2 USC 602(f)(2), (202(f)(2)).

(8) Develop and maintain filing, coding and indexing systems for all information obtained by CBO from the Executive Branch or from other agencies of the Congress, 2 USC 603(b), (203(2)).

(9) With respect to each committee bill providing new budget authority, furnish to the reporting committee for its consideration: (a) a comparison of the bill to the most recent concurrent resolution on the budget, (b) a 5-year projection of outlays associated with the bill, and (c) the amount of new budget authority and resulting outlays provided by the bill for State and local governments, 31 USC 1329(a)(1), (308(a)(1)).

(10) With respect to each committee bill providing new or increased tax expenditures, furnish to the reporting committee for its consideration: (a) a report on how the bill will affect the levels of tax expenditures most recently detailed in a concurrent resolution on the budget, and (b) a 5-year projection of the tax expenditures resulting from the bill, 31 USC 1329(a)(2), (308(a)(2)).

(11) Periodically, issue a scorekeeping report on the results of Congressional actions compared to the most recently adopted concurrent resolution on the budget, plus status reports on all bills providing new budget authority or changing revenues or the public debt limit, plus up-to-date estimates of revenues and the public debt, 31 USC 1329(b), (308(b)).

(12) Annually, "as soon as practicable after the beginning of each fiscal year," issue a 5-year projection of budget authority and outlays, revenues and tax expenditures, plus the projected surplus or deficit, year by year, 31 USC 1329(c), (308(c)).

(13) Prepare "to the extent practicable," a 5-year cost estimate for carrying out any public bill or resolution reported by any committee (except the two appropriating committees), 31 USC 1353, (403).

(14) Jointly study with OMB, but separately report, on the feasibility and advisability of year-ahead budgeting and appropriating, the report to be made by February 24, 1977, 31 USC 1020 note, (502(c)).

(15) Cooperate with the Comptroller General in the development of standard fiscal terminology, 31 USC 1152(a)(1), (801(a)), (Sec. 202(a)(1) of the Legislative Reorganization Act of 1970).

(16) Cooperate with the Comptroller General in developing an inventory of fiscal information sources, providing assistance to Congress in obtaining information from those sources and furnishing, on request, assistance in appraising and analyzing information so obtained, 31 USC 1153(b), (801(a)), (Sec. 203(b) of the Legislative Reorganization Act of 1970).

(17) With the Comptroller General, establish a central file or files "of the data and information required to carry out the purposes of this title," 31 USC 1153(c), (801(a)), (Sec. 203(c) of the Legislative Reorganization Act of 1970).

(18) Cooperate with OMB in providing useful federal fiscal information to State and local governments, 31 USC 1153(d), (801(a)), (Sec. 203(d) of the Legislative Reorganization Act of 1970).

FOOTNOTES

[1] "The Congressional Budget and Impoundment Control Act of 1974: A General Explanation," Committee on the Budget, U.S. House of Representatives, August 1976 (Washington: U.S. Government Printing Office), p. 1.

[2] Ibid., p. 2.

[3] Public Law 93–344, Title III, Sec. 300.

[4] There are 16 major functional categories: national defense; international affairs; general science, space and technology; natural resources, environment and energy; agriculture; commerce and transportation; community and regional development; education, manpower and social services; health; income security; veterans benefits and services; law enforcement and justice; general government; revenue sharing and general purpose fiscal assistance; interest; undistributed offsetting receipts.

[5] "The Congressional Budget and Impoundment Control Act of 1974," op. cit., p. 4.

[6] "The Congressional Budget Office: Responsibilities and Organization," Congress of the U.S., May 1976, p. 1.

[7] Ibid.

[8] Ibid.

[9] Ibid.

[10] See "A Simplified Wage-Price Model," available from the Fiscal Analysis Division, Congressional Budget Office, September, 1975.

[11] Charles C. Killingsworth and Christopher T. King, "Tax Cuts and Employment Policy," in Robert Taggart (ed.), *Jobs Creation—What Works* (Olympus Press, 1977), p. 21.

[12] See also, "Welfare Reform and the Carter Public Service Employment Program: A Critique," David Meiselman, a Law and Economics Center Occasional Paper, University of Miami School of Law, 1978.

[13] See Paul Craig Roberts, "Idealism in Public Choice Theory," *Journal of Monetary Economics*, July, 1978.

[14] See Paul Craig Roberts, Economic Policy and the Breakdown of the Keynesian Model," *The Public Interest*, July, 1978.●

SENATOR JAMES B. ALLEN

● Mr. HUDDLESTON. Mr. President, I am sorry that I was not here yesterday to join in the tribute to our colleague, Senator James B. Allen of Alabama.

I always considered Jim a good friend, a valued colleague, and a staunch defender of his principles and of the Senate as an institution.

Perhaps no Member of the Senate was as devoted to his duties as was Jim Allen; almost any time of day or night—whether the Senate was in or out of session—Jim was on the job.

We all know that if the Senate was in session we could find him over here in the Chamber, ever diligent to catch some legislation, provision, or amendment that needed correcting or changing.

And we have all heard the stories about how Jim got up before the break of dawn, got to the office before anyone else, was the last one to leave at night, and then traveled throughout every county in his State each year.

With that kind of dedication and perseverance, it is little wonder that Jim became somewhat of an institution here in the Senate and somewhat of a living legend in Alabama.

Perhaps the outstanding trait of Senator Allen was the fact that despite frequently taking on rather controversial and at times bitter issues, he never lost his good humor or his courteous manner.

I always felt that Jim enjoyed a good scrap, and especially a good debate. But he was always fair, always played by the rules, and always expected the same from his opposition.

I had the privilege of serving for over 5 years with Senator Allen on the Agriculture Committee, and I found him to be just as dedicated, fair and attentive to the needs of his State.

We will all miss Senator Allen; he added a lot to this body, and he was a good friend of many of us.

At the same time, however, I would take this opportunity to welcome his wife, MARYON ALLEN, to the Senate. I have known MARYON for several years now and I know she will provide excellent representation for Alabama.●

PRESIDENT SADAT MUST PROFFER PEACE PLAN

● Mr. PERCY. Mr. Presient, last November when President Sadat made his historic visit to Jerusalem, the peoples of the world felt that, at long last, a breakthrough had been achieved which would lead to a peace settlement in the Middle East.

It was certainly a breakthrough. President Sadat had personally recognized the existence of the State of Israel and Israel's right to security and survival. Only a few years earlier no Arab leader would even use the name of Israel; now the leader of the most populous Arab State was in Israel speaking with Israel's leaders, addressing the Knesset, embracing his former antagonist Golda Meir, and insisting on peace.

But now, 6 months later, this breakthrough, like old soldiers, seems to be fading away. Now, 6 months later, the negotiations are suspended, President Sadat is talking of the possibility of a future war and indicates that his patience with Israel is wearing thin. He says he can sustain his peace initiative for perhaps no more than another 2 months unless Israel will make more forthcoming proposals.

I believe that President Sadat means to have peace. But since he has not put a peace formula on the table to be negotiated, we must assume that he is seeking peace on the original Arab terms; total Israel withdraws back to the pre-1967 borders and establishment of a Palestinian homeland. In view of Israel's significant withdrawal in the Sinai in 1975, and Israel's expressed willingness to withdraw from the total Sinai, it would seem that President Sadat himself could now proffer a peace formula in which he would fully take into account Israel's legitimate security concerns.

For the fact is that Prime Minister Begin has made a peace offer with concessions which provide the basis for a serious negotiation, but President Sadat—since his bold and commendable initiative last November—has not.

In the meantime the United States has sought to encourage both Israel and Egypt to resume their negotiations, but the United States has stressed the need for Israel to modify her positions. We have seen no evidence that equivalent efforts have been made with Egypt.

It is now time to impress our friends in Egypt with the necessity to take an initiative and set forth a peace plan of their own to be negotiated along with the peace formula offered by Prime Minister Begin.

The United States, having now agreed to sell aircraft to Egypt and Saudi Arabia over the strong objections of Israel, should be in a position with those two nations to urge modifications of policy which would facilitate the resumption of negotiations and enhance the prospects for peace. If the Egyptians resolutely refuse to offer new conditions for peace to be negotiated along with those offered by Israel, they will find their credibility somewhat reduced before world opinion.

I have frequently spoken my mind about the Mideast situation. I have been critical of Prime Minister Begin for his settlements policy and for his reinterpretation of U.N. Resolution 242. I supported the arms sales to Egypt and Saudi Arabia. But, at this moment, the ball is in the Arab court, and I would hope that some creative and imaginative plan would be forthcoming as a meaningful followup to President Sadat's trip to Jerusalem last year.●

U.S. TRADE POLICY AND THE TEXTILE INDUSTRY

● Mr. HOLLINGS. Mr. President, two recent articles demonstrate very cogently the plight into which our American textile workers have been thrown because of our ill-advised trade "policy."

The first article is a concise yet comprehensive sketch of the jobs and dollars impact of unfair foreign competition. Robert S. Small, the distinguished author of this piece which appears in the current number of the National Journal, points out the tremendous inconsistency between the Government's effort to create jobs by spending billions on the one hand, and then pursuing trade practices which eliminate the jobs faster than they can be created. The result: 400,000 American textile jobs lost in the past 5 years alone. Another result: In 1977, our textile and apparel trade deficit soared to almost $3.5 billion—a record level. And in the first quarter of 1978, the deficit is running 87 percent above that of last year's first quarter.

The second article, from the Chicago Tribune, concerns the world's largest weaving plant, located in Seoul, Korea. The women employees, who comprise a large majority of the plant's workers, earn $85 a month—and they have to work 6 days a week to get it. The men are paid somewhat, but precious little, more—about $120 a month.

Mr. President, when you throw in all the bonuses and incentives which foreign governments give to their textile manufacturers—and couple those with the rock-bottom wages paid in those countries—you can see how unfair the trade environment is for American producers and American workers. And now, Mr. President, comes the administration with proposals to cut textile tariffs and open the doors to this inequitable onslaught even wider. It is enough to boggle the mind, and unless we take action—and action soon—we are going to sacrifice an industry which provides one out of every eight manufacturing jobs in America.

Mr. President, I ask that the text of these articles, from the June 10, 1978, National Journal and from the April 5, 1978, Chicago Tribune, be printed in the RECORD. I commend them to each one of my colleagues, along with a plea for action to remedy this costly and shameful situation.

The material follows:

U.S. TRADE POLICY AND THE TEXTILE INDUSTRY

As the Multilateral Trade Negotiations proceed in Geneva and international trade issues are debated, careful consideration needs to be given to the importance of safeguarding American jobs. Our negotiators cannot ignore the differing trade conditions and unique economic concerns of domestic industries.

As the oldest and largest American manufacturing industry, textiles and apparel are vitally important to the economic health of the nation—providing one in eight manufacturing jobs.

The textile industry employs nearly one million people. Another million-and-a-quarter Americans work in apparel manufacturing. When all the allied industries are included—man-made fiber, raw cotton and wool production, transportation, machinery and chemical manufacturing—nearly three million people rely on the fiber, textile and apparel industries for employment.

These jobs are being threatened.

Skyrocketing imports of textile and apparel products and restrictive and costly government regulations are contributing to

the export of American jobs, increased trade deficits and injury to the U.S. textile/apparel industry and its workers.

We see a great inconsistency between the government's liberal textile trade policy and its efforts to create more jobs, reduce inflation and improve the U.S. balance of payments.

The textile industry questions the wisdom of a government policy of giving trade adjustment assistance to U.S. workers whose jobs are displaced by textile imports, while simultaneously considering a textile/apparel tariff reduction.

NEED FOR TARIFFS

Present U.S. textile tariffs are needed despite the existence of some important quota agreements under the GATT Multifiber Arrangement (MFA). Lower tariffs would make it easier for countries to fill all quotas and for those key uncontrolled countries in the European Community, tariff reductions would greatly stimulate shipments to the United States. While there is a nominal quota agreement with Japan, it is very loose and tariff reductions would result in large additional shipments to the United States.

