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PROCEEDINGS AND DEBATES OF THE 95th CONGRESS, SECOND SESSION

SENATE—*Wednesday, September 13, 1978*

(Legislative day of Wednesday, August 16, 1978)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. ROBERT MORGAN, a Senator from the State of North Carolina.

PRAYER

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

O Thou who art holy and just, full of grace and mercy, new every morning is Thy love. Draw near to us this moment and keep us penitent and reverent through the changing scenes of this day. Guard us from being surprised or trapped by unworthy compromises, by unholy alliances, by betrayals of integrity or by disobedience to conscience. Spare us from scoring a point but missing a principle. So often when we would do good, evil is present with us, and we know it not.

In winning keep us humble, in losing make us magnanimous, and in the changing vicissitudes of life keep us ever close to Thee, for Thou art our light and our salvation, the strength of our lives, in whom we trust now and forever. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 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 ROBERT MORGAN, a Senator from the State of North Carolina, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. MORGAN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The majority leader, the Senator from West Virginia, is recognized.

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.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, there are four nominations on the Executive Calendar which I believe have been cleared. I ask unanimous consent that the Senate go into executive session, only for 2 minutes, to consider those nominations.

Mr BAKER. Mr. President, reserving the right to object—and I will not object—I wish only to advise the majority leader that the nominations that he identifies are cleared on our calendar as well, and we have no objection to proceeding to their consideration and their confirmation.

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

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nominations will be stated.

CIVIL AERONAUTICS BOARD

The second assistant legislative clerk read the nomination of Gloria Schaffer, of Connecticut, to be a member of the Civil Aeronautics Board for the remainder of the term expiring December 31, 1978.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

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

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

The motion to lay on the table was agreed to.

The second assistant legislative clerk read the nomination of Gloria Schaffer, of Connecticut, to be a member of the Civil Aeronautics Board for the term of 6 years, expiring December 31, 1984.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

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

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

The motion to lay on the table was agreed to.

AMBASSADOR

The second assistant legislative clerk read the nomination of Edith Huntington Jones Dobelle, of Massachusetts, to be Ambassador during her tenure of service as Chief of Protocol for the White House.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

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

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

The motion to lay on the table was agreed to.

DEPARTMENT OF STATE

The second assistant legislative clerk read the nomination of William H. Luers, of Illinois, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Venezuela.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

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

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

The motion to lay on the table was agreed to.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

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

Mr. ROBERT C. BYRD. Mr. President, I yield 2 minutes to Mr. PROXMIRE.

Mr. PROXMIRE. I thank the distinguished majority leader.

EDUCATING OURSELVES TO RATIFY THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, less than 5 months ago the U.S. Senate by unanimous vote proclaimed April 18 "Education Day—U.S.A." in honor of Rabbi Menachem M. Schneerson. At that time Rabbi Schneerson said:

> Education must put greater emphasis on the promotion of fundamental human rights.

Education, not to earn more money, but education for a better society. Education that builds character, that teaches moral and ethical values.

Mr. President, I could not agree with Rabbi Schneerson more. For over 30 years this body has failed to ratify an important human rights treaty—the Genocide Convention—which seeks to guarantee the most basic of rights: the right to live.

Its aim is simple: to prevent mass murder. Yet, year after year, the Senate refuses to consider the merits of this treaty by taking an up-and-down vote.

But why, Mr. President? Why?

Have we forgotten the context in which this treaty was drafted? Over 6 million Jews lie dead. The world, stunned by these brutal atrocities, resolved to take action. And they have. More than 80 countries across the world have ratified this human rights convention, including nearly all our allies.

But what about the U.S. Senate? Why were we not in the forefront of this effort? Perhaps we need some re-education ourselves. We have prided ourselves on our prowess in science, technology, and business. But what about moral and ethical values?

Have they been sacrificed in the educational process?

I certainly hope not.

But Rabbi Schneerson has called attention to our need for constant vigilance.

The type of vigilance that will continue our fine domestic record of respect for human rights.

The type of vigilance that may someday give respect for human rights the primacy it deserves in our foreign affairs.

The type of vigilance, Mr. President, which demands the ratification of the Genocide Convention.

RECOGNITION OF LEADERSHIP

Mr. ROBERT C. BYRD. Mr. President, does any other Senator wish me to yield time from my time at this moment? If not, I yield back my time.

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

Mr. BAKER. Mr. President, I have no requirement for my time under the standing order, and I have no requests for it. If there are none at this time, I will be happy to yield it back. I yield back my time under the standing order.

NATURAL GAS POLICY ACT OF 1978—CONFERENCE REPORT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of the pending business, the conference report on H.R. 5289, which will be stated by title.

The legislative clerk read as follows:

> Conference report on H.R. 5289, an act for the relief of Joe Cortina of Tampa, Fla.

THIRTY-MINUTE RECESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 30 minutes.

There being no objection, the Senate, at 10:07 a.m., recessed until 10:37 a.m.; whereupon, the Senate reassembled when called to order by the Acting President pro tempore (Mr. MORGAN).

The ACTING PRESIDENT pro tempore. The absence of a quorum being noted, the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

RECESS UNTIL 11:30 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 11:30 a.m. today.

There being no objection, the Senate, at 10:40 a.m., took a recess until 11:30 a.m., whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. BURDICK).

Mr. ROBERT C. BYRD. Mr. President, I hope that Senators will come to the floor and debate the natural gas conference report. I had a meeting on yesterday afternoon and again this morning in an effort to reach a time agreement. The principals who have been attending the meetings for the purpose of getting a time agreement wanted some additional time—well, those who opposed the conference report want some additional time—which is, I think, understandable. But, in the meantime, I recessed the Senate now until 11:30, and I hesitate to continue to recess it, because I have a feeling that those who wanted additional time to discuss the time agreement did not mean to take until 2 o'clock, at which time we expect to meet again for that discussion.

So I think the Senate can very well be debating the conference report at this time. I understand the Senator from Texas is so prepared, and I yield the floor to the Senator from Texas.

Mr. TOWER. Mr. President, I might say to the distinguished majority leader that an agreement might be at hand, and that should brighten the Senator's day.

Mr. ROBERT C. BYRD. It will brighten my day.

Mr. TOWER. The administration has argued that the gas bill is needed to save the U.S. dollar. The argument is that the gas bill would reduce oil imports, thereby reducing the trade deficit and thereby strengthening the U.S. dollar. This argument is misleading for the following reasons:

There is no relationship between oil imports and changes in a currency's exchange rate.

Oil imports account for only 30 percent of all U.S. imports. Oil imports account for a higher percentage of imports in Japan and Germany, and oil imports account for a higher percentage of the gross national product in both of those countries than in the United States. Yet, the Japanese yen and the German mark have appreciated against the U.S. dollar and most other major currencies.

The gas bill will not reduce oil imports enough to eliminate the trade deficit.

The U.S. trade deficit totaled $27 billion in 1977. In order to eliminate a trade deficit of this magnitude, oil imports would have to be cut by about 60 percent, which would not be accomplished by the gas bill.

A reduction in oil imports this year has not prevented the dollar from depreciating.

Oil imports declined 10 percent in the first 6 months of this year, but the dollar has continued to decline in foreign exchange markets.

There is no clear-cut relationship between the U.S. trade deficit and the dollar's exchange rate.

What is important is the total amount of dollars supplied in foreign exchange markets through trade and capital flows. A trade deficit could be completely offset by an inflow of capital from abroad, resulting in no exchange in the dollar's exchange rate. To some extent this has occurred, with almost 50 percent of the U.S. trade deficit with oil-exporting nations being offset by capital inflows from oil-exporting countries.

The dollar has declined because the supply of dollars has exceeded the demand for dollars in foreign exchange markets.

The problem is that there is an oversupply of U.S. dollars. The Federal Reserve has been increasing the money supply too rapidly. Even if all U.S. oil imports were eliminated, this rapid growth in money would result in increased spending by U.S. citizens for other imported goods or for goods that otherwise would be exported. In either case, the trade deficit would remain unchanged.

The U.S. trade deficit has occurred for other reasons than oil imports.

The trade deficit reflects the fact that the U.S. economy has been expanding more rapidly than the economies of its major trading partners. This has encouraged U.S. imports and discouraged U.S. exports.

The trade deficit reflects an imbalance among products other than oil. A growing trade imbalance has emerged in manufactured goods, where imports exceeded exports by more than $5 billion during the first 6 months of this year,

accounting for one-third of the trade deficit during that period.

The trade deficit reflects the declining competitiveness of U.S. business abroad. Between 1974 and 1977, the share of all exports by major industrialized nations accounted for by the United States dropped from 18½ percent to less than 17 percent. The U.S. share of these exports to Japan declined from 52 percent to 48 percent during that period, and the share going to the European community declined from 11 percent to 10 percent. The share of U.S. exports going to developing nations fell from 27 to 25 percent.

The trade deficit has occurred because the United States has been pricing itself out of foreign markets, making it difficult to remain competitive abroad. The rate of inflation in Japan over the 12 months ending this past June was only 3.6 percent. It was 2.7 percent in West Germany. The rate of inflation in the United States during that period was 7½ percent. Indeed, the U.S. dollar has depreciated against the currencies of countries with lower rates of inflation. The higher rate of inflation in the United States reflects the slowdown in productivity, high unit cost of production and the lag in technological developments across a broad range of products.

The decline in the dollar reflects the higher rate of inflation in the United States and the fear of more inflation in the future.

The dollar has declined against the currencies of other nations with lower rates of inflation. Inflation erodes the purchasing power, and rapid monetary growth in the United States has raised the fear of more inflation, encouraging dollar holders abroad to sell dollars, causing in turn the dollar to decline in foreign exchange markets.

The decline in the dollar is a serious problem. It has caused a great deal of uncertainty in international financial markets, raised the cost of imports and thereby added to the rate of inflation and increased the prospects for another oil price increase by the OPEC nations.

However, it is a monetary phenomenon caused by an excess supply of dollars relative to demand, and it can only be solved by bringing the growth in money down to a noninflationary rate—a goal that is yet to be achieved by the Federal Reserve.

I think, therefore, to repeat, that the argument of the administration that this energy bill is needed to save the dollar is not a valid argument. It would not reduce oil imports; it would not reduce the trade deficit; it would not strengthen the dollar. Indeed, I think it would have virtually no impact on the value of the dollar abroad.

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

The PRESIDING OFFICER (Mr. CULVER). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TOWER. 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. TOWER. I ask unanimous consent that Kathryne Bruner of Senator HAYAKAWA's staff be permitted access to the floor during the consideration and debate of the energy conference report, and any votes thereon.

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

Mr. TOWER. 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. STEVENS. 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. JAVITS. Mr. President, I wish to state my position respecting the current natural gas compromise conference report which is now before us.

Mr. President, in all my years in Congress, few pieces of legislation have been marked by the controversy that surrounds the natural gas bill. The financial stakes involved are enormous, with billions of dollars hanging on the outcome of our actions here. Not surprisingly, every conceivable interest group that will be affected by this bill—producers, consumers, industry, regional interests, and so on—has fought as hard as possible to see to it that its particular goals are incorporated in the compromise. That is the normal legislative process, and I do not view it negatively. However, in this case, with so much at stake and so many interests heavily involved, the result has been a lengthy stalemate on a vital piece of energy legislation, at a time when this country cannot afford such delay.

I believe the time has come to ask one question about this compromise: Is it good for the Nation? The country and the Congress have well nigh torn themselves apart asking whether this compromise is good for producers, or whether it is good for consumers, or even whether it is good for each particular State. Parochialism, regionalism, and just plain greed have all had a field day at the expense of the national interest.

I am not an expert or even very experienced in natural gas—it will be recalled that I did not take too active a part in the debate on the natural gas bill here—but I have examined the compromise carefully. It is far from the best we ought to have done. I am familiar with the serious questions that have been raised by its opponents.

Indeed, Mr. President, I believe they serve the country in the challenging questions which they ask and in putting the strong proponents to their proof.