On the other hand, textile tariff reductions abroad would be of little benefit to U.S. textile exporters. In Europe, "The Rules of Origin," which are particularly restrictive against textiles, and which were unilaterally imposed, constitute an increasingly serious nontariff barrier and the Community has refused for years to modify them. The People's Republic of China is also an uncontrolled area, which is open-ended so far as textile exports to the United States are concerned. In Japan a host of barriers, covered by the phrase "administrative guidance" continue, despite talk of "liberalization."

TARIFFS AND JOBS

Even under existing tariff levels and quota agreements, there is abundant evidence that the industry has already been injured by imports. The government's adjustment assistance figures indicate that over 50,000 workers in textiles and apparel have been awarded import damages. This is grossly understated, because the criteria discourage applications from textile workers. For instance, for a textile worker to establish a case that he lost his job in a plant which manufactures shirting because of increased imports of shirts, he would have to prove that it was the import of the cloth, not the shirt, that caused the loss of his job. This most unusual procedure grants no recognition to the fact that displacement of cloth created losses of jobs. All this is happening at present inadequate tariff levels.

If textile/apparel tariffs are further reduced during the persent round of Multilateral Trade Negotiations in Geneva, the effect on the U.S. industry could be devastating.

Tariff cuts will result in the loss of a substantial number of American jobs. The current level of textile and apparel imports is equivalent to 400,000 jobs.

Can this country really afford to ship more jobs overseas in an era of high unemployment and government commitment to job creation? We think not. Female and minority employment are particularly dependent on these industries. In the textile industry 47 per cent of the employees are women and in the apparel work force 81 per cent are women. According to the Equal Employment Opportunity Commission 21 per cent of the textile workers and 24 per cent of the apparel workers are minorities.

QUOTA AGREEMENTS UNDER THE MFA

Imports are controlled, to a limited degree, by bilateral agreements establishing quota levels under the GATT Multifiber Arrangement. At this time, bilateral agreements have been negotiated by the U.S. government with 18 foreign nations. However, they are overly generous.

Existing quotas over the years have not only been excessively large but indifferently enforced. There are frequent delays in establishing quotas on new countries and newly impacted categories at the time they are needed. Quotas, once established, increase each year by 6 or 7 per cent.

In 19778, imports from countries under MFA controls could be 35 per cent higher than in 1977 without exceeding agreed quotas. In the first quarter of the year, imports were up 30 per cent. This relentless growth is taking place despite the fact that domestic market growth was zero between 1973 and 1977.

The scenario over the next five years could be, in terms of annual growth rates:

	Percent
Domestic market	+1.5
Quotas	+6
Imports	+10

In addition to the high level of imports coming in under existing quota levels, nearly one-fourth of textile imports comes from non-controlled countries. The People's Republic of China, for example, is rapidly increasing textile/apparel exports to the United States and no bilateral agreement has been negotiated.

Some Eastern European countries use the European Economic Community as a conduit for their textile products. There have been cases where French factories merely add labels to Eastern European garments and then export them to the United States as a French manufacture.

TEXTILES AND THE U.S. TRADE DEFICIT

The U.S. textile trade deficit was almost $3.4 billion in 1977 and is growing rapidly in 1978. The first quarter of 1978 was up 87 per cent over the comparable period of 1977.

Clearly, the continuing upward trend of textile/apparel imports has severely aggravated the unfavorable balance of payments of the United States, contributing to the further weakening of the dollar.

From 1971–77 the textile/apparel trade deficit grew at an annual compounded rate of 7.5 per cent.

In recent years, underdeveloped countries have become much more important in the textile and apparel export market and a continuing wave of expansion from these countries can be foreseen. The record of controlling "new entrants" into our market has been dismal due to the slow response time of our government and its unwillingness to take early action for various political reasons.

Conversely, the dilemma facing the entire domestic industry is that the market options open to us become less and less each year as import penetration grows. It is becoming increasingly difficult to find any segment of the U.S. market that does not have severe import penetration now or potentially.

IMPORT INFLATION

Excessive import pressure on the domestic market eventually transfers pricing power to the overseas producer—who is secure from U.S. antitrust prosecution. So, in effect, the import advocates are paving the way for future textile price inflation.

U.S. producers thus far have been able to maintain a remarkable record of price stability. Our ratio of capital expenditures to depreciation is high among industries and compares very favorably with other large industries, including the automotive industry. Most of our retained earnings are reinvested.

As of May of this year, all textile mill product prices were up only 1 percent from a year ago and apparel fabric prices were actually down.

REVERSE SUBSIDIES

The textile industry in this country operates with the largest reverse trade subsidy in the world as a result of our proliferating and very costly government-imposed noise, water and air environmental regulations. Our overseas competitors escape these costs—which run into the billions of dollars.

The total cost of all these requirements grows daily and, if those costs represented an overseas subsidy, there is no doubt that enormous countervailing duties would have been imposed by the U.S. government on textile imports long before now. As it is, of course, these requirements enormously increase the U.S. industry's exposure to low wage competition from abroad.

In view of these considerations, our nation cannot afford to issue an open invitation to other nations to raid our textile markets. That is what tariff reductions would amount to.

Diligently negotiated and administered bilateral agreements, within the internationally recognized framework of the GATT Multifiber Arrangement, at present tariff rates, are the most equitable means of dealing with the textile/apparel import problem.

ROBERT S. SMALL,
President, Americans Textile Manufacturers Institute.

KOREANS TOIL FOR BED, $85 A MONTH

SEOUL.—In a sea of clanging, clattering weaving machines in this country's largest textile mill, more than 400 young women dart back and forth through the huge room to keep them running.

"Our weaving plant is the biggest in the world," boasts Miung Suk Park, general manager of the Pang-Rim Spinning Co., Ltd.

Cotton dust stings the eyes and collects on the machines and floor. Water vapor spews from scores of nozzles in the ceiling to dampen the dust.

Most of the plant's 5,000 employes are young women aged 20 to 24. They earn $85 a month for a six-day workweek; the men make $120 a month. They receive bonuses twice a year.

Although their pay is low by American standards, the workers are satisfied, Park says.

"Our labor union is very strong," he says. "But they're not striking because our welfare facilities are very good. We have a dormitory, dining facilities, a hospital, and a bank. Everything is free."

The hospital, located on the first floor of the dormitory, resembles a small clinic. The dormitory itself holds 1,500. While one shift works, another sleeps.

The plant is running at 100 per cent capacity, three shifts a day, six days a week. The machines are modern, having been purchased from Toyota in Japan four years ago. As a result, Park says, "Our productivity is very high."

The plant makes mostly plain cotton and polyester fabric. About 99 per cent is exported to customers in 36 countries. The raw cotton comes from the United States.

"We are exporting directly to Sears in the U.S.," says Park, mainly white shirts and blouses. It is done through our garment factory by Dae Woo Trading Co. [Korea's big trading company]."

The efficiency of a textile mill like this, with its relatively low-wage workers and up-to-date machinery, is one reason the U.S. textile industry has sought and won protection through a quota system. Korean officials defend the relatively poor pay and working conditions, arguing that work in a textile mill is precious in a developing country in which jobs are difficult for young women to find.●

NATIONAL FIRE PREVENTION AND CONTROL ADMINISTRATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 729.

The PRESIDING OFFICER. The bill will be stated by title.

Mr. BAKER. Mr. President, before the clerk reports, let me seek recognition simply to state that S. 1794 has been cleared on our calendar as well, and we have no objection to proceeding to its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1794) to authorize appropriations for the Federal Fire Prevention and Control Act of 1974, and to change the name of the National Fire Prevention and Control Administration to the United States Fire Administration.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Finance with an amendment to strike all after the enacting clause and insert the following:

That (a) section 17 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2216) is amended—

(1) by striking out "except section 11 of this Act," and insert in lieu thereof "except as otherwise specifically provided, with respect to the payment of claims, under section 11 of this Act,"

(2) by striking out "and" after "September 30, 1977,"; and

(3) by inserting immediately after "1978" the following: ", and not to exceed $23,752,000 (of which not more than $6,043,000 may be used for the establishment of the Academy, including the renovation and alteration of a suitable site therefor) for the fiscal year ending September 30, 1979".

(b) Section 16(b) of the Act of March 31, 1901 (15 U.S.C. 278f(b)), is amended—

(1) by striking out "and" after "September 30, 1977,", and

(2) by inserting immediately after "1978" the following: ", and not to exceed $5,600,000 for the fiscal year ending September 30, 1979".

SEC. 2. (a)(1) Sections 3, 4, and 5 of the Federal Fire Prevention Control Act of 1974 (15 U.S.C. 2202-2204) are amended by striking out "National Fire Prevention and Control Administration" each place it appears and inserting in lieu thereof "United States Fire Administration".

(2) The heading of section 5 of such Act is amended by striking out "NATIONAL FIRE PREVENTION AND CONTROL ADMINISTRATION" and inserting in lieu thereof "UNITED STATES FIRE ADMINISTRATION".

(b) Section 16(a) of the Act of March 3, 1901 (15 U.S.C. 278f(a)), is amended by striking out "National Fire Prevention and Control Administration" in the matter preceding paragraph (1) and inserting in lieu thereof "United States Fire Administration".

(c) Section 12(g) of the Act of February 14, 1903 (15 U.S.C. 1511), is amended by striking out "National Fire Prevention and Control Administration" and inserting in lieu thereof "United States Fire Administration".

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

UP AMENDMENT 1332

(Purposes: (1) To increase authorization for fire investigation. (2) To provide for the investigation of fires of a recurring nature)

Mr. ROBERT C. BYRD. Mr. President, I send to the desk two amendments and ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. The amendments will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD) proposes unprinted amendments, en bloc, numbered 1332.

Mr. ROBERT C. BYRD. I ask unanimous consent that further reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered, and without objection, the amendments will be considered en bloc.

The amendments are as follows:

On page 2, line 25, strike "$23,752,000" and insert in lieu thereof "$25,252,000".

On page 4, immediately after line 6, insert the following:

"SEC. 3. The Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.) is further amended—by adding at the end thereof the following new section:

"FIRE INVESTIGATION

"Sec. 24. (a) In accordance with the provisions of this subsection, the Administrator, upon the request of any State or local government, may provide for the investigation of the facts, conditions, circumstances, and probable cause of any fire which occurs within the jurisdiction of such State or local government if, in the discretion of the Administrator, (1) the fire is of a serious nature and contains aspects which are of a recurring character, or (2) such investigation would further the purposes of this Act.

"(b) The Administrator is authorized to make available to interested persons at a reasonable cost the results of any investigation performed, pursuant to this subsection. However, no part of any investigation performed pursuant to this subsection shall be admissible as evidence in any court or used in any suit or action for damages growing out of any matter mentioned in such investigation.".

● Mr. CANNON. These amendments were proposed to the Commerce, Science, and Transportation Committee by Senator GLENN, and are acceptable to the committee. They set forth criteria for when the administrator of the National Fire Prevention and Control Administration may investigate the causes of certain specified fires. The administrator would be allowed to carry out such investigation if requested to do so by a State or local government and "first the fire is of a serious nature and contains aspects which are of a recurring character, or second such an investigation would further the purposes of this act." The administrator "is authorized to make available to interested persons at a reasonable cost the results of any investigations performed pursuant to this subsection. However, no part of any investigation performed pursuant to this subsection shall be admissible as evidence in any court or used in any suit or action for damages growing out of any matter mentioned in such investigation." Finally these amendments increase the authorization provided for the National Fire Prevention and Control Administration by $1.5 million from $23,752,000 to $25,252,000 in order to carry out these additional responsibilities.●

● Mr. GLENN. Mr. President, my amendment is designed to address the growing arson-for-profit epidemic. For the past year, I have attempted to address this most serious of crime problems, one that is undermining national urban policy and devastating entire neighborhoods. Last December, I chaired 2 full days of hearings of the Governmental Affairs Intergovernmental Relations Subcommittee on the impact to State and local governments of "torching" to reap profits. Early this year I was successful in amending the criminal code reform bill passed by the Senate to require the FBI to declare arson a major crime for the purposes of its quarterly crime reports. Failure to do this for the past 50 years has resulted in a lack of proper statistical information on arson as well as diminished public attention and priority given to combatting a vicious and sophisticated crime that has by some estimates, increased by as much as 400 percent over the past decade.

Mr. President, it is clear that the scope of the arson problem is extensive. Our hearing record and a recently released GAO report submitted to the permanent Subcommittee on Investigations of the Committee on Governmental Affairs both document a clear failure on the Federal level to take steps to help fight this growing crime. I would like to quote Comptroller General Staats' comments to Senator PERCY, the ranking minority member of the subcommittee,

. . . the Federal law enforcement community does not view this particular crime as deserving any special priority. There is insufficient hard evidence to accurately gauge the magnitude of the arson problem and consequently to gauge to propriety of the Federal posture concerning it.

Comptroller Staats goes on to say,

There has been no Federal commitment for a coordinated and concerted effort at helping State and local communities deal with the arson problem through research or training and funding for State and local investigators and prosecutors.

From 1975 to 1977, out of $2 billion in LEAA funds provided to local law enforcement agencies, only $1.7 million went for arson control activities.

The GAO has found that it has been the National Fire Prevention and Control Administration that has emerged as the Federal focal point for providing arson intervention programs to States and localities. It has recently developed an arson investigator training course, it is working very hard on obtaining accurate, coherent data on arson and it is actively working to assemble and publicize the latest technological advances in arson detection.

While I certainly support the Comptroller General's findings that the Fed-

eral law enforcement apparatus must become more effective and coordinated in this area, I feel that we cannot really wait for endless "studies" and reports to start providing some immediately and tangible assistance to local communities that are on the front line of this devastating epidemic. Fifty years have passed and the FBI has not added one new crime to its list of seven "major" crimes that it uses when it issues its quarterly crime index to the Nation. Yet over the past 10 years, 30,000 South Bronx buildings have been destroyed by arson, 3,000 fires per year, nearly 8 per day, roughly 250 per month.

Although I certainly support S. 1794's support of the Fire Administration's efforts to improve its training, data collection, and technological development, I propose that we go one step further in fiscal year 1979 and authorize the Fire Administration to set up an investigative assistance operation that would be available to States and local governments. Investigative assistance from the Fire Administration would become available at the direction of the Administrator for a major fire that contains aspects which are of a recurring character or if the Administrator determines that an investigation would further the purposes of this act.

Thus a community lacking in technical capacity and personnel would now at least have an immediate avenue of potential expertise available. The Fire Administration's team would work with local authorities in attempting to pinpoint the causes and to locate evidence. The results of these investigations would, of course, also contribute to and become part of the studies and technical reports that the administration issues. The team would assist local authorities in a technical way, the prosecutorial burdens and functions remain exclusively with local authorities.

Mr. President, this is an admittedly short-term effort. I have only requested $1.5 million for fiscal year 1979. It is designed to plug the gaping loopholes that the GAO and others have found in the Federal antiarson effort. As I stated, these "loopholes" are in training, advising, providing assistance and in compiling information. If the Fire Administration could plug this gap while we work elsewhere to strengthen the Federal anti-arson effort, it would provide a great service to the Nation.

I urge adoption of my amendment and I would like to conclude by citing some raw statistics compiled by my staff to further document the enormity of the arson problem. Arson loss estimates for 1977 range from $2 to $4 billion. According to the LEAA, an estimated 1,000 including 45 firefighters die each year in arson fires; 10,000 people are injured annually. Only 9 persons are arrested, 2 convicted and 0.7 incarcerated per every 100 fires classified as incendiary or suspicious. Clearly, we have a raging criminal epidemic on our hands that is driving up insurance premiums, taking viable buildings off of the tax housing rolls and undermining urban policy and community development efforts.

Hopefully, this amendment will make a contribution that will help stem this tide. I urge its adoption.●

The PRESIDING OFFICER. The question is on agreeing to the amendments of the Senator from West Virginia.

The amendments were agreed to, en bloc.

The committee amendment, as amended, was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 11291, which is a companion measure.

The PRESIDING OFFICER. The Chair lays before the Senate a message from the House of Representatives, which the clerk will state.

The assistant legislative clerk read as follows:

An act (H.R. 11291) to authorize appropriations for the Federal Fire Prevention and Control Act of 1974, and to change the name of the National Fire Prevention and Control Administration to the United States Fire Administration.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 11291 be considered as having been read the first and second times, that the Senate proceed to its immediate consideration, that all after the enacting clause be stricken and that the language of S. 1794 be inserted in lieu thereof, that the amendment be engrossed, that the bill as amended be passed, and that a motion to reconsider be laid on the table.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that S. 1794 be indefinitely postponed.

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

INTERVENTION ON THE HIGH SEAS ACT

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2380.

The Presiding Officer laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2380) entitled "An Act to amend the Intervention on the High Seas Act to implement the protocol relating to intervention on the high seas in cases of marine pollution by substances other than oil, 1973", do pass with the following amendment:

Strike out all after the enacting clause, and insert: That the Intervention on the High Seas Act (88 Stat. 8, Public Law 93-248) is amended as follows:

(1) Section 2 is amended to read as follows:

"SEC. 2. As used in this Act—

"(1) 'a substance other than convention oil' means those oils, noxious substances, liquefied gases, and radioactive substances—

"(A) enumerated in the protocol, or

"(B) otherwise determined to be hazardous under section 4(a);

"(2) 'convention' means the International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969, including annexes thereto;

"(3) 'convention oil' means crude oil, fuel oil; diesel oil, and lubricating oil;

"(4) 'Secretary' means the Secretary of the department in which the Coast Guard is operating;

"(5) 'ship' means—

"(A) a seagoing vessel of any type whatsoever, and

"(B) any floating craft, except an installation or device engaged in the exploration and exploitation of the resources of the seabed and the ocean floor and the subsoil thereof;

"(6) 'protocol' means the Protocol Relating to Intervention on the High Seas in Cases of Marine Pollution by Substances Other Than Oil, 1973, including annexes thereto; and

"(7) 'United States' means the States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the United States Virgin Islands, the Trust Territory of the Pacific Islands, the Commonwealth of the Northern Marianas, and any other commonwealth, territory, or possession of the United States.".

(2) Section 3 is amended by—

(A) striking the word "oil" and inserting in lieu thereof the phrase "convention oil or of the sea or atmosphere by a substance other than convention oil"; and

(B) striking the word Convention" and inserting in lieu thereof the phrase "convention, the protocol".

(3) Section 4 is amended by—

(A) inserting the words "human health," between the words "limited to," and "fish" and designating the existing section as subsection (b);

(B) adding a new subsection (a) as follows:

"(a) The Secretary, after consultation with the Administrator of the Environmental Protection Agency and the Secretary of Commerce, shall determine when a substance other than those enumerated in the protocol is liable to create a hazard to human health, to harm living resources, to damage amenities, or to interfere with other legitimate uses of the sea.".

(4) Section 10 is amended by adding a new subsection (c) as follows:

"(c) With respect to intervention for a substance identified pursuant to section 4(a), the United States has the burden of establishing that, under the circumstances present at the time of the intervention, the substance could reasonably pose a grave and imminent danger analogous to that posed by a substance enumerated in the protocol.".

(5) Section 13 is amended—

(A) in subsection (a) by striking the period at the end of the subsection and inserting in lieu thereof the phrase "and article II of the protocol and may propose amendments to the list of substances other than convention oil in accordance with article III of the protocol."; and

(B) in subsection (b) by striking the words "annexes thereto" and inserting in lieu thereof the word "protocol".

(C) by adding a new subsection (c) as follows:

"(c) The President may accept amendments to the list of substances other than convention oil in accordance with article III of the protocol.".

(6) Section 15 is amended by inserting the words ", the protocol," between the words "convention" and "and".

SEC. 2. This Act shall be effective upon the date of enactment, or upon the date the protocol becomes effective as to the United States, whichever is later.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the amendment of the House of Representatives.

The motion was agreed to.

JAMES MADISON MEMORIAL BUILDING

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 838.

Mr. BAKER. Mr. President. reserving the right to object, I shall not object, but rather advise the distinguished majority leader that Calendar Order No. 838 is cleared on our calendar, and we have no objection to proceeding to its consideration.

Mr. ROBERT C. BYRD. I thank the distinguished minority leader.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 3112) to amend the Act of October 19, 1965, to provide additional authorization for the Library of Congress James Madison Memorial Building.

The bill was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3 of the joint resolution entitled "Joint resolution to authorize the Architect of the Capitol to construct the third Library of Congress building in square numbered 732 in the District of Columbia to be named the James Madison Memorial Building and to contain a Madison Memorial Hall, and for other purposes", approved October 19, 1965 (79 Stat. 986; Public Law 89-260), is amended by striking out "$123,000,000" and inserting in lieu thereof "$133,000,000".

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

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

The motion to lay on the table was agreed to.

SENATE RESOLUTION 482—AUTHORIZING RELEASE TO THE FEDERAL BUREAU OF INVESTIGATION OF MATERIALS IN POSSESSION OF THE SENATE

Mr. ROBERT C. BYRD. Mr. President, I send to the desk a resolution, on behalf of the Senator from Washington (Mr. JACKSON), to permit the Senate Permanent Subcommittee on Investigations to release certain investigative materials from its files to the Federal Bureau of Investigation, and ask unanimous consent that the Senate proceed to its consideration.

The PRESIDING OFFICER. The resolution will be stated.

The assistant legislative clerk read as follows:

A resolution (S. Res. 482) to authorize the release to the Federal Bureau of Investigation of materials in possession of the Senate Permanent Subcommittee on Investigations.

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

Mr. ROBERT C. BYRD. I ask unanimous consent that a statement by Mr. JACKSON be printed in the RECORD.

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

STATEMENT BY SENATOR JACKSON

I report today a Resolution to permit the Senate Permanent Subcommittee on Investigations to release certain investigative materials in the files of the Subcommittee to the Federal Bureau of Investigation.

By letter dated May 18, 1978, the Special Agent in Charge of the Sacramento, California office of the Federal Bureau of Investigation, has requested that the Subcommittee make available certain materials in its possession obtained during a Subcommittee investigation of California Prepaid Health Plans.

Pursuant to Rule XXX of the Standing Rules of the Senate, and the privileges of the Senate, the requested materials may not be released without the approval of the Senate.

Accordingly, I report the following Resolution approved by the Committee on Governmental Affairs, and ask that this Resolution be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was considered and agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

Whereas, by letter dated May 18, 1978, the Special Agent in Charge of the Sacramento, California office of the Federal Bureau of Investigation has requested access to certain documents in the possession of the Senate Permanent Subcommittee on Investigations; and

Whereas, the requested materials were obtained by the Subcommittee in the course of a Subcommittee investigation of Prepaid Health Plans; and

Whereas, by the privileges of the Senate of the United States and by Rule XXX of the Standing Rules of the Senate, documents in the possession of the Subcommittee may not be released without the consent of the Senate: Therefore be it

Resolved. That in accordance with the request of the Federal Bureau of Investigation of May 18, 1978, the Senate Permanent Subcommittee on Investigations is authorized, in the discretion of and at the direction of its Chairman, to provide the Federal Bureau of Investigation with copies of documents and other materials in its possession obtained in the course of a Subcommittee investigation of California Prepaid Health Plans.

SEC. 2. The Secretary of the Senate shall transmit a copy of this Resolution to Richard E. White, Special Agent in Charge, Federal Bureau of Investigation, Post Office Box 13130, Sacramento, California 95813.