Nonetheless, having examined it carefully, I support this compromise. I think it is important not to lose sight of the fact that this compromise is a package and will be adopted as such. Thus, we must ask whether, despite problems with particular sections, such as emergency allocation, incremental pricing, complexity of administration, the compromise as a whole is worthy of support. Second, I believe we must ask whether, given the economic situation in our Nation and in the world today, an immediate resolution of the gas regulation controversy is essential. This question is critical to me as I do have some expertise in this area.

Mr. President, I answer both questions in the affirmative. Despite the difficulties and injustices which may inure in particular sections, the compromise as a whole, I think, is worthy of support, and, it is highly essential and in the national interest that this question be resolved now.

As I answer both questions in the affirmative, I believe that the basic question—is this bill good for the Nation—must also be answered in the affirmative, and I do so.

This is not a step that I take lightly. In the past, I have opposed legislation designed to deregulate natural gas. Although this bill is not, strictly speaking, a deregulation bill, it moves us there after some years. Nevertheless, I believe that changed circumstances, brought on by the sharp decline in the U.S. dollar, our own and the world's precarious monetary situation, and our continued heavy dependence on imported oil at a highly uneconomic price and unstable political conditions in the area from which most of it comes, requires us to reexamine our position.

There are several aspects of this compromise that, were it first coming before the Senate, would have to be revised to win my support.

For example, the bill does not adequately combine the interstate and intrastate gas markets into a unified national system; it does not streamline the regulatory process, indeed it makes it more complicated; nor does it give proper priority to the home consumer. But the report before us today is a compromise, and the nature of compromise is that no one can be entirely satisfied.

Accordingly, despite my personal reservations, I believe this bill to be in the national interest for the following reasons:

First, it recognizes what has been a fact for at least 5 years now—that the era of cheap energy is over. This country wastes a tremendous amount of energy every year, and the replacement cost of that energy is far above what we charge for it—and it is now coming right out of our financial bone and sinew. More realistic pricing will result in conservation of our natural gas resources, and, very importantly, should also encourage the development of alternate technologies.

This Nation does not take kindly, apparently, to voluntary conservation efforts. In this way, through the natural gas compromise, some degree of conservation will be conferred.

Second, passage of the compromise would provide a degree of certainty to producers, investors, and consumers that is essential to the proper development of our national economy. The continued uncertainty over the price and availability of gas that would result from failure to pass this compromise is against the national interest.

Mr. President, as I say, in the economic field I do claim some competence. It is my profound conviction that what has been troubling our economy the most is

the state of complete uncertainty faced by the business community in its forward decisionmaking.

Third, incentives in the report will result in increased domestic production of natural gas, and thus will have an effect—perhaps not decisive but an effect nonetheless—on our oil imports. Lessening our dependence on foreign source of oil is of paramount importance to the Nation. The Department of Energy has estimated that the compromise will save 1.4 million barrels of oil a day by 1985, but even if the full amount is not saved, the compromise will still make a significant contribution.

Fourth, the world economic community of which we are the most important element and which also controls us, like it or not, perceives our failure to enact meaningful energy legislation so far as one of the root causes of the dollar's precipitous decline. We can argue whether this perception is accurate or not, but nonetheless, it is a fact. If we reject the compromise, and in effect announce to the world that the Congress of the United States, after nearly 18 months of consideration is still unable to agree on an energy policy—and this gas measure is its centerpiece—I believe the effect on the declining dollar would be catastrophic.

Mr. President, this compromise is not a panacea for the energy crisis. Standing by itself, it does not guarantee that we will have the natural gas we need or that heavy oil imports will no longer be required; or that the dollar will be started on the way back to its real value. But it is a step in that direction, a step I believe we must take now. I suspect that no one in this Chamber is satisfied with every provision of the compromise. But I believe it is a workable solution, a solution that is in the national interest, and a solution whose time has come and which will not wait. I must be for it in the interests of our Nation and of the 18 million New Yorkers who sent me here because they had confidence I could use my head in difficult situations!

I believe the world's perception of the importance of this bill cannot be underestimated. Mr. President, we lawyers have an adage which says it is not what the facts are; rather, it is what the judge thinks they are that counts. I have heard many of the arguments on the floor of the Senate holding that the decline of the dollar is not going to be affected by a natural gas compromise. Mr. President, that may well be true on the basic facts and merits. But the dollar will be affected by the degree confidence is restored in the world by the appearance that we know what we are doing here, and that we are not fumbling and we are not mired in indecision and uncertainty and delay and that we in Congress are not powerless to act and to act effectively.

Mr. JACKSON. Will the Senator yield?

Mr. METZENBAUM. Will the Senator yield?

Mr. JAVITS. Not yet.

I might say to my colleagues that it is my profound conviction, and I have been around here a while, that nothing good is going to happen from delay. I think we shall get more mired, more embroiled in more difficulties, and it will be a long time, and the result is very unlikely to be any better and will probably be worse than the compromise before us now. That is my judgment as to the future.

I now want to yield both to Senator JACKSON and to Senator METZENBAUM.

Mr. JACKSON. Mr. President, I commend the distinguished senior Senator from New York for his statement. I think he has put his finger on one of the key elements of the problem that we face. One can argue that, in fact, there is no relationship between this bill and the dollar. However, the perception in the world is that if this bill goes down, we are unwilling or unable to deal with one of the principal problems that we face in any kind of an energy program—namely, are we going to do something to cut imports? It is a problem of perception. Is that not what the Senator is saying?

Mr. JAVITS. Exactly.

Mr. JACKSON. That goes to the heart of the problem. One can live in a community where there is a very fine bank, totally solvent, but if the rumor is that the bank is insolvent, there is a run on the bank and the bank goes under. I think the same analogy, to a lesser extent, applies in connection with what is going on with relation to the dollar in the world.

I commend the distinguished Senator from New York for addressing himself to one of the key problems that we face. I think, finally, in this connection, I say if someone has a better program to offer that will tackle the problem of supply, protect the consumer, and give us some integrity vis-a-vis the dollar, I should like to see it. We do not have it.

Mr. JAVITS. Also one that can be agreed on, which is the criterion to me.

Mr. JACKSON. Absolutely, one that can be approved by Congress.

I have been here all the time the Senator from New York has in connection with the debate over natural gas. Going back to Mr. Truman's day, when they tried to take away the power of the Federal Power Commission to deal with gas, down to the present time, we have not been able to get a truly effective natural gas statute. I think the existing law is totally inadequate. We have struggled all these years to get one. This is the first time that we have presented to Congress, with an assurance that it is going to be signed by the President, a statutory proposal that will update our effort in this field.

I commend the Senator from New York for a fine statement.

Mr. JAVITS. I thank the Senator. I shall yield in a minute to Senator METZENBAUM, but I want to add this:

I took the pains before the Bonn summit, because I was very interested in another matter—the development of the developing countries to afford greater markets to the industrialized countries—to visit with every one of the major leaders, except for the Prime Minister of Canada, who participated in that summit.

Really, I found, without in any way disclosing conversations which should be personal and confidential, that one of the principal problems which these leaders face is whether the United States could ever act—not how it acted. It is like businessmen who tell you, look, give us any rules so long as we know what they are. That has been a very critical factor in my appraisal of this situation.

I yield, of course.

(Mr. SPARKMAN assumed the chair.)

Mr. METZENBAUM. Mr. President, it is with some reservation that I speak after the distinguished Senator from New York and the distinguished Senator from Washington on this subject having to do with perception, symbolism, and what it appears to be, because both of them are so experienced and so knowledgeable and travel so much and have such great respect from others that it is difficult for me to stand on the floor and say what I know about them and their perception. It is difficult for me to say to both of them that I cannot really believe that they honestly believe that we can pass a piece of legislation that Robert Strauss describes as being a C-minus bill, that investment bankers and economic analysts are describing as really having no impact upon the dollar, a bill that, at best, its proponents claim would only increase natural gas production in extremely small amounts, and that they really believe that the Japanese, the Germans, the Swiss, and all others who have an interest in the economy of the United States—and I guess that has to include the Arabs as well—are really going to be taken in by this kind of a piece of legislation.

I agree that Helmut Schmidt has said that we need energy legislation. But he cannot draft an energy bill for us. This energy bill is not going to solve any problems. You can talk about it possibly saving so much in oil imports. The best bankers are now saying that that is really not the problem with our economy and the value of our dollar, but, rather, that the whole problem of inflation is our problem.

I really have difficulty understanding how anybody can argue for a piece of legislation that everyone knows will not do the job, that somehow, we are going to kid them and we are going to make them believe that, well, at least, we have an energy bill. We cannot overlook the fact that if we just want an energy bill, we could have had three parts of it almost a year ago. The utility rate reform bill, the coal conversion bill, and the conservation measure have all been awaiting passage for periods ranging from October of last year to November of last year. The conferees have been in agreement but the House, with the approval of the administration, has been unwilling to bring them forth. They held those bills hostage so that we might get a natural gas bill.

But this natural gas bill is not going to solve our problems internationally. I know of almost no prominent economist who claims that it will. Yes, George Ball, who is not an economist but who is on the telephone constantly these days to Senators, is saying that it is a question of perception. With a man such as that, from a large investment banking house,

Lehman Brothers, I am not sure what his special interests are, what his special concerns are. I am not sure whether he really wants that energy bill or whether he has other motivations. But when you talk to people like Eliot Janeway, whose telegram I read to the Senate yesterday, when you check with people such as City Bank of New York or the senior vice president for economic affairs with Chase Manhattan Bank, or the authorities who spoke for the Federal Reserve Board out in St. Louis, rather recently, on this same subject, none of them claimed that we are going to help the dollar. Many will tell you frankly that the issue of oil imports did have an impact on the value of the dollar within the past couple of years but that that issue is behind us and that now, the spending that is being done in this country with those oil dollars is offsetting that factor and the real problem in our economy comes about by reason of inflation. This bill is inflationary.

Alice Rivlin can say that is one-half of 1 percent or whatever the CBO has said; but all you have to do is ask the consumers of America whether they think it is inflationary to get a gas bill where the fuel cost adjustment rate went from 19 cents per mcf in January of 1977 to 34 cents per mcf in June of 1978. They will tell you that it is not one-half of 1 percent; they will tell you that is inflation that they understand.

Now, beyond the question of this whole matter of the perception overseas, I think we have to concern ourselves with the impact in our own country.

I am sure that I reflect the concerns of the distinguished Senator from New York when I point out that there has been much movement of industry from the northeastern part of the Nation and the midwestern part of the Nation to the southwestern part of the Nation.

Unfortunately, this bill which comes back from the conference committee does something that neither the House nor the Senate intended it to do. This bill makes it possible for industrial users in the producing States to buy natural gas at a lower price than industrial users in all other States in the Nation.

As a matter of fact, that is exactly opposite to the situation as it presently exists. Today, industrial users in the producing States are paying more for natural gas and those in the consumer States, which is under regulation, are paying less.

This bill is like sending a message out to the industries in Ohio, to industries in New York, to industries in Maine—not Maine, necessarily—to industries in Indiana, to all those States where industrial users consume a lot of natural gas, and saying to them, "Move to the Southwest, move down to those States where they are producing natural gas and you will be able to operate your business at a lower cost and better competitive advantage than those industries that continue to operate in the consuming States."

That, to me, is a great disadvantage and there is no argument that that is what this measure does.

In addition to that, I cannot believe that the distinguished Senator from New York really believes there is an advantage to shifting the burden of natural gas costs from industrial users to residential users.

When the bill left the House and the Senate, the burden was placed upon industry and the residential users were protected from incremental pricing. But, contrary to the intent of either the House or Senate, when the bill came back that burden had shifted according to the Energy Information Administration of the Department of Energy.

Now, I recognize that there is a question of symbolism. But it is not enough to have a piece of legislation that is not much more than a charade, not much more than a piece of paper, that winds up costing the American people between $29 billion and $41 billion between now and 1985.

That cannot be justified in order to somehow satisfy the concerns of Helmut Schmidt because he is too smart, and he is too wise, and his economists will point out to him that this bill will not do that which some are pretending it will do and that which some are representing that it will do.

It will not solve the energy problems of this Nation, it will not solve the dollar problems, but it will place a tremendous burden on the American people. It will certainly enrich the gas and oil producers of this country.