SENATOR PERCY ON COAL POLICY

Mr. RANDOLPH. Mr. President, on Monday, June 5, the able Senator from Illinois, Mr. PERCY, gave a perceptive keynote speech to the National Coal Association in Chicago. I commend his address to my colleagues.

Mr. PERCY comes from a State that, like my home State of West Virginia, is rich with our most abundant conventional energy source, coal. He and I both believe coal can be our ace in the hole for solving energy supply problems.

I am very pleased to know that Senator PERCY is conducting a series of conferences in Illinois on energy issues. The most recent one, on coal, was highly successful. Hundreds of people braved blizzard conditions to travel to Carbondale, Ill., to hear several knowledgeable speakers and to see outstanding exhibits on the future of coal. The conference contributed to the ongoing dialog on the potential impediments to increasing coal production that face the industry.

This conference, and Senator PERCY's speech, demonstrate his interest in solving these problems of the coal industry. I commend the Senator from Illinois for his work in this vital area.

Mr. President, I ask that the text of Senator PERCY's speech be printed in the RECORD.

The speech follows:

COAL: AMERICA'S ACE IN THE HOLE

The last time I had the opportunity to discuss the potential of coal in our national energy policy was late last year, when I co-sponsored a day-long Coal Conference at Southern Illinois University in Carbondale.

Your President, Carl Bagge, was one of the speakers at the Conference. He joined us in a full day of discussion and debate on the role of coal in meeting our national energy needs. Conference participants included coal producers, environmentalists and government policymakers.

These individuals expressed legitimate concerns and objectives that provided us with valuable insights. I believe the Carbondale Coal Conference helped us to reach a better understanding of the issues pertaining to coal as an energy source.

A decade ago a conference such as the one I co-sponsored on coal would not have been considered necessary, nor would it have been nearly so well attended. But a decade ago our energy supply was secure, abundant and cheap.

Now the situation has changed dramatically. Today we import almost nine million barrels of oil a day at a cost of $45 billion a year. This is double the volume and ten times the cost of oil imported in 1972, the year before the OPEC embargo. It has thrown us into a dangerous balance of payments deficit and seriously weakened the dollar in international money markets.

Today I would like to discuss with you first, the nature of our changing energy situation; second, the alternatives you face in promoting coal energy and that we all face in creating conservation energy, and third, a comment on the role of the Rockefeller Commission on the coal industry.

It is essential that we develop a comprehensive national energy policy as a guide to the goals we should pursue. We must remain an independent, stalwart and prosperous nation without being captives of any oil-producing countries.

For years Americans did their best to ignore the need for a national energy policy. Even though many Americans now agree that we face an energy crisis, our energy dilemma is now worse than when Congress and the Administration began warning about the perils of wasteful energy habits.

If energy demand continues to rise as expected, and we push supply to keep pace with demand, the total capital investment cost of all new energy-producing facilities will be in the range of $650 billion to $1 trillion.

That is about half to two-thirds of all the investment capital we are likely to have available in the next decade.

So it is imperative that we conserve energy now while developing alternatives energy sources. Conventional energy sources—such as oil and gas—are important. But they are not the answer to our long-range energy needs.

Nuclear reactors, for example, are an important source of electricity, but they do not provide an immediate solution. Because it takes ten years to license and build a reactor, our nuclear capacity through 1988 has already been set. The projected capacity for the next decade triples the number of nuclear power plants we have today, but nuclear power will produce only about five to six percent of the nation's energy.

Solar energy for space heating is less costly than electricity in many applications today. But it, too, is a source of the future. We cannot bank on solar power providing more than marginal amounts of energy by the mid-1980's. Solar electric technologies are showing rapid advances. I am optimistic about the potential of solar energy. I expect solar energy to penetrate consumer and business markets rapidly, but it will be 1990 or beyond before solar collectors on buildings can begin to be as common as television antennas.

One of the other major alternatives to oil and gas is increased production of coal. Most of you here today are committed to this. I too believe that we can shift much of our emphasis to coal.

Coal makes up 90 percent of our conventional energy resources, although it currently supplies only 18 percent of our energy needs.

Let's just select at random the coal reserves of two states, Illinois and West Virginia! Illinois' vast coal reserves, for example, have the energy-producing potential of 240 billion barrels of oil and West Virginia resources have the energy-producing potential of 246 billion barrels of oil. At the rate we import oil today, we could theoretically substitute Illinois and West Virginia coal alone for all oil imports for the next 135 years!

But there are many difficulties and problems that accompany the effort to increase U.S. coal production. A recent GAO report on coal, which is disturbing to a Senator from a coal state, stated: "It is bulkly; it is dirty; it seldom occurs where you need it; and it varies widely in quality."

The environment poses a major hurdle. One of my major concerns is avoiding the creation of cities with air quality resembling Pittsburgh in the 1930's. Another concern of mine is the protection of prime agricultural lands.

However, the obstacles are not insurmountable. Dirty coal can be burned cleanly if we use today's technologies, and improve them with sufficient research and development. In 1973, along with other Senators from steel-producing states, I urged that funds be doubled for coal research in fiscal year 1974. I was particularly interested in a clean coke project which facilitates the use of domestic reserves of high sulfur coal for steel production.

As a result of these increased appropriations, I was instrumental in obtaining close to $5 million for U.S. Steel Corporation to launch such a project. High sulfur, high heat coal, not normally used for steel is processed into metallurgical coke in an environmentally clean manner. U.S. Steel is very optimistic about the process and predicts that it can be economically utilized by the mid-1980's.

The environment is not the only hurdle we must surmount if we intend to meet the Administration's goal of doubling coal production by 1985. We must also solve the problem of transporting coal. Increased coal production and use will require major renovation and capital investment in our rail and waterway systems.

There are numerous frontier technologies for coal use which we need to develop if we intend to use it cleanly. We have neglected coal research in comparison with nuclear power. More needs to be done to promote cogeneration, fluidized-bed boilers, gasification and coal cleaning technologies.

The coal industry must raise billions of dollars in capital to open new mines and replace depleted ones. Although the total dollar sums are not great in comparison to the needs of other energy sources, they are far larger than the coal industry has ever raised in the past. We must move toward changes in our tax schedules this year; we need a reduction in capital gains tax from the present level of 49.1 percent to 25 percent to make us more competitive with other industrial countries, such as the United Kingdom, West Germany, France, Switzerland, Japan and Canada.

We must rely, for the future huge expansion needs of the coal industry, more on equity financing rather than debt financing. In order to encourage this, we need to adopt a 12 percent investment tax credit as a permanent part of our tax structure and we need to improve dramtically amortization and depreciation allowances. These changes, together with individual rates that will reduce taxes for middle income Americans as well as low income taxpayers, would help create the capital needed to stimulate and improve equity markets and reduce the demand for debt which is so highly inflationary because of ever rising interest costs.

Nor can we ignore the social problems related to coal production. Where new coal mines spring up, new towns follow. Boombust situations can occur with the accompanying social and economic problems.

These are the major issues which must be confronted, discussed and solved if coal is to be used to its fullest extent.

Our immediate challenge rests with cutting energy demand. Here we have much more reason to be optimistic. If we look carefully at heating and cooling systems, industrial burners and boilers, the automobile and the structural characteristics of our buildings, we find vast deposits of energy waiting to be mined.

Energy produced by conservation—I call it "conservation energy"—is a widely available resource throughout the country. We can produce it with lead times measured in months instead of years. It has positive environmental consequences. It can create large numbers of jobs. And best of all, its cost is less than almost all new sources of energy supply. It can even be free.

In other industrial countries with lifestyles comparable to our own, conservation is a way of life. West Germany, Japan, France, Sweden and Switzerland use at least one-third less energy per dollar of Gross National Product than we do.

Conservation will not change lifestyles if conservation means efficiency. Conservation will have less impact on lifestyles than the reliance on higher-cost new energy sources that drain consumer purchasing power.

Movement towards conservation is already occurring in some portions of the private sector. Industry, which is most sensitive to change in the prices of commodities, is responding to the energy crisis and the conservation challenge.

To encourage greater energy conservation, I believe we must rely on the efforts of private firms and individuals responding to market forces. Government can do its share by encouraging conservation through such measures as tax credits so conservation receives as much attention as the government now gives to oil, gas and electricity.

At this point, let me parenthetically comment on the difference two individuals can make in achieving our national goals. More than a year ago, I called on former Secretary of the Department of Housing and Urban Development Carla Hills, at her home in Virginia late one evening on my way into Washington from Dulles Airport. I asked Carla Hills to help me and Senator Hubert Humphrey found a new non-profit, private sector organization to be known as the Alliance to Save Energy in order to create a whole new source of energy—conservation energy—in America. A few days later, she advised me of her decision; namely, that she would accept the position of chief executive officer and help guide the organization in its formative stages. But she refused a professional status, wanting to work only in a volunteer capacity, and would delay her entry into the private practice of law for almost a year in order to do this.

The Alliance a year later shows great promise. Its Board of Directors, which includes Carla Hills, Anne Armstrong, William H. Batten, Marjorie Benton, Henry Ford, II, Charles J. Hitch, Robert Ingersoll, Vernon Jordan, Henry A. Kissinger, Dr. George Kistiakowski, George Meany, Thomas A. Murphy, Bess Myerson, Arthur Nielson, Jr., Dan Parker, Russell Peterson, Gene Pokorny, Kenneth Rush, John Sawhill, Russell Train, Thomas J. Watson, Jr., Glenn Watts, Elmer Winter and Leonard Woodcock, has already accomplished a great deal. It is firmly supported by President Carter and Secretary of Energy James Schlesinger, as well as its Honorary Co-Chairman Vice President Walter Mondale and former President Gerald Ford. The Advertising Council has selected the advertising agency of J. Walter Thompson to produce print, the radio and television copy, for a nationwide program sponsored by the Alliance to Save Energy that will represent a contribution by the industry of an estimated $30 million in public service advertising. The Boy Scouts of America have agreed to distribute five million copies of the Alliance to Save Energy's booklet, "101 Ways to Save Money by Saving Energy." The Deparament of Energy is expected to cover printing costs. An important part of the original support for the Alliance to Save Energy has come from the oil industry which with great foresight has determined that energy conservation must be practiced by family, farm, commercial and industrial enterprises as well as government if we are to work toward market pricing without undue hardship. I cordially invite the various elements that make up the coal industry to assist in this work that can be better carried on by a private, non-profit organization than by government. Hubert Humphrey, who participated actively in the work of the Alliance to Save Energy until his untimely death, indicated that the potential of the organization could make it one of the most important undertakings that he had ever helped initiate.

The time is upon us to act to reduce our energy demand. We must focus our attention on developing alternative sources of energy that are safe, clean, efficient and as economical as possible.

The era of abundant and cheap energy is over even if we develop new sources. That is why it is imperative that we conserve energy no matter what new sources we choose to develop.

It will take a tremendous effort by all involved to increase private investments in energy efficiency. We must recognize that energy is a means, not an end. Our goal must be to meet economic needs with the minimum amount of energy.

Today I would like to leave you with a challenge. I believe many of the problems plaguing coal production can be solved if we all do our share.

We have scaled down estimates of 1985 coal use from 1.2 billion tons to a little less than one billion tons a year. There is little

movement by small industrial fuel users to employ coal in new installations. In fact, much of the conversion done by industry today is from natural gas to oil. The coal industry, acting through the National Coal Association, must set an agenda to show a willingness to solve the problems that cause energy-users to turn to other energy resources.

I believe the coal industry should take a positive approach in dealing with strict environmental controls instead of seeking to alter regulatory requirements. I recommend that you ask for regulatory certainty; then, do your best to meet the requirements of that certainty.

The coal industry should take the lead in researching and developing clean, reliable and economical environmental technology. I suggest that the industry lay out a five-year plan to identify for the Federal Government in detail what and how much work should be done with scrubbers, precipitators, coal handling and cleaning systems, and other technologies. This program should emphasize small-scale systems, so that coal will become a feasible alternative for medium to small industrial facilities.