Mr. JAVITS. Mr. President, I am very grateful to the Senator for a review of his side of this case. I will do my utmost to present my case, which is exactly what he has done in quoting all the authorities which favor him and none of the authorities which favor the other side.

But, if he will forgive me, I will tell him I am distinctly unimpressed. The reason I am distinctly unimpressed, Mr. President, is that inflation is already with us. There is no question about that. The question is, how can we abate it? In my judgment, one of the major ways in which it can be abated is to demonstrate to ourselves and to the world that we know how to govern and that we have stopped being paralyzed.

Mr. President, in my judgment, the biggest thing about this compromise that commends it is it gets the United States Congress off the dime. We have been disgracing ourselves until the people think that 80 percent of us are out of our minds.

They give Congress a 20-percent rating as to its value to the country. And why? Because we cannot seem to decide.

Mr. President, if we go the Senator's route, we will never decide. I would like to give an analogy based upon a prior experience of mine.

When I came here, Mr. President, I succeeded one of the most venerable, one of the most marvelous, human beings who ever lived—Herbert Lehman of New York.

Mr. President, the water of Niagara floated over the brink at Niagara for 7 years without one bit of power going to the State of New York because my revered and beloved predecessor felt he just could not agree to any bill which would not guarantee to any municipality that wanted public power a first priority on power from Niagara. He just could not get a bill.

A man sat almost where Senator METZENBAUM is sitting named Bob Kerr of Oklahoma. He was not a dictator, but he could persuade enough people in the Senate so that there would be no Niagara bill.

When I came along with the same philosophy I am using in respect of this compromise, I said, if we lived to be a hundred years of age, how much power would these municipalities get from Niagara, and the answer was 25 percent.

So I said to Bob Kerr, "Bob, will you make a deal for 25 percent? That is going to be the limit of the municipality wheeling of power?" He said, "OK, you've got a bill." And power flowed in 2 years. Now, one could have said that was perception, too.

Senator METZENBAUM, I love you, you are a fighter. I really mean it. I am not kidding. You are a fighter. You never give up. You are in there and we need you. You are just as vital as anyone here.

But some of us have to come to a conclusion sometimes. We have to get off the dime.

Let me give an example of what I mean. I have served in the other body, too. I served in the other body for 8 years, enough to get to know what it is all about. What the Senator says about the rationality of accepting the three pieces of the House bill which we passed in the way of the energy program makes unquestioned sense. Let us pass those, get them done, and then we will fight about this one. But that is not the way they want to play, and unless we change the Constitution, that is their attitude. They could be right. They could be wrong.

In any event, the question of whether we can or cannot get what can be called a U.S. energy policy now centers upon the two remaining pieces of legislation; this one and the crude oil equalization tax. I think the crude oil tax is dead. I think that is generally agreed. So that leaves this one.

On this one, if we pass it, something can happen. If we do not pass it, I believe—and again I could be dead wrong—nothing will happen for a long time, and time is of the essence.

I might tell my colleague, and here I do not claim the expertise in natural gas he has, I fully yield to him on that, but when we speak of the economy of our country, and the economy of the world, I do claim some expertise.

I would like to tell my colleagues and my colleague from Ohio that what he feels about the discrimination in the bill against northeastern and Ohio manufacturers because of this bill is peanuts compared to what is going to happen to us and what is at stake if we do not straighten out this international monetary situation.

Whether or not a man will work his fingers to the bone for 25 or 30 years because we give him a promise that in 35 or 50 years we are going to give him x return depends on his confidence in the system.

Confidence is what I am talking about, and this legislation is very important to that confidence. The importance of the world economic community's perception of this bill, and the importance of certainty to the business and the economic community of the country, is the basis for my support of this conference report.

I might point out that I have an estimate from my own State—to get down to the finite details—which shows that in the period in which this bill will run, if we accept the conference report, the aggregate cost to my State is going to be $1.726 billion. These figures are given to us by the New York State Energy Office.

If the Senate bill had passed, with its decontrol, it would have cost New York $4.332 billion. Senator METZENBAUM and I fought against the Senate bill. He fought actively, as I do in many other things. He carried the ball for me and many others in this Chamber.

There is little question about the fact that my State is disadvantaged, as is the Senator's State and other States, by the fact that we do not have adequate control over the price differential on intrastate gas sold to industrial users. But it also is a fact that the situation would be even more precarious if there were immediate decontrol instead of the controls contained in the compromise. Further the price differential which will now be the rule, will go on for a short enough period—to wit, until 1985—so that it hardly pays for any appreciable concern to pick up and move on that account, even if the gas price were the determining factor.

So, taking what New York has with respect to economic viability—its banking, its commerce, its insurance, its transportation, its tourism—and comparing it with this disadvantage—it is a disadvantage, and it is an unfair part of the bill—I still feel that, on balance, I am serving my people best if I approve this compromise.

I deeply believe that I was sent here to use my head. The acid test on this bill is when the vote is counted. When the vote is counted, the compromise cannot pass except with a majority of the Senate and a majority of the House. I am deciding that, if a majority can be constructed, I want to be part of it because I think that, everything taken together, the compromise is better than doing nothing.

I will say this to the Senator: I am confident that we would not be here with what we have if it were not for Senator METZENBAUM. I think this wave of deregulation, like proposition 13, would have swept us right over the precipice. Sure, you are against this compromise—and bless you—but I do not think you would even have had any continued Federal vote in natural gas pricing if it had not been for the sterling, powerful, effective, and very clever opposition to this bill which you mounted with your colleague from South Dakota.

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

Mr. JAVITS. I yield.

Mr. METZENBAUM. Mr. President, I thank the distinguished Senator from New York for his kind comments. I truly have tremendous respect for him, and very seldom does the occasion arise that we are on opposite sides of the issue. Once in a while we are on opposite sides of the tennis court, but not opposite sides of the issue.

The Senator would do me a great favor if he would make it possible for me to have the same power on the Senate floor as did Senator Kerr when he occupied either this seat or one nearby. It would be helpful on some days.

Mr. JAVITS. It would be in good hands.

Mr. METZENBAUM. I thank the Senator.

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

Mr. JAVITS. I yield.

Mr. RIBICOFF. Mr. President, I came into the Chamber toward the end of the Senator's remarks, and I associate myself completely with the distinguished Senator from New York.

Later this afternoon, I, too, intend to speak about the necessity for the conference report being approved. It is my feeling, as it is the feeling of the Senator from New York, that I have always been against and voted against deregulation of natural gas. But we have reached the stage in this country today, with our economic problems of inflation and the value of the dollar, that this conference report has become a symbol. It can be said that it is not a reality, but sometimes a symbol is more important than the reality.

In speaking to world leaders, economic leaders, across this globe, to them the American will and the ability to deal with its economic problem is now riding on the way they conceive the ability of Congress and the executive branch to start to solve its energy problem.

I associate myself with the distinguished Senator from New York.

Mr. JAVITS. It is very gracious of the Senator from Connecticut, and I thank him very much.

Mr. President, I yield the floor.

Mr. MELCHER. Mr. President, I think the value of this discussion of the natural gas bill has been diluted somewhat during the past 3 days because not enough specifics have been debated. The so-called greatest debating body in the world—the U.S. Senate—often finds itself involved with repetitious discussion of each side.

I think it perhaps would be of some advantage in this discussion if there were some specific rebuttal at times to the comments made on one side or the other; and if the Senator from Ohio is willing, I would like to provide some sort of colloquy on some of the points the Senator from Ohio established as his side of the argument.

The Senator spoke of a telegram from Eliot Janeway, whom I admire greatly and whose usually long article is published in newspapers across the country. It usually appears in the Washington Star on Sunday, and I like to read it. I think the experience of Mr. Janeway during, let us say, the past four decades entitles him to address very astutely some of the economic questions of this country.

I am just reviewing now Eliot Janeway's telegram to the Senator from Ohio, and I point out that a key sentence reads:

> On the contrary, the bill will advertise the strangulation of our regulatory procedures and red tape, and it will accelerate the liquidation of independent gas producing enterprises.

Eliot Janeway and thousands of other people in this country have addressed this problem of strangulation by redtape.

The Senator from Ohio talked about this bill and said that until it is passed, the other parts of the President's energy package which have been agreed to in conference are held hostage. He listed some of those pertinent aspects in those bills. What he did not list is that contained in one of those bills, in the regulatory rate reform, is the expediting procedures for such an oil pipeline—an oil pipeline—as Northern Tier pipeline, which, if we do not pass those expediting procedures, will leave Northern Tier pipeline in the redtape strangulation that Eliot Janeway is talking about.

Mr. METZENBAUM. Mr. President, will the Senator from Montana yield for a question?

Mr. MELCHER. I yield.

Mr. METZENBAUM. The Senator from Montana has mentioned the pipeline on several occasions, and there is no secret about it. There is considerable sentiment among a number of Members of the Senate to provide support for the pipeline, and it is a fact, as the Senator probably is aware, that in a Dear Colleague letter that I and some other Senators signed recently we indicated that there is a consensus of support in Congress for the Alaska pipeline and even if it were not included herein it could be passed under suspension of the rules because I know of no particular opposition to it.

Does the main reason for support of this legislation of the Senator from Montana come about by reason of the containment of the Alaska pipeline in the measure, or is it based upon other considerations?

Mr. MELCHER. It is based on other considerations also. But I wish to clarify the point that the northern tier pipeline is a proposed oil pipeline across the northern tier States into the Midwest. In talking about pipelines, we often find that what we are saying is misinterpreted as this is obviously misinterpreted.

Mr. METZENBAUM. I stand corrected. The Senator is talking about the northern tier pipeline, the oil pipeline. I thought he was referring to the Alaska gas pipeline.

Mr. MELCHER. That is right.

Mr. METZENBAUM. I appreciate the clarification.

Mr. MELCHER. The northern tier pipeline, of course, if it is permitted both by Federal Government and by State governments and gets constructed over a 2-year construction period, will relieve the oil glut on the west coast that we are now enduring.

Mr. METZENBAUM. I misunderstood the Senator. I will not interrupt the Senator further.

Mr. MELCHER. No. The Senator is right on target as far as I am concerned

because the next point I wish to bring out is the fact that the Alaskan Northwest pipeline, which is the pipeline that the Senator was referring to, a proposed pipeline from Prudhoe Bay to Fairbanks and following the Alcan Highway down to the Lower 48 and into the Midwest, will, when constructed, transport natural gas from the Prudhoe Bay Alaskan oil and gas fields.

Yes, the conference report as presented does provide the statutory relief that will permit that pipeline company to go into the money market and say because we have it fixed into law now we can roll in not only the price of the gas at wellhead but the construction costs which are substantial into the final price of the gas that will be transported over that pipeline down to the Lower 48.

If that is not passed into law, the Northwest Alaskan pipeline will not be able to start the procedure in the money market to prepare themselves to sell bonds to pay for the construction so they can start construction.

I say to the Senator from Ohio that is one reason to support this conference report. But specifically if this conference report fails could we reasonably be sure that another piece of legislation just for that purpose could be passed by the Senate and the House of Representatives this fall?

From my own standpoint, I say my best guess is that the Senate would pass it quickly, and my best judgment is that when it got to the House of Representatives, or a like bill was introduced in the House of Representatives, it would have a real tough time. It probably could not be passed easily in the House of Representatives.

The Senator from Ohio knows, I think, as well as I do that some of the Congressmen and some of the Congressmen in the House of Representatives who have jurisdiction over this subject are adamantly opposed to relaxation in the law to amend the law which will permit rolling in the construction costs along with the wellhead price costs of natural gas to arrive at the final figure for the sale of natural gas.

Under those conditions, will the Senator from Ohio advise me if he has more recent information of the position of a number of people in the House of Representatives on this point and has he ever been assured that they would treat it as a single piece of legislative affirmatively?

Mr. METZENBAUM. I have no other information as to what the House of Representatives will do this afternoon let alone what they might do tomorrow, so I am in no position to advise my good friend from Montana what the House of Representatives will do. But in view of the fact that they have already accepted the concept of the Alaskan pipeline and since I have not heard of any strong opposition to it, I guess they would accept a separate piece of legislation and it would move with dispatch because I think everyone wants that gas to flow from Alaska into the lower 48.