Above all, this effort will demonstrate that the industry is serious about coal becoming a major energy source and is willing to shoulder much of the responsibility and cost. This can be done through such cooperative ventures as the Electric Power Research Institute. The greater the proportion of work done in the private sector, the less the red tape and changes of direction there will be.

The coal industry should also consider setting out a new agenda for cooperation with organized labor. This winter we experienced the longest coal strike in our history. At that time, many people questioned the wisdom of switching from imported oil to domestic coal. An Arab embargo is only a threat, but many fear that we are virtually guaranteed coal supply interruptions every three years during contract negotiations. Organized labor as well as management must cooperate to change this impression.

We must learn by the experiences of other industries when dealing with labor. The steel industry, for example, was plagued with periodic strikes a few years ago. Because the American industrial consumer could not count on domestic supply, they turned to foreign sources that offered uninterrupted delivery schedules. Only after it was too late, did management and labor work together to develop a no-strike pledge to stabilize the industry.

I believe that decisive action by those of you here today to acknowledge and solve the problems that plague your industry can change the perceptions of coal by those who make investment decisions. Then coal will get its fair share of energy investment dollars.

Two years ago, the American Electric Power Company ran ads to point out that America has more coal than Saudi Arabia has oil. If we work together, we can help assure that coal will once again be an integral part of our nation's energy supply.

And one way that we can work together is to welcome the appointment by President Carter of the new Rockefeller Commission on the coal industry. In my judgment, any skepticism or concern that it will be too biased toward one point of view or another will be promptly and satisfactorily answered. I consider it a potential vehicle for all of us deeply concerned about whether the coal industry will be able to achieve anywhere near its full potential. It is not a threat but a great promise that you will have a powerful and resourceful ally and friend to help think through how the barriers can be broken to much fuller production and marketing opportunities. Though it will be concerned with the establishment of long-term harmonious relations between management and labor in the coal industry, its charter is broad enough to assist you with many of the problems you will be grappling with at this very conference.

I know Governor Jay Rockefeller, Chairman of this Commission, to be devoted to the future of coal, and dedicated and willing to devote his energy to helping identify industry problems and help the industry achieve its goals. I hope you will give him your full support.

Thank you.

FIGHTING INFLATION AT THE GRASSROOTS

Mr. PERCY. Mr. President, inflation has been indentified as the Nation's No. 1 economic problem, affecting all aspects of American life. We know we need to get it under control and yet there is a discrepancy of opinion as how we should best go about this task.

Government spending practices and the magnitude of the Federal deficit are major components of inflation and there is a great deal the Federal Government can do—short of wage and price controls—to put a lid on spiraling wages and prices. We have before us, for example, the Labor Reform Act, with a highly inflationary provision in it. I intend to offer an amendment to eliminate the inflationary bias so that yet another government regulation does not unnecessarily boost the prices we pay for goods.

The Federal Government cannot singlehandedly put out the fires of inflation, however, if business and labor do not join us in the effort. Excessive price increases and wage settlements this year will be very damaging to the economy and will only stimulate inflationary expectations and psychology. Consequently, I was very pleased to receive recently a letter from a small business in Illinois which has recognized the role it can play in helping reduce inflation.

My constituent, Mr. James Hoffmann Higgins of Hubert Hoffmann & Sons greenhouse in Wilmette, has voluntarily agreed to keep prices at the 1977 level this year, despite rising costs. I congratulate Mr. Higgins on his contribution and urge other businesses and workers to follow his lead. I ask unanimous consent that Mr. Higgins' letters be printed in the RECORD.

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

HUBERT HOFFMANN & SONS, INC.,
Wilmette, Ill., May 15, 1978.

Senator CHARLES PERCY,
Chicago, Ill.

DEAR SENATOR PERCY: I was very interested in your comments today on fighting inflation by voluntarily controlling salaries. Inflation has hit the flower and garden business as hard as anyone, but we feel the fight to hold prices has to begin somewhere. We sent the enclosed letter to President Carter a few weeks ago supporting his effort to control inflation by holding last year's prices in this, our 70th year in business in Wilmette. Thought it might interest you . . . and hopefully start a grassroots trend among other businesses.

Sincerely,

JAMES HOFFMANN HIGGINS.

HUBERT HOFFMANN & SONS, INC.,
Wilmette, Ill., April 18, 1978.

President JIMMY CARTER,
The White House,
Washington, D.C.

DEAR PRESIDENT CARTER: I know with your busy schedule your staff handles an incredible volume of mail. But I thought you might like to know our company is supporting your effort to fight inflation in a positive way.

Last Tuesday night when I heard your speech about inflation on the news, I was just starting to work on setting prices for spring. As a leading greenhouse and garden center on Chicago's North Shore, we are celebrating our 70th anniversary in business this year on land my Great Great Grandfather pioneered in 1844.

Like every other business, we have seen the cost of everything we buy soar in price. Oil, plant supplies, fertilizer, labor, etc. etc. But I have decided the fight against inflation has got to start somewhere. So I am holding last year's prices on garden plants despite our increased expenses.

We will absorb those increases and hope our suppliers and others follow that example and do likewise. Perhaps some of our customers, who include many prominent executives, will find it an incentive to also go and do likewise.

Sincerely yours,

JAMES HOFFMANN HIGGINS.

NEW YORK CITY—TWO VIEWS OPPOSING THE BAILOUT

Mr. PROXMIRE. Mr. President, as chairman of the Senate Banking, Housing, and Urban Affairs Committee I have been chairing hearings on the proposal to grant aid to New York City. My view, which is unchanged by the testimony of the New York City bailout advocates, is that the city need not go bankrupt and that the New York City banks, the union pension funds, and the State of New York have ample combined resources to keep the city afloat. No bailout is needed. If they do go bankrupt, it will be because the banks and the labor unions are not interested in having the city avoid default. They have resources that are immense and resources that are available for this purpose. There is just no question in my mind.

Furthermore, it is my view that both the city and the country would be better served if the city found a way to rescue itself without a Federal loan, grant, or guarantee.

The main problem is that this will represent a very, very serious precedent. It will be extremely hard for the Federal Government to avoid this kind of guarantee for virtually every city in the country in the future, particularly in view of what happened in Cleveland, Ohio, and what happened in California with the recent voter action on the proposition 13 referendum where cities are in the process of greatly reducing their property taxes. If they come to the Federal Government and ask for a bailout, as I say, if we do this for New York City, how can we say no elsewhere?

While the hearings were dominated by advocates of the bailout, there is another view which is widely held both in New York City and in the country. It is reflected in my mail which runs 3 to 1

against the bailout from residents of New York City itself. And it is also reflected in the thoughtful writings of syndicated columnist Charles Bartlett and the editorials of the Washington Star.

I ask unanimous consent that the column by Charles Bartlett from the Washington Star of June 12, 1978, and the Washington Star of June 13, 1978, both be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. PROXMIRE. They give an informed, intelligent, and constructive view of this issue. Neither article is small minded. Both examine the subject from the view of what is best for the country and the taxpayers and the citizens of New York City itself. I commend them to the Senate.

EXHIBIT 1

[From the Washington Star, June 12, 1978]

THE SCARY PRECEDENT OF A BAIL-OUT

(By Charles Bartlett)

Precedent, the poet Swinburne wrote, is "a king of men," and the future may be shaped more by what is being done to rescue New York City than by the voters' outcry in the California referendum.

In fact, the precedent involved in guaranteeing a large slice of New York City's debt may have a long reign because it invites all financially troubled cities to take their problems to Uncle Sam.

The bankers and the humanitarians have joined in support of these guarantees and the vote in the House last Thursday showed they are a potent combination.

Only a short time ago expert nose-counters failed to find solid promise of support in the House for the Carter version of the New York bail-out, a package that adds $2 billion in 15-year guarantees to the short-term props enacted in 1975. The earlier bill passed the House by only 10 votes, and the city has done much but not all of what it promised to do three years ago. So the outlook for the new measure seemed highly uncertain.

But the bill floated through the House with a margin of 92 votes, a sweep which virtually dooms the Senate efforts by William Proxmire, D-Wis., to hold the line against long-term guarantees.

The bankers had been persuasive, bringing in some Republican members who had never voted for anything to the left of the 1920 party platform. They seemed incongruous alongside the West Side liberals who were saying, "Give us your tired, your poor."

In fact, nearly half the House Republicans and 16 of the 28 members retiring from politics voted for the bail-out. The New York delegation was solid except for Democrat Otis Pike, who took advantage of his intention to retire and skipped the vote. Even Buffalo Rep. Jack Kemp, eyeing the Senate and gaining fame as a leader of a move to cut federal taxes, balked at the example of James Buckley, who lost his Senate seat after opposing aid to the city in 1975.

"Go along with this and we can forget New York City for 20 years." This was a comforting rationalization that sufficed for many in a much less controversial atmosphere than the one which produced the close vote three years ago. Mail on the issue was light because the line against the guarantee had not been firmly drawn.

There was no one to play the vocal role of William Simon, who encountered fierce hostility in 1975 after he opposed rescue measures in which he saw a dangerous precedent.

The ordeal is recounted in Simon's new book, "A Time for Truth." He writes that the decay of New York City's fiscal integrity and the opportunism of its rescuers would not be frightening if the city were apart from the American mainstream.

However, he writes, "New York City is America in microcosm—America in its most culturally concentrated form. The philosophy, the illusions, the pretensions, and the rationalizations which guide New York City are those which guide the entire country. What is happening to New York, therefore, is overwhelmingly important to all Americans."

Those anxious to give Mayor Edward Koch a long leash talked in the House as if the city's departure from the path of fiscal sanity had been a one-time phenomenon. But they would only have to look back to 1933 to find that one of the major trials of Gov. Herbert Lehman involved pulling the city back from the brink of the insolvency into which it had been driven by incompetent mayors like Jimmy Walker.

The problem was handled 45 years ago as a matter that concerned the bankers, the city, and the state. This time the key role is being handed to the federal government.

This shift lends meaning to Arthur Burns' warning: "It is not inconceivable that the responsibilities now lodged in our state and local governments would in time wither away."

Victor Gotbaum, the labor leader who represents over 250,000 New York City workers, testified two years ago that "a New York City bail-out would be of assistance to every urban center that is in trouble."

The pressures launched in California for thrift and prudence in local government may well find their ultimate negation in Congress' opening of a new window at the federal bank.

[From the Washington Star, June 13, 1978]

UNDERWRITING NEW YORK

With Senator Proxmire and other hard-eyed skeptics, we are still trying to grasp the advantages of making federal taxpayers—that's you and me, brother—guarantors of New York City's long-term credit.

The arguments against that unprecedented step seem skinflinty, but they have the merit of clarity. They are, in approximate order of importance, that (a) under the federal system local government is responsible for its own fiscal undertakings, past and future; and (b) if the U.S. government rescues New York from the dire result of past profligacy it can hardly refuse, save on arbitrary grounds, to do likewise for any other city; and (c) that a federal bailout of the city's non-existent credit would merely relax the bind that is now bringing the city to its fiscal senses.

Some of the arguments for a federal bailout are, to speak frankly, the purest moonshine—not to mention earthier substances. We are told, for instance, that high administration officials "are believed" to argue that "a defeat would be viewed as a failure of the U.S. to meet its domestic responsibilities." Could that be possible? Are they indeed contending that the fiscal lunacy of past years in New York constitutes a federal "domestic responsibility"? What is the logic of such a contention?

And then, there is the charitable case made the other day by our friends at The Washington Post—that New York City, once a sinner, has "repented" and now deserves "a full opportunity to repent." Charity is a solemn obligation for individuals, to be sure. But charity with taxpayers' money, or charity that puts taxpayers' money at risk, had better begin with the assent of the taxpayers; and The Post's suggestion hardly squares with the recent message from California.

The weightiest argument for the loan guarantee—the official one, as it were—is that the "seasonal" or "tideover" loans authorized by Congress three years ago (and now readily renewable) will not solve the city's long-term problems. These loans, for seasonal bulges in cash obligations secured by assured tax income, have staved off formal bankruptcy (though not default of a kind); and they offer New York no temptation to extend fiscal commitments beyond the present level.

It is argued, however, that a federal guarantee of some $2 billion in long-term borrowing would allow the city to "rationalize" its debt, save interest, and scramble fully to its feet.

That is an appealing prospect. But however defended, the purpose of a federal loan guarantee is obviously to enable New York to spread out, not repay, its already heavy debt. Indeed, if one credits The New York Times' editorial interpretation of Mr. Felix Rohatyn's plan, he would do more with two billion in federally-underwritten credit than was accomplished in the miracle of the loaves and fishes.

"With such a favorable wind in his sail," The Times explains, "he could sell $3 billion in new (Municipal Assistance Corporation) paper and raise $3 billion from the banks and pension funds for both long-term investment and seasonal cash tideovers. . . . A federal guarantee would thus generate $6 billion in credit."

And how would it do that? Not, we must note, by buying a printing press but by the simple device of pyramiding credit. Since neither the state of New York nor banks nor pension funds are confident of the city's fiscal integrity, they will lend it more money only if Uncle Sam becomes the guarantor. No doubt this would ease New York's bind for a time, but it would, all the same, obligate future city administrations, and the state of New York, for a scale of services that is now $800 million to $1 billion a year too costly for the resources of the city to sustain.

In other words, federal loan guarantees would stretch out, not extinguish, the city's debt. If it were not unconstitutional for a city to print money New York might buy a printing press and lick its problems with a flood of local greenbacks—provided, of course, that is greedy municipal unions would accept them in lieu of U.S. legal tender.

But since there is no local money-mint, there are only two ways for New York City to get its finances under control: To spend less than it takes in, or collect more while spending the same, and in either case to apply surpluses against its debt; or, to enter formal bankruptcy and accept judicial direction of its budgetary affairs. Either would be bitter medicine; either would be preferable, however, to federally-guaranteed borrowing that would give the illusion of solvency to a city that is still running deeply in the red.

For unless the laws of arithmetic have been repealed, the city cannot work out of its bind by borrowing while still in deficit. That is the verdict of the bond market. Maybe it ought to be the verdict of Congress too.

THE WORDS OF ALEXANDER SOLZHENITSYN AND THE NEED FOR THE GENOCIDE TREATY

Mr. PROXMIRE. Mr. President, just this past Thursday, Alexander Solzhenitsyn delivered his first major address in 2 years.

Mr. Solzhenitsyn's words are of great concern to me because he has alerted us to so many of the horrors committed by the Soviet police.

Mr. Solzhenitsyn characterized our

society as shortsighted, materialistic, and lacking in spiritual direction. Following his speech, he called attention to the fact that the system of Russian prison camps "continues swallowing people" and warned that reprisals against Soviet dissenter Alexander Ginzburg would begin shortly.

The stories of mass murder and terror which Solzhenitsyn recorded in his three-volume work, "The Gulag Archipelago," are not just stories of the past. The need to declare our concern for human rights is as important now as it has ever been.

If what Mr. Solzhenitsyn claims is true, and it is only in part, what should we do to affirm our commitment to human rights? How can we demonstrate our courage and our moral concern? How can we take action which will inspire other nations to grant greater liberties and which will show the world that we are not moral hypocrites?

There is one step we can take. It is a small step, but it is an important one. I call upon this body to ratify the articles of the Genocide Convention. Ratification of this treaty will place this Nation on record as a vocal opponent of mass murder and will reaffirm our commitment to the moral laws of our culture.

COMMITTEE MEETINGS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent—and this request has been cleared on the other side—that the Subcommittee on Communications of the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on Wednesday, June 14, which is Flag Day, to consider citizens band radio interference legislation.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Aviation of the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on Wednesday, June 14, Flag Day, to consider aircraft noise reduction legislation.

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

ORDER FOR RECESS UNTIL 11:30 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 11:30 a.m. tomorrow.

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

SPECIAL ORDERS FOR WEDNESDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders have been recognized under the standing order, the following Senators be recognized, each for not to exceed 15 minutes: Mr. HARRY F. BYRD, JR. and Mr. STEVENS.

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

RESUMPTION OF UNFINISHED BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, following the aforementioned special orders on tomorrow, the Senate resume its consideration of the unfinished business.

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

Mr. ROBERT C. BYRD. Mr. President, is the request I just made necessary, or would that be automatic without any request?

The PRESIDING OFFICER. That would be automatic, without the Senator's request.

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

SPECIAL ORDERS FOR THURSDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Thursday after the two leaders have been recognized under the standing order, the Senator from Alaska (Mr. STEVENS) and the Senator from Oklahoma (Mr. BARTLETT) be recognized, each for not to exceed 15 minutes.

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

SPECIAL ORDERS FOR FRIDAY AND MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Friday after the recognition of the two leaders, the Senator from Alaska (Mr. STEVENS) be recognized for not to exceed 15 minutes, and that the same order obtain on Monday.

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

RECESS UNTIL 11:30 A.M. TOMORROW

Mr. PROXMIRE. Mr. President, I move, in accordance with the order previously entered, that the Senate stand in recess until 11:30 a.m. tomorrow.

The motion was agreed to, and at 5:56 p.m., the Senate recessed until 11:30 a.m. tomorrow, Wednesday, June 14, 1978.

NOMINATIONS

Executive nominations received by the Senate June 13, 1978:

DEPARTMENT OF JUSTICE

Oliver James Keller, Jr., of Florida, to be a Commissioner of the U.S. Parole Commission for a term of 6 years, vice George J. Reed, retired.

IN THE AIR FORCE

The following-named officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility, designated by the President under subsection (a) of section 8066, in grade as follows:

To be lieutenant general

Maj. Gen. Hans Helmuth Driessnack, [redacted], U.S. Air Force.

IN THE ARMY

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. Kenneth Banks Cooper, [redacted], (age 54), Army of the United States (major general, U.S. Army).

IN THE NAVY

Vice Adm. Robert B. Baldwin, U.S. Navy, for appointment as Chief of Naval Personnel in the Department of the Navy for a term of 4 years pursuant to title 10, United States Code, section 5141.

Vice Adm. Parker B. Armstrong, U.S. Navy, (age 59) for appointment to the grade of vice admiral on the retired list pursuant to the provisions of title 10, United States Code, section 5233.

Vice Adm. Alfred J. Whittle, Jr., U.S. Navy, having been designated for commands and other duties of great importance and responsibility commensurate with the grade of admiral within the contemplation of title 10, United States Code, section 5231, for appointment to the grade of admiral while so serving.

Rear Adm. Albert J. Baciocco, Jr., U.S. Navy, for appointment as Chief of Naval Research in the Department of the Navy for a term of 3 years in accordance with title 10, United States Code, section 5150.

IN THE MARINE CORPS

The following-namend officer under the provisions of title 10, United States Code, section 5232, to be assigned to a position of importance and responsibility designated by the President, in grade as follows:

To be lieutenant general

Maj. Gen Kenneth McLennan, [redacted] U.S. Marine Corps.

IN THE ARMY

The following named officer for reappointment in the active list of the Regular Army of the United States, from the Temporary Disability Retired List, under the provisions of title 10, United States Code, section 1211:

To be captain, Regular Army, and captain, Army of the United States

Peterson, Clarence, [redacted]

The following-named persons for appointment in the Regular Army of the United States, in the grade specified, under the provisions of title 10, United States Code, sections 3283 through 3294 and 3311:

To be major

Boland, Raymond G., [redacted].
Braden, Frank R., III, [redacted].
Bryant, Boyd C., [redacted].
Buckley, Thomas P., [redacted].
Davis, Joseph L., [redacted].
Dodman, Gary R., [redacted].
Durning, Allan R., [redacted].
Leblanc, Dieudonne T., [redacted].
Mahlik, David J., [redacted].
Moran, Michael A., Jr., [redacted].
Tastad, Jerome W., [redacted].

To be captain

Aldridge, A. D., Jr., [redacted].
Allen, Kenneth R., [redacted].
Alsabrook, Wheeler H., Jr., [redacted].
Andrews, John H., [redacted].
Andrews, Robert L., [redacted].
Ashhurst, Kenneth R., [redacted].
Baker, James H., Jr., [redacted].
Banks, Jimmy C., [redacted].