Mr. MELCHER. I would hope that were the case, but I have to face up to the realities that exist, and the fact is that the House conferees only got a majority on the basis that they would accept this part solely to get a comprehensive bill, and the comments that have been made by the conference leaders of the House conferees on the bill, and I think I can quote rather accurately, are that it is virtually a certainty that in the event of recommittal there will be no bill. But that is quoting only.

Mr. METZENBAUM. Mr. President, will the Senator from Montana yield on that question?

Mr. MELCHER. I yield.

Mr. METZENBAUM. I simply wish to say to him and to those who make these comments, and it is not he who makes these threats, but I heard that threat made now over and over again, that there will be no bill if this is not the bill.

I believe that as 1 Member out of 100 here in the Senate I have a responsibility and part of that responsibility is to be responsible.

I believe that those who say that, "If you do this there will be no bill," indicate a kind of irresponsible attitude. I cannot believe that 435 Members of the House of Representatives would like to be a party to killing the Natural Gas Pricing Act which we hope to send them if and when the motion to recommit is agreed to by this body.

I cannot believe that they want to be a party to killing it, sounding its death knell.

Those of us who are proposing the motion to recommit are saying that the President should have emergency power as he had until it expired. We are saying that the Federal Energy Regulatory Commission should have the authority to permit the movement of surplus gas in the intrastate market into the interstate market. We are saying that we want to take a responsible position.

When somebody gets up on the floor or calls a press conference and says, "If you do not take this bill there will be no bill," then I say, well, first of all, I do not react very well to threats; second of all, I do not believe that is responsible; third of all, I do not believe that will be their position; and, fourth of all, I cannot believe that 435 Members of the House of Representatives want to go home and say they were the ones who killed the Natural Gas Pricing Act.

The fact is if we send it back to them, as I hope we will do on the motion to recommit, it will be an affirmative alternative as proposed by the U.S. Senate. It will indicate that we want a bill but we do not want to pay $29 to $41 billion for it.

I am not willing to accept these statements that are made and repeated over and over again that if we do not take this bill there will be no bill. I am confident that the chairman of the Senate Energy Committee, in spite of his public protestations to the contrary, will reverse his position and will fight and do the will of this body.

The Senator from Washington is probably one of the most responsible of this body, and if it is the will of this body that we want a bill stripped of any pricing provisions and giving the President emergency powers and giving other powers with respect to the movement of gas from the intrastate market into the interstate market I feel confident he will provide the necessary leadership.

I am not convinced that there are any leaders in the House of Representatives who are prepared to sink a bill just out of pique, just out of obstinacy, and I believe there will be a bill; and if there is not, then those who will have killed it will have to accept the responsibility. It is unfair to ask Members of the Senate to act on that basis of what might happen tomorrow or next week or next month.

Mr. MELCHER. Well, the Senator makes some very good points. Permit me to say that I, too, hope that if the bill is recommitted it would not sound the death knell for the natural gas bill.

But would the Senator from Ohio want to include in that motion to recommit, because the motion to recommit with instructions is a lot different from a motion to recommit, because the motion to recommit with instructions infers that only those points included in the instruction would be taken up by the conferees—would the Senator from Ohio be willing to accept it, if the provision was contained in the conference report before us for stripper gas well pricing?

Mr. LEAHY. I apologize to the Senator from Montana for distracting the attention of the Senator from Ohio, and I hope he will excuse the intrusion.

Mr. MELCHER. Indeed I excuse it because I am delighted to see the Senator from Vermont listening to some of the points that might be included in the motion to recommit with instructions.

Mr. LEAHY. I wish to assure the Senator from Montana that I have listened to virtually every word of it either here on the floor or back in my office during the past couple of days.

Mr. MELCHER. I well realize the Senator from Vermont has a huge capacity for absorbing the information that is discussed on the Senate floor, and is one of our truly bright minds.

Mr. METZENBAUM. Did the Senator from Montana ask a question?

Mr. MELCHER. Yes. I asked the Senator from Ohio in this motion to recommit with instructions which, after all, is a very firm mandate for the conferees and limits the conferees to doing only what is in the motion to recommit, and coming back, if possible, and reporting to the Senate just on those points after the conference is concluded, if it is concluded, would the Senator from Ohio advocate that the motion to recommit also contain a provision for stripper gas well pricing, which is in the conference report, remembering that stripper oil wells have been relieved of price restraints on old oil?

Mr. METZENBAUM. Not with my approval.

Mr. MELCHER. It would have the Senator's approval?

Mr. METZENBAUM. Not with my approval. If stripper wells were relieved of pricing not with my approval.

Mr. MELCHER. Then here we are in a quandary. I would have assumed that one

feature on stripper gas wells would be something that all 100 of the Senate would approve.

Mr. METZENBAUM. Why?

Mr. MELCHER. Because we are all for conservation and we ought to all be for increased production.

Mr. METZENBAUM. We can agree on that. Why should we be for increasing the price and relieving stripper gas wells from price control, which is what the Senator is asking?

Mr. MELCHER. Absolutely.

Mr. METZENBAUM. And which was in the conference committee report.

Mr. MELCHER. Absolutely. Might I point out to the Senator from Ohio if he is willing to mandate in those instructions to the conferees to come back with a final bill that will say the Northwest Alaskan pipeline can have relief from existing law and will be capable of rolling in not only the wellhead price but constructions costs—and we are talking about natural gas that will cost consumers well above $4 a thousand cubic feet—I do not know how much above, but it would be $4-plus per thousand cubic feet—if you are willing to do that why would not the Senator from Ohio be willing to allow stripper gas wells to get $2.19 on the basis of escalation and whatever inflationary factors that follow from that?

Mr. METZENBAUM. Well, as a matter of fact, what the Senator is really saying is why do I not support the idea of all of the changes that are made in the conference committee report which would provide for relief from price controls for rollover contracts, for gas that is more than 15,000 feet deep, for gas where you sink a hole in the ground a little bit differently from the place where the present hole is.

Mr. MELCHER. No, I believe this is a special situation. I believe stripper gas wells are much different than what the Senator is referring to.

Mr. METZENBAUM. Let me say this: I think there are unquestionably people who are supporting the motion to recommit who would totally agree with the Senator. But I happen to come from a posture and a firm belief that the gas producers of this country are doing extremely well as is, too well, and I was impressed by the arguments of the distinguished Senator from South Carolina yesterday, Senator Hollings, when he spoke to the point of about how he had an investment in gas and it was a great place to invest.

I think those who have stripper wells and those who have all kinds of gas have done extremely well in the economy. I know it was not too many years ago that the gas industry indicated that at 26 cents they would agree to settle a case before the Federal Power Commission, and they could make out extremely well at that figure. I think, if my recollection serves me right, it was in the New Orleans case or something of that kind.

Then I know at a later point the Federal Power Commission set a figure—I cannot remember that figure, but I think it was something like 42 cents or something in that area—which was based on giving the industry a return of 15 percent on their investment after taxes. That was not too bad.

But now we are at about $1.50. This bill will go to $1.93, and then better than 10 percent per year thereafter, and this bill will say that those of us who represent consumer States or our constituents will be paying more for natural gas, and those who come from the producer States will wind up paying less for natural gas.

I just believe we ought not to let the bars down at all. There is a lot of argument and there are a lot of differences of opinion as to whether stripper wells or wells that are more than 15,000 feet deep or newly developed wells that are more than 2½ miles—I am not even sure of the mileage figure because they kept changing and they did not show me the bill every time they made a change—more than 2½ miles from the place where the well was producing—there are all sorts of exceptions.

But when you get all done, there is one simple bottom line, and that is that the American consumers, the American people, will pay more and more and more.

So, therefore, when I say to my good friend from Montana, "No, I would not agree to any special exception for the stripper wells," it is because I do not believe that is necessary.

Mr. MELCHER. When you said——

Mr. METZENBAUM. Let me finish my thought; then I will yield the floor.

When you ask me about the Alaska situation, I think it is a fact that there is a tremendous supply of natural gas there. You cannot get that natural gas into the lower 48 unless you have a pipeline. We know it cannot just be picked up and carried. We know you cannot build a pipeline unless you have a tremendous investment of capital, and you have to have a return on that capital.

Therefore, I think you make a different case out, really, for the Alaska pipeline than you do for the stripper wells, some of which are presently operating and some of which will be new, but I think they can operate very well and are doing extremely well under the present law, and do not need any additional relief.

(Mr. HART assumed the chair.)

Mr. MELCHER. Well, the Senator is telling me that it is all right for my State of Montana to pay, as Montana Power has to pay under the newest contracts for Alberta gas, about $2.16 per thousand cubic feet, but that it would not be all right to allow a bill to be passed that would provide stripper gas well production at the basis of $2.09 per thousand cubic feet. The Senator is saying, "You do not have to worry about it, because there are a lot of gas companies that have got contracts at 26 cents per thousand cubic feet."

Well, they are not available to us now. Whatever contract Montana Power Co. has, or Montana-Dakota Utility Co. has, which distributes gas in Montana, they are old; they are going to expire. If they have contracts at such low figures, well and good. But when they have to replace those contracts, they cannot replace them at $2 for stripper gas, but must pay more than that for imported gas. Now, where is the sense in that?

On the other hand, the Senator from Ohio tells us that it is all right to go ahead and build the northwest Alaskan pipeline to bring down Prudhoe Bay gas, and go right through Montana; it will be all right for us to have that there, at $4-plus per thousand cubic feet, but we cannot have any stripper production in Montana at $2.09, or stripper production in Wyoming at $2.09 per thousand cubic feet, that could be brought into our State through Montana Power or Montana-Dakota Utilities.

I think this is an example of that fact that when you make a motion to recommit with instructions, there will not be much of an agreement on that motion to recommit with instructions that carries out a balanced approach at all, even of the very strong and good points that are not argued much on the floor of the Senate or in the House of Representatives, or among the members of the American public who are looking at this proposition.

I daresay that the Senator from Ohio would like to ask Eliot Janeway or almost anybody who was dealing with the economics of energy that specific question: "Do you believe that we ought to allow some price incentive for stripper gas wells?"

About 90 percent of those people would say, promptly and firmly, "Yes. Absolutely." We are faced with paying a higher price than $2.09 per thousand cubic feet for Alberta gas that is purchased by utility companies in my State or other States, and consumed by the American public. We are faced, if our Federal Government permits the gas companies to buy from Mexico, with a price of about $2.65 per thousand cubic feet. That is substantially higher than the $2.09 for stripper gas wells.

They would point out that liquefied natural gas brought in under current contracts sells for about $4 per thousand cubic feet. They would point out that all of these purchases are part of the drain on the American dollar, and create a problem of balance of payments for the United States, that it would be good for the economy to have that gas production here within the United States, and entirely reasonable from an economic standpoint.

But let me go to the other aspect of stripper gas wells. It is entirely practical and necessary from a conservation standpoint. They have got the well there, in many instances, and it has petered out. There are methods to enhance recovery of the gas that is still there. Now, that is conservation; to enhance that recovery and get it is true conservation. That is different from drilling a new gas well that is only going to produce a very small amount of gas. I want to emphasize that difference, because the conservation end of it comes in producing out of an existing gas field that gas that is locked below, using the enhancement recovery features that are available to recover the gas that is there in the field,

that has already been opened up and part of it has been taken.

In addition, when the Senator from Ohio returns, perhaps he would like to address himself to whether or not one of the instructions to the conferees should be that something should be done about the nonprice regulations contained in section 4 of the Natural Gas Act, and whether or not the requirement of the overwhelming paperwork of the 30-day monthly reporting by gas producers should be left in the law as it is now. Would the Senator from Ohio care to respond to that, whether one of the instructions to the conferees should be that the nonpricing regulations requirement under section 4 in the existing law, the Natural Gas Act, should be amended whether the overwhelming paperwork requirement of very detailed 30-day reporting should be retained in the law, or whether there should be relief granted, as has been recommended by the Federal Energy Regulatory Commission Chairman and by the conferees?

Mr. METZENBAUM. I must confess that the Senator from Montana inquires of me about a specific as to which I am not familiar. I will be glad to check into the matter and attempt to respond prior to this matter being finally disposed of.

Mr. MELCHER. I thank the Senator. I would draw his attention to the fact that there has been a great deal of discussion on the Senate floor the past 3 days on the chairman of the Federal Energy Regulatory Commission's comment that the existing case load under section 4 is overwhelming, and is bogging them down in paper.

Mr. METZENBAUM. I would say to my good friend from Montana that perhaps it would be helpful to him in learning about the answers to some of these questions to know that the chairman of the Federal Energy Regulatory Commission has been summoned by the chairman of the Subcommittee on Administrative Practice and Procedure of the Judiciary Committee, the Senator from South Dakota (Mr. ABOUREZK) and will appear before his subcommittee tomorrow to discuss exactly how many additional employees will be required by passage of this legislation; and at that time I am certain that the Senator from Montana could sit in the meeting and perhaps the Senator would find a direct answer to that particular inquiry.

Will the Senator yield?

Mr. MELCHER. I yield to the Senator from Ohio. I ask unanimous consent to do so.

Mr. METZENBAUM. I just want to come over and talk to you for a minute.

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

Mr. MELCHER. I ask that the Senator withhold that, if he would.

Mr. FORD. Mr. President, I withhold my request.

Mr. MELCHER. The Senator from Ohio, speaking about the oversight hearing before Senator ABOUREZK of the subcommittee of the Judiciary Committee, was very timely. I am sure that the chairman of the Regulatory Commission will inform that subcommittee that (a) relief under section 4 of the Natural Gas Act will relieve them of a tremendous amount of paperwork. To the extent that relief is granted, the Federal Energy Regulatory Commission can relieve themselves of an overwhelming burden. They have reported to us that in fiscal 1976 alone there are 28,407 cases under section 4 of the Natural Gas Act.

Let us view how huge that figure is. Fiscal 1978 is going to end a few days from now, and they have accumulated that many cases. They have to dispose of them under section 4 of the Natural Gas Act.

Let me say, it is not just a question of how many people the Federal Energy Regulatory Commission has to have employed to handle those cases. Let me say that there are tens of thousands of other employees throughout this country working for the gas companies which have to report, who are employed for that specific purpose.

If we want to truly address one of the pertinent parts of what is in this conference report now before us, it would serve the interests of the proposers of the recommittal motion to include that in their motion to recommit with instructions. To ignore it would be to ignore not only commonsense; it would be to ignore a responsibility that had been well outlined and verified by not only the Federal employees but by industry as being a waste of time, serving no useful purpose, requiring such detail that nobody wants to read it, and requiring storage capabilities which are an outrage, just for those reports required under section 4 of the Natural Gas Act.

I think it is clear that the motion to recommit will not contain the provision to accept the incentives for stripper gas well production.

Perhaps the motion to recommit will contain the proviso, the amendment to existing law, which will permit the northwest Alaskan pipeline to roll-in the cost of construction. If it does, I am all for that particular feature. I think it would be wise for them to include it, but I think it is obvious that it might have extreme difficulty in the House of Representatives.

Some of the leaders in the House of Representatives who have jurisdiction over this subject matter have made very explicit the provision to allow the rolling in of construction costs of that gas pipeline proposed from Alaska down to the Lower 48 was a concession, a concession that they were willing to swallow in terms of getting out a bill. "Do not give it back to us with that in it if you are not going to have a bill."

I will repeat what I have said earlier in the course of the debate on this subject that while the proposal is not entirely satisfactory to me, it is the only game in town. If we want a bill this fall we better go with this one because there really is not much likelihood that there is going to be another bill.

Mr. STONE. Will the Senator yield?

Mr. MELCHER. I yield.

Mr. STONE. I thank the distinguished Senator from Montana.

Mr. President, after careful study of the conference report on natural gas, hammered out after months of hard work by the Senate-House Energy Conference, I have decided to vote for its passage. I intend to vote for the conference report because it offers increased incentives for new domestic gas exploration and production. It is the only realistic, effective policy alternative at the present time to no bill at all.

As an original consponsor and active supporter of the Pearson-Bentsen bill—adopted by the Senate—I am disappointed that the conference report does not go even further in providing more incentives for greater domestic natural gas production. I am also disappointed that the conference report continues and extends the heavy hand of Federal regulation in this area.

Nevertheless, Mr. President, this conference report does not offer the prospect of significant increases in domestic natural gas production. Most experts predict that this bill will result in almost 8 Tcf of additional production over present law, and result in a reduction of oil imports of over 1 million barrels per day in 1985. The legislation has the additional features of deregulating within 1 year high cost gas resources. Estimates of increased production vary, but there is no question that this bill means more domestic natural gas and less dependence on foreign energy sources than would otherwise be the case under present law. It offers a breakthrough in the right direction after months of debate, disagreement, and delay. And Mr. President, a breakthrough in developing a national energy policy is critical to our national well-being.

While this legislation, if adopted, will be just the beginning toward a comprehensive energy policy, it is a reasonable compromise on a policy matter which has divided the Congress for decades. This is the first time a natural gas bill has been conferenced and reported to the floor since 1956. The conference report represents the culmination of a legislative process which began in October, 1975 when the Senate passed by a vote of 50 to 41, S. 2310. This measure provided emergency relief for high priority gas consumers in the short-term. In the long-term, S. 2310 phased out onshore controls for new natural gas effective April 5, 1976 and for new natural gas offshore effective January 1, 1981.

In December 1975, the House Interstate and Foreign Commerce Committee passed H.R. 9464 a measure designed only to provide short-term emergency relief. A substitute proposal similar to S. 2310 was rejected 205 to 201 as the House instead adopted a proposal to end price controls for small gas producers, but which increased regulation for major producers. An attempt to recommit this bill and substitute a deregulation proposal also failed 198 to 204. These two votes effectively insured that there would be no gas pricing legislation in the 94th Congress.

Congressional debate on natural gas pricing resumed in the 95th Congress with the President's energy proposals and the introduction of the Pearson-Bentsen bill of which I was a cosponsor. The House of Representatives narrowly adopted the President's proposal for con-

tinued and expanded natural gas regulation. In the Senate, the deadlocked Energy Committee rejected the President's original proposal without recommendation or amendment.

As we all remember, a full-scale, extended Senate debate on natural gas pricing resulted. After weeks of procedural votes and intense debate, the Senate approved the Pearson-Bentsen substitute 50 to 46. Subsequently, the Senate-House Energy Conference has worked tirelessly in search of a workable and acceptable compromise.

The choice for the Congress is not between this compromise conference report and another compromise; the choice is between this compromise bill and no bill at all. To have no natural gas bill at all after all these months of debate would be a great set-back in our efforts to develop a comprehensive national energy program.

Mr. President, I ask unanimous consent that the attached Miami Herald Editorial of August 19, 1978, relating to this subject, be printed in the RECORD.

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

ENERGY BILL MUST BE PASSED TO CHECK THE DOLLAR'S SLIDE

President Carter's belated, nick-of-time rescue of the natural-gas legislation from a deadlocked House-Senate conference committee raises hope, at least, that an energy bill can be passed this year. With that hope a parachute is attached to the plummeting American dollar, and a gust of confidence could elevate it to a plateau of stability for a time at least.

There were times this week when world confidence in the intention of the U.S. Government to do something—almost anything—to bolster the dollar was so low that a crisis nearing panic was nigh.

On Monday and again on Tuesday the dollar dropped to new post-World War II lows in Japan, Germany, Switzerland, and the Netherlands. Even in England, which reported its own trade-deficit problems were worse, the dollar fell, making the pound worth more than $2 for the first time in 29 months.

On Wednesday, as the Swiss Cabinet met to discuss the dollar's frailty and the resultant disarray among other currencies, there was no apparent concern evident within our own Government. Treasury Secretary Blumenthal's office said it would intervene only when there were "conditions that make for a disorderly market."

Lo and behold, that afternoon President Carter said he detected disorder in the market and would ask his economic advisers for remedies.

The effect was electric and immediate. Even such a slight sign of concern and interest by the Administration resulted in the dollar opening higher in Tokyo. Frankfurt, Zurich, London, Paris, Brussels, Amsterdam, and Milan. Then when Mr. Carter announced no firm rescue plans at his press conference Thursday afternoon all bets on recovery were off.

Overnight, however, the breakthrough on the energy legislation changed everything again. Whether Mr. Carter used arm-twisting, sweet talk, or an appeal for the greater good of the country, it worked. The mere possibility of passing an energy bill ranks as good news after bleak months of no hope at all.

If a threatened Senate filibuster against the compromise on gas develops, pressure on the dollar will return. But now that the Administration has moved in the one area, perhaps the pressure can be offset by movement in other areas. The giant imbalance in trade, caused greatly by oil imports, can be eased by Japan's agreement to cut exports to this country and to increase U.S. purchases.

At base, however, the Administration has to get an effective handle on inflation. While the economy grew at a rate of 8 per cent during the second quarter, figures released Friday show inflation crept even higher to 10.7 per cent. Increased consumer spending, and a rush to buy homes before the price goes even higher, indicates the public's lack of confidence that the dollar will be worth as much tomorrow as it is today, thus building in inflation.

The Administration's efforts to cool the economy by voluntary restraints have produced few volunteers and fewer restraints. Because nothing else has worked, the people, according to this month's Gallup Poll, now believe wage-price controls are the answer. The sentiment in that direction is up to 52 per cent now from 44 per cent in February. We do not favor such controls, nor does Mr. Carter, who must devise other, better solutions.

The question comes back, now, to the President: Why not the best?

That's what the dollar used to be.

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

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

The PRESIDING OFFICER (Mr. MELCHER). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FORD. 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. FORD. Mr. President, there has been delay, and it is obvious that very few Senators are present—none except the Chair and I. Several meetings are going on. The leadership on both sides are meeting with the policy committees. Senators will be on the floor in a few moments.

I had anticipated making a motion for a recess but will not do that, because when the committees finish, there will be some action on the Senate floor.

I wanted to get the doors opened back here and bring everybody out, to see what I was going to do.

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. RIBICOFF. 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. RIBICOFF. Mr. President, I ask unanimous consent that Stuart Brahs, of my staff, be granted the privilege of the floor during debate and votes on the Natural Gas Act conference report.

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

Mr. RIBICOFF. Mr. President, this is an important debate. For almost 18 months the question of a U.S. energy policy has tied the President, the Congress, and the Nation in knots. This top legislative priority has, however, proved an elusive goal and a disaster.

The past two winters have brought home to most Americans the reality of our energy problem—that it will not disappear. Too often the energy challenges facing the Nation have been treated as short-term difficulties. This is a dangerous fallacy.

The Arab oil embargo showed us just how vulnerable we are. Both the 1973–74 embargo and the 1977–78 natural gas crisis provided ample evidence that we are neither conserving our energy resources nor producing enough for a growing economy.

No one expected the creation of a national energy policy to be easy. After all, the natural gas controversy has been around for nearly 40 years. The national energy plan submitted by President Carter in April 1977 contained over 100 interdependent proposals. Grappling with these complex parts truly tested our political skills.

Throughout this debate the world has waited and watched to see if the United States has the capacity and the will to deal with her energy problems. Our trading partners in Western Europe and Japan have been especially interested in the progress—or the lack of it—on the energy question. Our failure to take affirmative action on the energy front has been an important factor in the dollar's decline; it has been a major cause of our record trade deficits. Treasury Secretary Blumenthal stated last year, for example, that in a 5-year period "the cost to us of imported oil has increased tenfold * * * from $4.7 billion in 1972 to $45 billion estimated for this year * * *." Because of the increase in purchases of imported oil, the United States has had to export 2 percent of its GNP to pay for them. Over the past 10 years we have had to pay almost $5 billion for imported natural gas alone.

And further, this failure to take decisive and hard action is a symbol to the rest of the world. There is a growing belief that the United States does not have the political will to develop and to implement an energy program, but we lack the capacity of a President or a Congress working together to solve our basic problems. Some believe that we have abandoned our world leadership role—and thus the strength of our international economic position has been undermined. In the absence of a meaningful energy program, there is fear that oil imports will accelerate; that the large trade deficits will continue well into the next decade, and that the dollar will fall still further.