Beasley, Charles A., III, xxx-xx-xxxx.
Bikus, John J., xxx-xx-xxxx.
Binkley, John E., III, xxx-xx-xxxx.
Bowie, Wade H., Jr., xxx-xx-xxxx.
Breshears, Ivan N., Jr. xxx-xx-xxxx.
Briggs, Kenneth L., xxx-xx-xxxx.
Bronner, David E., xxx-xx-xxxx.
Brouillette, Douglas S., xxx-xx-xxxx.
Brown, James E., Jr., xxx-xx-xxxx.
Brown, Tommie C., xxx-xx-xxxx.
Brunk, Rodney L., xxx-xx-xxxx.
Cahoon, Robert M., xxx-xx-xxxx.
Campbell, Robert D., xxx-xx-xxxx.
Capouya, David M., xxx-xx-xxxx.
Carlmark, Gary K., xxx-xx-xxxx.
Chandler, Richard Y., xxx-xx-xxxx.
Chewing, William R., xxx-xx-xxxx.
Clayton, Ralph T. xxx-xx-xxxx.
Colon, Raul, xxx-xx-xxxx.
Cordray, George M., xxx-xx-xxxx.
Cornell Curtis L., xxx-xx-xxxx.
Couch, Timothy H., xxx-xx-xxxx.
Coulson, Beverly J., xxx-xx-xxxx.
Cox, Charles S., xxx-xx-xxxx.
Crawford, Sterling B., xxx-xx-xxxx.
Culbert, James D., xxx-xx-xxxx.
Danish, George A., xxx-xx-xxxx.
Daubenspeck, James W., xxx-xx-xx...
Davidson, James H., Jr., xxx-xx-xxxx.
Davis, James H., xxx-xx-xxxx.
Davis, Thomas H., III, xxx-xx-xxxx.
Deibler, Scott, xxx-xx-xxxx.
Derks, Lawrence L., Jr., xxx-xx-xxxx.
Deskin Gary L., xxx-xx-xxxx.
Doan, Charles A., xxx-xx-xxxx.
Dobson, Andrew J., xxx-xx-xxxx.
Dubravac, Stephen E., xxx-xx-xxxx.
Dunlap, William J., xxx-xx-xxxx.
East. Paul B., xxx-xx-xxxx.
Ebertowski, James S., xxx-xx-xxxx.
Elmore, Darrell G., xxx-xx-xxxx.
Emerson. James O., xxx-xx-xxxx.
Enyeart, Robert D., xxx-xx-xxxx.
Ernst. Steven J., xxx-xx-xxxx.
Erskine, Mark N., xxx-xx-xxxx.
Etheridge, James H., xxx-xx-xxxx.
Fairall. James P., Jr., xxx-xx-xxxx.
Fennell, William J., Jr., xxx-xx-xxxx.
Firth, John E., xxx-xx-xxxx.
Fischer, Ernest W., xxx-xx-xxxx.
Fisher, James M., xxx-xx-xxxx.
Flaherty, John A., Jr., xxx-xx-xxxx.
Flom, Morgan L., xxx-xx-xxxx.
Fournier, Arthur F., xxx-xx-xxxx.
Francis, Brett A., xxx-xx-xxxx.
Frysinger, Victor F., xxx-xx-xxxx.
Gajewski, Michael A., xxx-xx-xxxx.
Galloway, Archibald, II, xxx-xx-xxxx.
Gannon, Terry C., xxx-xx-xxxx.
Gillio, Benjamin P., xxx-xx-xxxx.
Gindville, John J., xxx-xx-xxxx.
Gingrich, John R., xxx-xx-xxxx.
Goreth, Gary P., xxx-xx-xxxx.
Graham, William G., xxx-xx-xxxx.
Gravois, John M., xxx-xx-xxxx.
Griese, Dwayne L., xxx-xx-xxxx.
Grimsley, John C., xxx-xx-xxxx.
Grubb, Gary N., xxx-xx-xxxx.
Hagan, Gary J., xxx-xx-xxxx.
Hammond, David S., xxx-xx-xxxx.
Hansen, Stephen C., xxx-xx-xxxx.
Hansom, Wayne R., xxx-xx-xxxx.
Harke, Jerry R., xxx-xx-xxxx.
Harper, Robert L., xxx-xx-xxxx.
Haycock, Willis C., xxx-xx-xxxx.
Hayes, James B., Jr., xxx-xx-xxxx.
Hector, Lionel, xxx-xx-xxxx.
Hirsch, John S., xxx-xx-xxxx.
Horn, Billy W., xxx-xx-xxxx.
Howell, Grady J., Jr., xxx-xx-xxxx.
Hufford, Kent V., xxx-xx-xxxx.
Jameson, Thomas L., xxx-xx-xxxx.
Janke, Alexander A., xxx-xx-xxxx.
Jensen, Carl P., xxx-xx-xxxx.
Johnson, Dennis R., xxx-xx-xxxx.
Johnson, Eugene E., xxx-xx-xxxx.
Jones, Jimmie, xxx-xx-xxxx.
Jordan, Michael G., xxx-xx-xxxx.
Jost, Thomas J., xxx-xx-xxxx.
Justice, John E., xxx-xx-xxxx.
Kaleta, Alexander J., Jr., xxx-xx-xxxx.
Keating, Arthur J., xxx-xx-xxxx.
Keglovits, Ronald A., xxx-xx-xxxx.
Kempf, Warren L., xxx-xx-xxxx.
Kerby, Barry E., xxx-xx-xxxx.
Kindred, Samuel L., xxx-xx-xxxx.
Kreer, Thomas A., xxx-xx-xxxx.
Lambright, Odis J., xxx-xx-xxxx.
Lang, Scott G., xxx-xx-xxxx.
Lawson, William F., xxx-xx-xxxx.
Leahy, Michael L., III, xxx-xx-xxxx.
Lee, David W., xxx-xx-xxxx.
Lee, Ronald N., xxx-xx-xxxx.
Lenicheck, Christopher A., xxx-xx-xxxx.
Lewis, Murray B., xxx-xx-xxxx.
Lightfoot, Donna D., xxx-xx-xxxx.
Lindsey, Jerald G., xxx-xx-xxxx.
Linsenbigler, Harry C., xxx-xx-xxxx.
Lockard, John R., xxx-xx-xxxx.
Lundberg, Tommy A., xxx-xx-xxxx.
Lusey, Rodney S., xxx-xx-xxxx.
Lyne, James P., xxx-xx-xxxx.
MacInnes, John D., xxx-xx-xxxx.
Mahlum, Richard J., xxx-xx-xxxx.
Major, Oscar L., xxx-xx-xxxx.
Maness, Stephen R., xxx-xx-xxxx.
March, Albert D., xxx-xx-xxxx.
Mason, Stanley C., xxx-xx-xxxx.
Maunsell, Charles M., xxx-xx-xxxx.
Mayhall, Russell E., xxx-xx-xxxx.
McCrary, Billie N., xxx-xx-xxxx.
McElroy, William E., III, xxx-xx-xxxx.
McGlothin, Jerry D., xxx-xx-xxxx.
McMakin, James P., xxx-xx-xxxx.
Metzger, Robert J., xxx-xx-xxxx.
Miller, Phillip E., xxx-xx-xxxx.
Miyamoto, Stanford N., xxx-xx-xxxx.
Moore, Robert G., xxxx
Morgan, William J., Jr., -xxxx.
Murphy, Lawrence E., xxx-xx-xxxx.
Napierala, Paul J., xxx-xx-xxxx.
Nelson, Terrance E., xxx-xx-xxxx.
Neville, Eugene O., Jr., xxx-xx-xxxx.
Nix, Billy, xxx-xx-xxxx.
Noonan, Daniel R., xxx-xx-xxxx.
Nowland, Joseph R., III, xxx-xx-xxxx.
Oakley, Robert E., Jr., xxx-xx-xxxx.
Oates, Phillip E., xxx-xx-xxxx.
O'Brien, Howard L., xxx-xx-xxxx.
Ohnmeis, Harold A., xxx-xx-xxxx.
O'Keefe, Edward C., Jr., xxx-xx-xxxx.
Osborne, Charles T., xxx-xx-xxxx.
Pair, Carlos D., xxx-xx-xxxx.
Pasquarett, Michael J., xxx-xx-xxxx.
Patterson, Donald B., xxx-xx-xxxx.
Paul, Jack M., xxx-xx-xxxx.
Player, Harvey L., xxx-xx-xxxx.
Potter, Mickey, xxx-xx-xxxx.
Prentice, David J., xxx-xx-xxxx.
Pyner, Robert L., xxx-xx-xxxx.
Radcliffe, Nile D., xxx-xx-xxxx.
Rainey, William R., xxx-xx-xxxx.
Ramsey, Jerry A., xxx-xx-xxxx.
Rawles, Robert N., xxx-xx-xxxx.
Redington, James H., xxx-xx-xxxx.
Reuter, William J., xxx-xx-xxxx.
Ridenour, Paul J., xxx-xx-xxxx.
Riggle, Donald E., Jr., xxx-xx-xxxx.
Riggs, Frank O., xxx-xx-xxxx.
Riley, James C., xxx-xx-xxxx.
Ripley, David E., xxx-xx-xxxx.
Robinson, Cecil, Jr., xxx-xx-xxxx.
Rodgers, Stephen L., xxx-xx-xxxx.
Rogers, Chase N., xxx-xx-xxxx.
Rollins, William L., xxx-xx-xxxx.
Rosner, Thomas V., xxx-xx-xxxx.
Roy, Ronald L., xxx-xx-xxxx.
Russo, John G., xxx-xx-xxxx.
Sarran, George C., xxx-xx-xxxx.
Schiess, Adrian A., Jr., xxx-xx-xxxx.
Schumacher, Roger D., xxx-xx-xxxx.
Scipioni, Louis, Jr., xxx-xx-xxxx.
Scotka, Ronald, xxx-xx-xxxx.
Scott, Leonard B., III, xxx-xx-xxxx.
Scott, Terry L. xxx-xx-xxxx.
Serviss, Joseph A., xxx-xx-xxxx.
Shaw, Michael D., xxx-xx-xxxx.
Shepherd, Joseph A., III, xxx-xx-xxxx.
Smith, Asa P., xxx-xx-xxxx.
Smith, Roy E., xxx-xx-xxxx.
Spivey, Ernest L., Jr., xxx-xx-xxxx.
Springsteen, Raymond L., xxx-xx-xxxx.
Spuhler, Gary L., xxx-xx-xxxx.
Stanat, Carl J., xxx-xx-xxxx.
Strafer, Kenneth J., xxx-xx-xxxx.
Thomas, Harry W., III, xxx-xx-xxxx.
Thompson, John T., xxx-xx-xxxx.
Torpey, William T., xxx-xx-xxxx.
Turpin, Johnny G., xxx-xx-xxxx.
Tyner, Dennis G., xxx-xx-xxxx.
Underwood, Donald L., xxx-xx-xxxx.
Vakalis, George J., xxx-xx-xxxx.
Van Brederode, Henry L., xxx-xx-xxxx.
Vick, Michael R., xxx-xx-xxxx.
Vivolo, William A., Jr., xxx-xx-xxxx.
Wagner, Philip R., xxx-xx-xxxx.
Walker, Leon E., Jr., xxx-xx-xxxx.
Watts, Thomas P., xxx-xx-xxxx.
Wheeler, Gary W., xxx-xx-xxxx.
White, George C., xxx-xx-xxxx.
Wilson, David W., xxx-xx-xxxx.
Wistner, Richard F., xxx-xx-xxxx.
Wixted, Michael G., xxx-xx-xxxx.
Wood, Roger L., xxx-xx-xxxx.
Yasuda, Edward T., xxx-xx-xxxx.
Young, Randy J., xxx-xx-xxxx.

To be first lieutenant

Abrahamson, David L., xxx-xx-xxxx.
Adams, Russell E., xxx-xx-xxxx.
Adams, Thomas M., xxx-xx-xxxx.
Andrews, William R., xxx-xx-xxxx.
Ard, Nelson C., xxx-xx-xxxx.
Baier, Michael J., xxx-xx-xxxx.
Barciak, Frank J., xxx-xx-xxxx.
Barnes, Ted H., xxx-xx-xxxx.
Batt, William T., xxx-xx-xxxx.
Beddingfield, Dwight, xxx-xx-xxxx.
Bertocchi, Stephen J., xxx-xx-xxxx.
Besancon, Robert D., xxx-xx-xxxx.
Blazey, Scott E., xxx-xx-xxxx.
Blythe, Michael J., xxx-xx-xxxx.
Boydstun, David B., xxx-xx-xxxx.
Brock, Edwin R., Jr., xxx-xx-xxxx.
Bullock, John H., Jr., xxx-xx-xxxx.
Bumstead, Patricia, xxx-xx-xxxx.
Burmood, Richard C., xxx-xx-xxxx.
Butler, William G., xxx-xx-xxxx.
Byrne, John P., Jr., xxx-xx-xxxx.
Carl, John A., Jr., xxx-xx-xxxx.
Cathcart, Kenneth P., xxx-xx-xxxx.
Childers, Charles D., xxx-xx-xxxx.
Clark, Christopher G., xxx-xx-xxxx.
Clawson, David L., xxx-xx-xxxx.
Clement, Lawrence D., xxx-xx-xxxx.
Cole, Cecil M., Jr., xxx-xx-xxxx.
Cook, Emmet E., Jr., xxx-xx-xxxx.
Coomler, James D., xxx-xx-xxxx.
Costanza, Shirley J., xxx-xx-xxxx.
Daniels, Albert L., xxx-xx-xxxx.
Dausen, Peter G., xxx-xx-xxxx.
D'Enbeau, Keiko I., xxx-xx-xxxx.
Devero, Michael J., xxx-xx-xxxx.
Drozd, Timothy P., xxx-xx-xxxx.
Dyck, Edward I., xxx-xx-xxxx.
Engle, Charles B., Jr., xxx-xx-xxxx.
Foster, Lloyd D., xxx-xx-xx...
Frederick, Irene S., xxx-xx-xxxx.
Frye, Jan R., xxx-xx-xxxx.
Fuller, James R., III, xxx-xx-xxxx.
Gallimore, Ronald S., xxx-xx-xxxx.
Geisbush, David L., xxx-xx-xxxx.
Goisman, Philip, xxx-xx-xxxx.
Gramer, George K., Jr., xxx-xx-xxxx.
Hafele, David A., xxx-xx-xxxx.
Hardesty, John M., xxx-xx-xxxx.
Harris, Jonathan M., xxx-xx-xxxx.
Harrison, James O., III, xxx-xx-xxxx.
Hartman, Michael A., xxx-xx-xxxx.
Hayes, Michael T., xxx-xx-xxxx.
Hellrich, Paul H., xxx-xx-xxxx.