This international atmosphere adds a new dimension to the natural gas compromise before us today. As Federal Reserve Board Chairman Miller recently testified before the Finance Committee:

The world, for whatever reason, has built up the question of the energy bill as almost the essential element in our determination to cope with our problem of inflation and the problem of the dollar. . . .

If we reject this natural gas agreement—an agreement hammered out over many long months—the world will read it as a sign that America is unable or unwilling to make the hard choices—to develop an energy policy. It will be a sign that the United States cannot be relied upon to exercise world leadership in this

critical area. This is a dangerous consequence of disastrous proportions.

Mr. President, no one believes that the natural gas compromise alone will solve America's energy problems. This compromise is not even the final resolution of the natural gas issue. It is, however, a step forward and a concrete action to show the world that the United States wants to act and that it is capable of reaching agreement on a course of action. Approval of this conference report will be proof that the Congress and the President are not impotent in this important area. We cannot fail to take the steps necessary to deal with the energy crisis.

As approval of the natural gas compromise has a favorable impact on the value of the dollar, it will help to break the inflationary spiral now gripping our economy. The depreciation of the dollar feeds domestic inflation. It has been established that every 10 percent decrease in the value of the dollar adds eight-tenths of 1 percent to the Consumer Price Index. Our economy simply cannot sustain such increases for long.

This natural gas compromise will permit interstate pipelines to compete with intrastate pipelines for new supplies of natural gas, thereby increasing supplies for the interstate market and preventing future shortages. Prices will be less than that of alternative fuels such as expensive foreign oil, liquid natural gas (LNG) and synthetic natural gas (SNG). The Connecticut Energy Office advises me, for example, that natural gas prices in my State will actually be lower under the compromise than under the status quo. The Connecticut Natural Gas Co. presently pays about $5.10 to $5.20 per thousand cubic feet for synthetic natural gas (SNG) which is made from naphtha, a petroleum product. It also pays about $3 to $4 per thousand cubic feet for liquefied natural gas (LNG). With decontrol, less of these expensive alternate gases will be used. Average residential gas prices will rise at a compounded annual rate of only 8 percent between now and 1985. Thus, Connecticut consumers would benefit from the increased supply of lower priced regular natural gas. Based on preliminary estimates, the State energy office anticipates a $20 million annual saving under the compromise.

Mr. President, the failure to enact an energy program is an economic tragedy. We are hemorrhaging with the problems of inflation and the deterioration of the dollar—both of which are worsened by the $42 billion annual bill for imported oil. The Department of Energy anticipates a $6 to $8 billion-a-year reduction in our trade deficit should the natural gas compromise be adopted. In addition, Secretary Schlesinger estimates the savings of approximately 1.4 million barrels per day from this bill, which is equal to the savings from all the other parts of the national energy plan combined.

Certainly this conference report is not a perfect piece of legislation. It is not the program the President originally envisioned. It is not what those opposed to any deregulation or those supporting the industry desire. It is a compromise and is an important start. It serves as a base on which we can build.

No compromise satisfies everyone but let us not ignore the positive aspects of this conference report. In addition to those benefits I have already mentioned, we should note that—

The outmoded dual market system is abolished and a single national gas market is created;

The construction of a pipeline to carry new supplies of natural gas from Alaska to the Lower 48 States will be undertaken;

Through the incremental pricing mechanism the initial burden of increased gas prices will be placed on industrial users while residential and small commercial users will be shielded from sudden increases;

An estimated 30 percent increase in interstate gas will be realized by 1985;

Incentives for exploration and production of new natural gas will be increased;

Burdensome Federal Energy Regulatory Commission regulatory requirements on all new natural gas will be removed;

Substantial quantities of gas for new home connections will be provided; and

The increase in the price of gas to the level of competing fuels will persuade industry to convert to more plentiful coal supplies—a major objective of the national energy plan.

Mr. President, the time has come to make those hard decisions on the manner in which we will produce, use, and conserve energy in this country. We must put aside theory, rhetoric, and regional differences. We must face the issue and demonstrate to the world that we have the ability and the determination to deal with energy questions in an orderly and reasonable manner.

Failure to act on this compromise would constitute a failure of Government. The impasse of the past 16 months has caused a serious loss of standing in the international community and has gravely damaged our own economic well-being. Let us stop doodling and dawdling. Let us give the American people results.

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

The PRESIDING OFFICER (Mr. HODGES). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess awaiting the call of the Chair, but for not to exceed 1 hour.

There being no objection, the Senate, at 2:03 p.m., took a recess, subject to the call of the Chair.

The Senate reassembled at 2:57 p.m., when called to order by the Presiding Officer (Mr. SPARKMAN).

Mr. BELLMON. Mr. President, I rise in opposition to the natural gas pricing conference report, and I wish to register, also, the opposition of natural gas producers as well as the consumers, and by far, the majority of the citizens of my State of Oklahoma.

As I look around this Chamber and note with some amazement those of my colleagues who stand in opposition to this extension of Federal regulation, I can only wonder who, besides President Carter, is for it. Certainly no one who cares about the consumer. Certainly no one who cares about the producer. Certainly, no one who thinks Government is already too big, too intrusive, too expensive.

When you consider any commodity, any product, whether it be wheat, natural gas, or widgets, there are three actors in the picture; producers, consumers, and Government: producers produce, consumers consume, Government meddles.

Experience in many fields shows that the more that Government meddles, the worse we all are for it. If Government successfully comes to the aid of the producer, we get a surplus. If Government aids the consumer by unrealistically holding down prices, then we get a shortage. If Government is especially inept, or so large and unwieldy that the right hand does not know what the left hand is doing, it is even possible for Government to accomplish a shortage and a surplus of a commodity at the same time. Aside from being tragically amusing, the cost of Government accomplishing shortages and surpluses at the same time is enormous.

Federal regulation has already been responsible for feast and famine in my own State. Federal regulation is responsible for the simultaneous surplus and shortage of natural gas in Oklahoma. This bill, if enacted, will make that situation even worse.

Mr. President, I wish to refer to the fact that the Federal Government, by its unrealistic controls, has produced a shortage of natural gas in the interstate market and at the same time, because of the heavy-handed bureaucracy which makes many producers unwilling to sell gas in the interstate market, we have a surplus in the intrastate market.

If we only had to debate the merits of this bill, the debate would be ridiculously one-sided. There is no one to argue for the bill on its merits, for the simple reason that it has very few.

The only reason we are debating the bill at all is that it has become symbolic—symbolic of the President's leadership. It is also symbolic of the resolution of the Congress to "do something" about the energy problem. Actually, it is not even the energy problem that is at issue. It is the dollar.

The dollar has been falling against the currency of countries that import all their oil. We import a lot of oil, too. The advocates of this bill, such as they are, would have us believe that vastly increasing Federal regulation of production and sales of natural gas will check the fall of the dollar. The advocates of this bill, such as they are, would have us believe that more meddling in the affairs of producers and consumers of natural gas will result in a decrease in the amount of

oil this country imports. There is only one thing that this bill is guaranteed to do, if enacted—that is to increase the amount of oil this country imports.

The only way a gas bill could reduce the amount of oil this country imports would be for it to cause consumers to shift from oil to gas.

This bill, and the Coal Conversion Act we have just passed, will cause consumers to shift from natural gas to oil. This bill will have just the opposite effect from what its advocates claim. If industry, if electric utilities, shift from natural gas, there will be a Government-contrived surplus of gas. If there is a surplus of gas, prices will fall. If prices fall, exploration activity will decrease. If exploration activity decreases, additions to proven reserves will cease. If additions to proven reserves cease, more consumers will shift to a more reliable source of energy. And so on. And so on. The more reliable source of energy they will shift to is oil. The demand for oil will increase. The importation of oil to this country will increase.

How do I know that producers—especially industrial consumers—will shift to oil if this bill passes? Because they tell me so. Who am I to say they are wrong. They want a dependable supply of energy. Most of them have standby capability to burn oil now. If this bill passes, they will simply burn oil all the time. They can no longer afford to rely on Government which places their energy needs last among all consumers. And there is no law forbidding their making that shift to oil. For example, Armco, Inc.'s Baltimore plant has a million gallon storage tank now for oil and will use oil all the time if it becomes cheaper.

How do I know that producers—especially wildcatters—will reduce their exploration activity for natural gas if this bill passes? Because they tell me so. Who am I to say that they are wrong. They want to make a living. Right now, a lot of gas could be sold in the federally regulated market—could be, but it is not being sold. There is no law requiring a producer to submit to Federal regulation and there are many independent producers who would prefer not producing to submitting to massive bureaucratic regulation of their lives. They will simply forsake the risky business of drilling wells hoping to find gas and invest their time and money elsewhere. This is what has already helped in the interstate gas market.

Many of my colleagues, some of whom voted for the Pearson-Bentsen bill, who were persuaded that an unregulated gas market was best for the consumer, have stated their intention to vote for this conference report. They have chided some of us for refusing to compromise on gas deregulation, some who want deregulation and some who oppose deregulation. Well, this conference report is not a compromise. That is why you see before you agreement. Agreement between the proponents of gas deregulation and the opponents of gas deregulation. We are in absolute agreement that this bill is worse than no bill at all.

Will my colleagues not be influenced by the producers that practically plead with us not to pass this bill. I am aware that there are others, on their knees, pleading with you to pass the bill. But they don't know much about gas production. Will my colleagues not be influenced by the consumer organizations that practically plead with us not to pass this bill. If my colleagues are not influenced by either producers or consumers, who will they be influenced by? We have an agreement between proponents and opponents of gas deregulation. That agreement is to recomit this bill to the conference, with or without instructions. It is agreement.

How is it possible that President Carter, against all evidence to the contrary, claims that this bill will result in increased gas production, increased consumption, and shifts from oil to gas?

It comes because this bill was originally designed to get industry and many other consumers off natural gas. It was well designed to accomplish that result. It certainly would do that. The President's proposals were originally based upon his belief that the sky is falling. He used to believe, and must surely still believe, that there is no more oil or natural gas to be found in this country. His entire energy package was based upon this belief. And yet, he advocates this gas pricing bill. He claims that it will result in increased gas production and shifts from oil to gas by consumers. It will do just the opposite, which is what he originally intended. Why then has he changed his tune?

We all know the answer. He thinks he needs a bill—an energy bill—any energy bill—a bill that will result in reduced oil imports. Never mind that this bill was designed to cause shifts from gas to alternative fuels. Never mind that this bill actually result in increased oil imports. The Senate has to show resolution to the world by passing a bill—any bill that can be labeled an "energy bill." Mr. President, I submit that this attitude is an insult to the intelligence of the American people as well as to the leaders of foreign countries.

I think President Carter still believes the "sky is falling." I think he still believes that there is no more oil or gas to be found in this country at any price. He will not allow price controls on domestically produced oil or gas to expire until he is somehow convinced that doing so would result in increased domestic production. Maybe we can convince him if we defeat this bill. If producers and consumers can convince him that this bill is the wrong thing for America, maybe he can then see what is right.

What we have to convince the President is that the laws that will solve this energy problem, the import problem, the dollar problem—are already on the books. The laws of supply and demand have been on the books for a long time. We must begin to obey those laws, rather than trying to repeal them. We must reduce Government meddling. If the President cannot be convinced, then let the Senate demonstrate again as when we passed S. 256 that we are convinced. Let us return to the picture. Producers produce. Consumers consume. Government meddles. It aids producers by raising the price above that consumers will pay. When Government aids producers in this manner, a surplus results. The law of supply tells us production will increase if the price increases. Government aids consumers by limiting the price that consumers are allowed to pay. When Government aids consumers in this manner, a shortage results. The law of demand tells us consumption will increase if the price decreases.

Together the laws of supply and demand tell us that the actions of government in the marketplace will be to provide either a surplus or a shortage. It can even contrive, at times, to produce both. It can happen when the left hand of Government does not know what the right hand is doing. Who can deny that an administration that pushes a bill like this, which will cause shifts from gas to oil and a bill that will reduce oil imports, knows its right from its left.

The evidence of what will happen if this bill passes is already before us. I urge my colleagues to look at it. The laws of supply and demand have not been repealed. The sky is not falling. We are not running out of gas next week. In those markets where the Government has not meddled, our proven reserves are increasing year by year.

The evidence that President Carter refuses to believe, is there, in the unregulated market. Natural gas used to be found almost as a byproduct of oil exploration. A large amount of proven reserves existed almost by accident. Production and consumption rose until the proven reserves fell to only a 10-year supply. At that time, the need for additional reserves was seen and, in the unregulated market, the price began to rise. Proven reserves dedicated to the unregulated market began to rise as a result. Each year more is added to reserves than is produced. The law of supply say that will continue to happen so long as the price rises, provided the resource base is present which it is.

A trap that a lot of people have fallen into is confusing resource with proven reserves. Proven reserves are the amount of a resource, for example of natural gas, that industry or the USGS, which polls the industry and then exercises its independent judgment knows can be produced at a profit at current prices.

(Mr. SASSER assumed the Chair.)

Mr. BELLMON. When OPEC jacked up the price of their oil fourfold, many people looked at the proven reserves appropriate to the old oil price and promptly announced that the sky was falling. But the proven reserves that go with the old price of oil is not the same as the proven reserves that go with a fourfold price increase. The first time that our Government tried to get a handle on how much energy was in the proven reserves category as a function of price occurred last spring, just after President Carter announced to the world that the sky was falling. The first attempt took place within the planning office of ERDA. The estimate was so embarrassing that it was

suppressed. Then industry and government met together at the USGS office in Reston, Va.—May 24–26, 1977—for the purpose of getting a better estimate. The resource base, the amount obtainable at some price, was determined to be more than ten times the amount of proven reserves at pre-OPEC prices.

Mr. President, I cannot emphasize that point too much. Using the higher prices that came as a result of the OPEC action, the resource base, which is to say the amount of fossil fuel available in this country, was realized to be 10 times the amount of proven reserves at the pre-OPEC prices.

In particular, the amount of oil that could be produced at $15/barrel was more than 3 times the amount that could be produced at $5/barrel. The amount of gas that could be produced at $3/MCF was substantially greater than three times the amount that could be produced at $1/MCF.

This all makes a great deal of commonsense, but a lot of people have not stopped to think about it, and unfortunately President Carter is one of those.

Senator JACKSON, who was on the floor a moment ago but seems to have left the Chamber at the moment, in his opening defense of this bill, gave estimates of the amount of gas that would become available if this bill became law, from Tight Sands and Devonian Shale, from coal seams, and from geopressurized zones. The amount of gas is immense and I will not quarrel with his estimates. But it is not the passage of this bill that will make those reserves producible. If anything, this bill makes those reserves less producible. That gas will not be produced until it is economical to produce it. The market will dictate when geopressurized zones will be produced. And if this bill is enacted, the market may never get a chance to provide incentive for that gas. The bill will cause shifts to oil, because of the incremental pricing provisions. If consumers shift, the demand for gas will fall. If demand falls, the price will fall. If the price falls, less gas will be added to proven reserves.

The price of natural gas in the unregulated market in Oklahoma has stabilized. You can buy all the natural gas you want in Oklahoma if you are willing and are allowed to pay the price. The average price in the unregulated market in Oklahoma is less than the price ceiling in this conference report.

Mr. President, I emphasize that again: Our current price in the unregulated market in Oklahoma is less than the price ceiling in this report. Some producers want more. Some will take less.

But even though many consumers in Oklahoma, and in other States, are willing to pay $1.75/MCF, they are not allowed to. The Federal Government will not let them. The Federal Government "aids" them. It will not allow them to pay more than $1.50/MCF, and not many producers are willing to sell for that. So consumers either have to shift to oil or shut down their plants.

Even in the regulated market, there is some evidence that the law of supply has not been repealed. Until 1975, the Federal Government would not allow any customer they controlled to pay more than 52 cents/MCF. Not many producers were able to find and sell gas for that price and were certainly not about to go looking for more gas to dedicate to the federally regulated market. Then, the Federal Power Commission, in a hotly contested (by consumer interest groups) ruling, based upon cost of production, allowed a new ceiling price of $1.40/MCF. That price increase, even though not certain to survive court challenge, caused producers to start drilling for more gas to dedicate to the regulated market. For a number of years when the regulated price was 50 cents/MCF, no new onshore gas was added to proven reserves dedicated to the regulated market. Now that the new FPC price has begun to take hold, 2.8 TCF was added in 1976, and 8.7 TCF was added in 1977. So even in the regulated market, when the ceiling is raised high enough, some producers will find it worthwhile to look for more gas.

Some of you may wonder why I oppose this bill, since the regulated ceiling price that will take effect is about $2/MCF, which is considerably higher than the current Federal ceiling price, and even higher than the average price in the presently uncontrolled market in Oklahoma. So, if the demand is there, producers will look for gas, and find it, and add to our proven reserves. Why, then, do I oppose it.

I oppose it because it is a completely unnecessary and costly regulatory nightmare. If this bill is enacted, much less gas will be produced and consumers will have to pay far more for it. Because the cost of regulation has to be deducted from the price a producer gets, he will produce less. Because the cost of regulation is included in the price a consumer pays, he will consume less. Some consumers will quit using gas altogether because this bill would require them to bear the price of the highest priced gas produced. This bill will cause them to shift to oil.

I oppose it because experience has shown once regulation begins, pressures on regulators make deregulation impossible. I oppose it because economics refuse to obey the preconceived notions of politicians. Imbalances are certain to result. I oppose it because the intrastate market has been free of controls and their supplies have been abundant and we should apply this policy nationally rather than abandon it for the bankrupt policy of bureaucratic meddling and control.

You may think that the regulatory cost will not be very high. It will be very high. Prohibitively high. Anyone who has any acquaintance with the DOE entitlements program knows how high the regulatory costs are there. It will be much higher for gas if this bill passes.

Regulatory costs do more than add to the price of gas. Some of the factors of production, such as the willingness of the producer to put up with the bureaucratic nitpicking, are difficult to evaluate in terms of price. But there comes a point where producing gas is not worth the hassle. It is unquestionably true that there is gas being sold in the unregulated market that would not be sold at all if DOE got into the act. Many producers have told me that they would get out of the business if this bill passes. One of the reasons that large oil and gas producers have not been more vehement in their opposition to this bill is that they are already so browbeaten by the regulators in their oil operations that they figure things cannot get much worse. The entitlements program is already a nightmare. "How bad can nightmares be?" And so they resign themselves to what they feel is inevitable.

Large oil can have platoons of attorneys and accountants to cope with regulators. This bill does not hurt big oil so much. It does hurt independents who find most oil and gas in the United States. They cannot afford big legal staffs and platoons of accountants because their operations do not justify that kind of expense.

And I might say that, being rugged individualists, many of them resent this kind of meddling, and on that basis alone will probably look for other places to invest their time and money.

The solution is not to compound nightmares. The solution is to wake up. It should be recognized that the laws of supply and demand are still operative. Obey the law; do not try to repeal it. Reduce regulation; do not extend it.

It is not generally realized that a lot of gas that is consumed in producing States, such as Oklahoma, is already controlled by Federal regulators * * * that is gas that is sold to a federally regulated pipeline, but is then sold by pipelines to consumers before leaving the State. There have been curtailments to these Oklahoma customers (ordered, I might say, by Federal regulators) even though there is plenty of gas to be had all around them.

The pipelines can buy all you want at $1.75/MCF, but the DOE would not let you pay but $1.50/MCF. The people of Oklahoma do not understand why the Federal Government is performing this wonderful service of cutting off their gas for them. But they understand one thing very well. This is a Government service they could do without.

I am convinced that consumers nationwide are going to learn this same lesson. Consumers have proven again and again that they much prefer to pay production costs of gas than to do without. Gas is not only the cheapest fuel available, it is the cleanest, safest and most dependable. President Carter thinks the present situation is intolerable. He wants to control all gas. As a candidate, he preached deregulation of natural gas but he sent us a bill which would institute control over all gas, and that is what we have before us.

There can be no doubt as to why there is plenty of gas in the unregulated market and shortages in the regulated market. There is plenty of gas in the unregulated market because that market is unregulated. It is that simple. There is a shortage of gas in the regulated market because that market is regulated. Seldom is any affliction so easily diagnosed. Seldom is any remedy so easily prescribed. The affliction is Federal regu-

lation. The remedy is to end Federal regulation.

Having diagnosed the disease and prescribed the remedy, you might think the President would thank me and proceed to end Federal regulation of oil and gas. Yet, he does just the opposite. He proposes to extend Federal controls on oil and gas and to keep those controls on indefinitely. Why?

The simplest answer is that there are more voters in nonproducing States than there are in producing States. Besides, he did not carry Oklahoma, anyway. But I am afraid the answer is more subtle and more disturbing. Let me quote from page 50 of the President's national energy plan, a document put out by the Executive Office of the President, a document that accompanied the energy bills he sent the Congress to pass.

In 1973–74, the oil-producing countries raised the world oil prices fourfold. Deregulation of oil and gas prices would make the U.S. producers the beneficiaries of those arbitrary price rises and yield windfall profits from the increased value of oil and gas in existing fields. The producers have no equitable claim to that enhanced value because it is unrelated to their activities or economic contributions.

First of all, the oil-producing countries did not raise the world oil price fourfold. The OPEC cartel raised the OPEC price fourfold. At the time, the United States was an oil-producing country, and our price was substantially greater than the OPEC price. In fact, imports of OPEC oil were restricted because it was so much cheaper. What the OPEC cartel did was realize that they were selling their oil at less than its true replacement cost. They did not choose an arbitrary price to post their oil. They determined, as well as they could, what the true replacement cost of the non-OPEC world was. They have not been able to keep that price up. Inflation and the falling dollar have resulted in a 1978 price (in 1973 dollars) of about $7 a barrel. The reason they have not been able to keep that high price in effect is that a lot of oil has been discovered that they did not count on (in the North Sea, in Alaska, in Mexico, in Indonesia). The important point to be made here is that the free market price is the true replacement cost and that the OPEC cartel cannot make an arbitrary price stick for long.

But returning to the President's statement I quoted, the most disturbing part is where he says that oil and gas producers should not, and will not be allowed to, realize a gain on their assets. That is an incredible view for the President of the world's premier capitalistic country to have. If there is anything that is critical to our future health and development—and not just in the energy field—it is to have an assured growth in capital formation. The OPEC cartel demonstrated to the world that they, and we, had vastly undervalued our gas and oil resources.

If oil and gas producers are to find and produce oil and gas, they must have capital. Their only source of capital is the sale of the oil and gas they have already found. If they cannot get a price for a barrel of oil sufficient to find and add to proven reserves another barrel of oil, then they will not have gotten the true replacement cost for that oil. They have not been allowed true replacement costs for the oil and gas that they produce and predictably our proven reserves in oil and in gas dedicated to the federally controlled interstate market, have declined in recent years. But, in the uncontrolled intrastate market, free market prices have been allowed and proven reserves have been increasing in recent years.

The view of this administration that producers "have no equitable claim to the enhanced value" of their assets is folly. They claim it would not be "fair." Maybe not. But it would result in a solution to the energy problem. That is what we are supposed to be doing, is it not? In any event, if the price is high, enhanced supplies and reduced consumption resulting from an uncontrolled market will soon bring the price down.

Sometimes you wonder what this administration is up to. It is not just the gas bill. It is not even just the whole Carter energy package. It is the basic approach to this Nation's policies, both foreign and domestic. He preaches fine. Unfortunately, some of his actions do not live up to his words. It seems to me at times that he would rather go down with the ship than save it. Let me quote a recent editorial from the Wall Street Journal.

Mr. President, I believe it makes the point much better than I can. I am not going to take the time of the Senate to read the entire article. We simply have to get away from this notion that we are running out of oil.

To go on with the editorial, it says:

The Europeans would be just as happy with price deregulation. This would also "solve" their mythical problem, which derives from an unthinking belief that consumer prices on energy are set on an average instead of on the margin. But Mr. Carter thinks this will cost consumers billions of dollars that will go to energy producers, which he believes the American people would rather have going, in tax dollars, to building a bigger and better Department of Energy.