Henry, Stanley S., xxx-xx-xxxx.
Hite, William R., Jr., xxx-xx-xxxx.
Holmes, Hiram A., Jr., xxx-xx-xxxx.
Horne, Robert M., xxx-xx-xxxx.
Hover, Ronald L., xxx-xx-xxxx.
Howard, Edward J., xxx-xx-xxxx.
Hughes, Ronald E., xxx-xx-xxxx.
Ireland, Harry M., xxx-xx-xxxx.
Kirk, Donald R., xxx-xx-xxxx.
Koehler, Peter C., xxx-xx-xxxx.
Krailler, Jerry G., xxx-xx-xxxx.
Lee, Insung O., xxx-xx-xxxx.
Leon, Robert M., Jr., xxx-xx-xxxx.
Leskovec, John R., xxx-xx-xxxx.
Levalley, John T., xxx-xx-xxxx.
Long, Glen C., Jr., xxx-xx-xxxx.
Lucia, Charles A., xxx-xx-xxxx.
Madewell, Eulis W., xxx-xx-xxxx.
Maertens, Floyd K., xxx-xx-xxxx.
Mattingly, Richard C., xxx-xx-xxxx.
McNeil, Robert J., xxx-xx-xxxx.
Melton, Robert L., xxx-xx-xxxx.
Mikolajek, Louis M., xxx-xx-xxxx.
Mitchell, Patrick, xxx-xx-xxxx.
Mizell, Michael E., xxx-xx-xxxx.
Moore, Roy S., xxx-xx-xxxx.
Morton, Robert M., xxx-xx-xxxx.
Murray, Ted M., xxx-xx-xxxx.
Nichols, Fred E., xxx-xx-xxxx.
Norman, Robert E., xxx-xx-xxxx.
Notarianni, Peter A., xxx-xx-xxxx.
Nutt, Amelia C., xxx-xx-xxxx.
O'Connel, William J., xxx-xx-xxxx.
O'Connor, Hugh B., Jr., xxx-xx-xxxx.
Papas, Constantine T., xxx-xx-xxxx.
Penrose, Ronald J., xxx-xx-xxxx.
Prater, Timothy D., xxx-xx-xxxx.
Pratt, Vallie A., xxx-xx-xxxx.
Prouty, James R., xxx-xx-xxxx.
Rainey, William R., xxx-xx-xxxx.
Reardon, Robert H., xxx-xx-xxxx.
Reddick, Robert M., xxx-xx-xxxx.
Riley, Mark F., xxx-xx-xxxx.
Riley, Thomas R., xxx-xx-xxxx.
Saliba, Jamiel S., xxx-xx-xxxx.
Santiago, Roberto, xxx-xx-xxxx.
Schaffer, Glenn S., xxx-xx-xxxx.
Scurzi, Robert J., xxx-xx-xxxx.
Sears, David G., xxx-xx-xxxx.
Shea, Kevin P., xxx-xx-xxxx.
Smith, Frank R., xxx-xx-xxxx.
Smith, William T., xxx-xx-xxxx.
Spyker, William W., xxx-xx-xxxx.
Stephens, Michael K., xxx-xx-xxxx.
Sternberg, David J., xxx-xx-xxxx.
Stolte, Brenda L., xxx-xx-xxxx.
Stricklen, Martin R., xxx-xx-xxxx.
Swiderski, Marek J., xxx-xx-xxxx.
Talbot, Cecil C., Jr., xxx-xx-xxxx.
Taylor, Curtis B., xxx-xx-xxxx.
Taylor, William T., xxx-xx-xxxx.
Teach, Wendy E., xxx-xx-xxxx.
Torres, Robert L., xxx-xx-xxxx.
Tucker, Thomas E., xxx-xx-xxxx.
Via, Michael A., xxx-xx-xxxx.
Vollertsen, Vernon A., xxx-xx-xxxx.
Walker, Sammson L., xxx-xx-xxxx.
Walls, William G., xxx-xx-xxxx.
Washburn, Linda M., xxx-xx-xxxx.
Wehde, Larry M., xxx-xx-xxxx.
Weir, William A., xxx-xx-xxxx.
Wheeler, James R., xxx-xx-xxxx.
White, Terry D., xxx-xx-xxxx.
Williams, Robert M., xxx-xx-xxxx.
Wilson, Paul M., xxx-xx-xxxx.
Wood, David A., xxx-xx-xxxx.
Wood, Harold D., xxx-xx-xxxx.
Woosley, Tomas E., xxx-xx-xxxx.
Wright, Jeffery M., xxx-xx-xxxx.
Young, William E., xxx-xx-xxxx.

To be second lieutenant

Ball, Donald J., xxx-xx-xxxx.
Freeman, Sherilyn H., xxx-xx-xxxx.
Johnson, Robert J., xxxx.
Mauter, William J. Jr., xxx-xx-xxxx.
Meyer, Jeffrey A., xxx-xx-xxxx.
Shelton, Benny R., xxx-xx-xxxx.
Steele, William R., xxx-xx-xxxx.

IN THE ARMY

The following-named officers for appointment in the Regular Army by transfer in the grade specified, under the provisions of title 10, United States Code, sections 3283 through 3294:

To be captain, Regular Army and captain Army of the United States

Beckman, Herbert D., xxx-xx-xxxx.
O'Neill, Patrick J., xxx-xx-xxxx.

To be first lieutenant, Regular Army and first lieutenant, Army of the United States

Bosse, David A., xxx-xx-xxxx.
Daigh, John D., Jr., xxx-xx-xxxx.
Sihelnik, Stephen A., xxx-xx-xxxx.
Webber, Paul M., xxx-xx-xxxx.
White, Christopher B., xxx-xx-xxxx.
Zieske, Larry A., xxx-xx-xxxx.

The following-named persons for appointment in the Regular Army of the United States, in the grade specified, under the provisions of title 10, United States Code, sections 3283 through 3294 and 3311:

To be colonel

Erdmann, Ralph R., xxx-xx-xxxx.

To be major

Arthur, James D., xxx-xx-xxxx.
Chandrasekaran, Ankia K., xxx-xx-xxxx.
Nydegger, Neil K., xxx-xx-xxxx.
Renfrow, John M., xxx-xx-xxxx.

To be captain

Andrews, Douglas G., xxx-xx-xxxx.
Arnold, Jeffrey L., xxx-xx-xxxx.
Baker, James R., xxx-xx-xxxx.
Bazzle, Ervin W., xxx-xx-xxxx.
Beasley, John H., xxx-xx-xxxx.
Beauchamp, Rene I., xxx-xx-xxxx.
Bent, David H., xxx-xx-xxxx.
Bernard, William D., xxx-xx-xxxx.
Berry, Robert H., Jr., xxx-xx-xxxx.
Brinkman, Allen, xxx-xx-xxxx.
Burton, John T., xxx-xx-xxxx.
Burton, Linda J., xxx-xx-xxxx.
Canner, Demmon F., xxx-xx-xxxx.
Carroll, Danford F., xxx-xx-xxxx.
Casida, Gary, xxx-xx-xxxx.
Chandler, Garth K., xxx-xx-xxxx.
Cunningham, William T., xxx-xx-xxxx.
Dooley, Joseph M., xxx-xx-xxxx.
Durane, Edward J., Jr., xxx-xx-xxxx.
Ferm, Dennis K., xxx-xx-xxxx.
Fishbaugh, David L., xxx-xx-xxxx.
Flanagan, Kevin, xxx-xx-xxxx.
Fligg, Warren P., xxx-xx-xxxx.
Gallagan, John P., xxx-xx-xxxx.
Gold, Steven D., xxx-xx-xxxx.
Haas, Michael A., xxx-xx-xxxx.
Hart, Charles C., III, xxx-xx-xxxx.
Hattan, James N., xxx-xx-xxxx.
Havens, Edward A., xxx-xx-xxxx.
Hollman, John T., xxx-xx-xxxx.
Howell, John R., xxx-xx-xxxx.
Ivey, Karl F., xxx-xx-xxxx.
Jones, Dwight F., xxx-xx-xxxx.
Karsh, Richard B., xxx-xx-xxxx.
Kessie, Charles L., xxx-xx-xxxx.
Killian, Lewis M., Jr. xxx-xx-xxxx.
King, Michael K., xxx-xx-xxxx.
Limbaugh, Daniel B., xxx-xx-xxxx.
Marvin, Dale K., xxx-xx-xxxx.
McGowan, William J., xxx-xx-xxxx.
McLean, Tony L., xxx-xx-xxxx.
Montgomery, Sandra K., xxx-xx-xxxx.
Mura, Steven J., xxx-xx-xxxx.
Ott, Robert M., xxx-xx-xxxx.
Palmer, Randall, III, xxx-xx-xxxx.
Pitts, Nancy J., xxx-xx-xxxx.
Purdom, Jean M., xxx-xx-xxxx.
Ramsey, William B., xxx-xx-xxxx.
Raymond, William D., Jr., xxx-xx-xxxx.
Reilly, Vincent E., xxx-xx-xxxx.
Romano, Frank, III, xxx-xx-xxxx.
Ruppert, Raymond C., xxx-xx-xxxx.
Rutter, Mark H., xxx-xx-xxxx.
Sauve, Robert B., xxx-xx-xxxx.
Shull, David A., xxx-xx-xxxx.
Smith, Donald W., xxx-xx-xxxx.
Steinbeck, Mark A., xxx-xx-xxxx.
Stephens, Frederic S., xxx-xx-xxxx.
Thwing, James B., xxx-xx-xxxx.
Urech, Everett M., xxx-xx-xxxx.
Vanhooser, Robert J., xxx-xx-xxxx.
Wallis, William L., xxx-xx-xxxx.
Walsh, James F., xxx-xx-xxxx.
Wamsted, Michael L., xxx-xx-xxxx.
Williams, Robert J., Jr., xxx-xx-xxxx.

To be first lieutenant

Bushouse, Kristin J., xxx-xx-xxxx.
Cosgrove, Charles A., xxx-xx-xxxx.
Culpepper, Vannoy, xxx-xx-xxxx.
Frank, Mary E., xxx-xx-....
Jennings, Suzanne C., xxx-xx-xxxx.
Kost, Rebecca S., xxx-xx-xxxx.
Olejnik, Donna J., xxx-xx-xxxx.
Parsons, Gregory L., xxx-xx-xxxx.
Rivera, Jose F., xxx-xx-xxxx.
Ross, Joseph E., xxx-xx-xxxx.
Rothlein, Julius, xxx-xx-xxxx.
Scott, Timothy J., xxx-xx-xxxx.
Smith, Anthony G., xxx-xx-xxxx.
Smith, William R., Jr., xxx-xx-xxxx.
Tyrrell, David R., xxx-xx-xxxx.
Weyandt, Timothy B., xxx-xx-xxxx.

The following-named distinguished military student for appointment in the Regular Army of the United States in the grade of second lieutenant under the provisions of title 10, United States Code, sections 2106, 3283, 3284, 3286, 3287, 3288, 3290, and 3311:

Cheney, Catherine L., xxx-....

The following-named midshipman, graduating class of 1978, U.S. Naval Academy, for appointment in the Regular Army of the United States in the grade of second lieutenant, under the provisions of title 10, United States Code, sections 541 and 3284:

Benoit, Phillip B., xxx-xx-xxxx.

IN THE MARINE CORPS

The following-named Naval Reserve Officer Training Corps graduates for permanent appointment to the grade of second lieutenant in the Marine Corps, pursuant to title 10, U.S. Code, section 2107, subject to the qualifications therefor as provided by law:

Alvarez, Penelope L.
Brewer, Troy G.
Donnelly, Kenneth A.
Fryer, Lawrence W., Jr.
Gillette, Christopher G.
Keim, Steven M.
King, Samuel R.
Mitchell, William T.
Moore, Garrett W.
Mueller, Paul H.
Radovich, Leo A.
Rutherford, Paul M.
Sumner, John C.
Ward, Troy A.
Walker, Michael M.
Zelechoski, Peter M.

The following-named U.S. Air Force Academy graduate for permanent appointment to the grade of second lieutenant in the Marine Corps, pursuant to title 10, U.S. Code, section 5585 and 541, subject to the qualifications therefor as provided by law:

Ghiden, Reginald J.