Our friendly advice to the President having been systematically ignored these past 17 months tempts us to replace advice to him with mere comment. But that would be giving up. Instead, we advise that he watch his step on that slippery summit. He has slipped a long way in the esteem of his constituents. But he can slide further still.

Mr. President, I ask unanimous consent that the full text of this editorial be printed at this point in the RECORD.

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

SLIPPERY SUMMIT

The collapse of public confidence in President Carter's performance, as evidenced by his record-breaking lows in the opinion polls, will not be reversed at the European "summit" meeting he will attend next week. Like the fellow who doubles his speed when he loses sight of his goal, Mr. Carter seems intent on pursuing strategies that the man in the street knows are destructive.

What is the point of the summit? To coordinate the economic plans among the major industrial nations, we are told. What is the deal the Carter people are seeking? Our trading partners are asked to expand their economies, and in return Mr. Carter pledges austerity. Specifically, West Germany promises a $6 billion tax cut. Mr. Carter wants to promise that he will be successful in taxing the daylights out of the U.S. economy, specifically on its use of energy. What a deal.

The root of the problem is not that Mr. Carter turns out to be some kind of Manchurian Candidate, who somehow slipped into the Oval Office intent on perversity. It is that he continues to believe in the notion of resource scarcity. Amid a world-wide energy glut, Mr. Carter believes the world is running out of the stuff.

Not a cab driver in Brooklyn, not a steelworker in Buffalo, not a banker or businessman in Los Angeles believes this. Nor do we. The only substantial support Mr. Carter has is among people who possess energy amid the glut and would like to dispose of it before new producers find even more, which would be the inevitable result if incentives were restored to the independent oil and gas snoopers.

The centerpiece of Mr. Carter's strategy had been his energy bill, which in original form would have taxed American energy consumption so heavily that the citizens would have to ponder life in the caves. The bill has been dead in Congress for months, but Energy Secretary Schlesinger still pretends it is alive by placing fresh flowers around the casket every day. Sen. Russell Long is to be congratulated for doing everything he can to kill it.

The people President Carter represents, the American people, want him to deregulate oil and gas, as he promised he would. Again, the evidence is the 2-to-1 margin in the opinion polls that widens month by month. Instead, Mr. Schlesinger talks about rationing two gallons of gas per motorist, slapping import duties on imported oil or dictating quotas.

All this to strengthen Mr. Carter's hand at the summit. The Europeans, the Carter people keep saying, are demanding that we do something about energy. These phantom Europeans, we suggest, should be produced in Washington. They should be invited to read the several hundred pages of fine print in Mr. Carter's energy bill before taking a walking tour of the fun house that would have to administer it, the Department of Energy. They would, we are sure, return to Europe and clam up.

There are no doubt Europeans who have been sold on the erroneous idea that the United States is subsidizing oil consumption by holding the price down via government regulation. They think this gives us a competitive edge that should be taxed away. But why should our President agree with the prescription, even if he accepts their view of the problem?

The Europeans would be just as happy with price deregulation. This would also "solve" their mythical problem, which derives from an unthinking belief that consumer prices on energy are set on an average instead of on the margin. But Mr. Carter thinks this will cost consumers billions of dollars that will go to energy producers, which he believes the American people would rather have going, in tax dollars, to building a bigger and better Department of Energy.

Our friendly advice to the President having been systematically ignored these past 17 months tempts us to replace advice to him with mere comment. But that would be giving up. Instead, we advise that he watch his step on that slippery summit. He has slipped a long way in the esteem of his constituents. But he can slide further still.

Mr. BELLMON. The editorial I have just quoted, made reference to a 17-month campaign. A campaign to enlighten Mr. Carter. I have read and applauded and hoped that Mr. Carter would be enlightened by the editorials of that 17-month campaign. They make

interesting reading, even today. They were consistent. They were convincing. They were dead right.

It may be that at some appropriate time I will want to read more of these articles and perhaps place others in the RECORD, but for the moment I am going to forego that opportunity.

I would like to say in conclusion that if, for some reason, and I cannot imagine what that reason might be, there are those in the Senate who have not listened to what I have said today, I hope they will get a copy of these editorials and read them at their leisure.

Mr. President, to conclude, I would simply say that I strongly urge that the Senate vote to recommit this bill. I feel that the conferees, while they have worked over a long period of time and worked very hard, have not had the advantage of the kind of enlightened leadership they need from the administration on this question.

The President seemed to be persuaded from the beginning that our resource base was limited, that we simply did not have the opportunity to increase our reserves of oil and gas, and he has fashioned his entire energy program on that premise. It is a premise that will not stand close examination. I am convinced that, especially now in the natural gas area, with these large surpluses we have in the intrastate market, if Congress and the President will simply allow the price mechanism to work, there will not be sharp upward adjustments in the natural gas price, and that such adjustments as do come over time will be of such a gradual nature that they will have a very minor impact on the Nation's economy.

I am concerned that if we go along with the compromise, so-called, that the House and Senate conferees have brought before us, we will put in place a system of regulation of all types of oil and gas and we shall never get rid of it.

We know the so-called EPCA bill was supposed to bring oil prices up to such a point that those controls would be removed as of next May, but I shall make a guess that there is practically no chance that that will happen. My concern is that if we go ahead and put controls on intrastate gas, even though those who fashioned this so-called compromise may expect those controls to go off 8 years from now, that will simply not happen. Having gotten a bureaucracy in place to administer those controls and having persuaded a lot of people that controls are needed, Congress will find it pretty impossible to get rid of them when the years have run their course and the law is expected to expire.

Mr. President, I strongly urge that this bill be recommitted, that it be brought back without controls on the intrastate market, and that we set the stage for consideration of total decontrol when the EPCA expires next spring.

Mr. HANSEN. Mr. President, if the Senator from Ohio, who, I know, is eager to speak, will yield to me for just a moment, I should like to compliment our colleague from Oklahoma. I think he has uttered some very profound and lasting truths and I hope that Senators who may have been importuned by the administration to vote for the so-called compromise will take time to read the Senator's comments. I certainly would be persuaded by the logic and the clarity of his convictions.

Mr. BELLMON. I thank my friend from Wyoming.

Mr. President, I yield the floor.

PROPOSED MOTION TO RECOMMIT

Mr. METZENBAUM. Mr. President, there has been considerable discussion about a motion to recommit that a number of us expect to file and call up at an appropriate time in connection with the debate on this particular subject. There have been a number of inquiries made as to what exactly is the language that will be contained in that motion to recommit.

In order to make it possible for all the Members of the Senate to be advised sufficiently in advance of the actual calling up of the motion as to the language that it is anticipated will be in that motion, I ask unanimous consent that a motion to recommit which will be proposed at an appropriate time by myself and Senators ABOUREZK, KENNEDY, BARTLETT, TOWER, and others be printed prior to its being filed at the desk and that it not be subject to being called up except by one of the sponsors.

Mr. FORD. Will the Senator from Ohio allow me to ask him a question? I shall not object.

Mr. METZENBAUM. Yes.

Mr. FORD. Is there any need for him to have it printed? Could it not be just in the RECORD and let us read the RECORD, rather than go to all the trouble and expense of having it printed?

Mr. METZENBAUM. It is just a one-page amendment and I think——

Mr. FORD. If it is going in the RECORD—it will not be in the RECORD, is that it?

Mr. METZENBAUM. I just have the feeling that people normally look at an amendment that they talk about and they do not go to the RECORD to find it.

Mr. FORD. I notice you kept in the incremental pricing and did not put in wellhead price. Is that correct?

Mr. METZENBAUM. I know the Senator would like to discuss the merits of it at this point.

Mr. FORD. I merely asked the question, could we not save the expense of having an amendment printed and we could just have it in the RECORD and let everybody read the RECORD?

The Senator is going to oppose this motion?

Mr. METZENBAUM. I know the Senator from Kentucky is very cost conscious, but I would say the cost of printing this would not be more than $25 and I would suggest doing it.

Mr. FORD. $25 is $25 and it will buy a couple of pounds of coffee and maybe a little natural gas in Ohio this fall.

Mr. President, I withdraw the objection if the Senator wants to print it.

Mr. STEVENS. Mr. President, reserving the right to object, I ask the Senator from Ohio if the motion that will be filed will contain the same provisions that apply to the Alaska natural gas pricing and the treatment of Alaska natural gas as they currently appear in the conference committee report, and if those provisions will be included in the Senator's motion now?

Mr. METZENBAUM. In response to the Senator from Alaska, he is correct that in the past there has been considerable discussion along that line. It is not included, but it is my understanding that various Senators have indicated their intent to move to amend the motion to recommit with instructions to include language pertaining to the Alaska pipeline.

Mr. STEVENS. May I inquire if the Senator would object if I move to amend his motion at this time to make that inclusion?

Mr. METZENBAUM. I cannot object to his doing it, nor can I agree to it, since I do not have the motion that is filed at this moment. I am merely asking for the matter of its being printed.

I should like to suggest to my good friend from Alaska that he indicate for the RECORD, as certain other Members of of the Senate have also indicated—I believe it is Senator HUMPHREY and Senator BAYH—that they intend to offer such an amendment. I had understood that the Senator from Alaska was possibly going to join them in that respect.

I do say to the Senator from Alaska that if such an amendment is offered at a subsequent point in time to that when we offer this particular motion, the Senator from Ohio has no intention to object to its being added. I think it would be premature at this moment, since I have not actually offered any motion, so I cannot very well agree to an amendment to something I have not offered.

Mr. STEVENS. I understand the Senator's position. I ask the Chair if it might be in order for me to make a similar request to have an amendment offered to the recommittal motion suggested by the Senator from Ohio. The amendment language would be that language contained in the conference report presently before us relating to the pricing and treatment of Alaska gas.

The PRESIDING OFFICER. (Mr. MATSUNAGA). A unanimous-consent request may be made after the pending request has been disposed of.

Mr. FORD. Is this another $25 on top of the other $25? We have gone to $50, now, you see.

Mr. STEVENS. I say to my good friend from Kentucky that it is my understanding that the Senator from Minnesota (Mrs. HUMPHREY) and the Senator from Indiana (Mr. BAYH) had intended to be here to raise the question. I am delighted to see the interest in the Alaska gas provisions. I make no indication to the Senator from Ohio that should the provision be in there, I would support the motion. However, I do state that I will move to amend the motion to recommit by adding an instruction to include in the bill to be reported out, should it be approved, the same provisions for pricing and treatment on Alaska gas as appear in the conference report. I think that will save the $25.

The PRESIDING OFFICER. Is there objection?

Mr. JACKSON. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Washington.

Mr. JACKSON. Would the distinguished Senator from Ohio restate the unanimous-consent request?

Mr. METZENBAUM. Certainly.

I ask unanimous consent that a motion to recommit, which will be proposed at an appropriate time by myself and Senators ABOUREZK, KENNEDY, HANSEN, BARTLETT, TOWER, and others, be printed prior to its being filed at the desk and that it not be subject to being called up except by one of the sponsors.

Mr. JACKSON. In other words, if I may ask my friend from Ohio, what he is asking is that it be printed as an amendment—in this case, a motion to recommit——

Mr. METZENBAUM. Yes.

Mr. JACKSON. A motion to recommit which will be available as a printed motion to recommit and that such motion to recommit cannot be called up except by the authors of the motion to recommit.

Now, he is not asking that when it is called up it not be subject to a motion to table?

Mr. METZENBAUM. At this point, I am not. When and if a time agreement might be reached with the entire subject, it is entirely likely that subject might be on the agenda.

But I thought it inappropriate at this point and premature to make that suggestion.

Mr. JACKSON. Might I also ask that he amend his unanimous-consent request to state that the motion to recommit be printed in the RECORD at this point so that Members will be able, in reading the RECORD, to have it available?

Mr. METZENBAUM. I was only concerned about the cost of doing that. But as long as the Senator from Kentucky has no concern, I have not.

Mr. FORD. All this talk going on now, $25, $50, $75, it does not make a lot of difference to me.

Mr. JACKSON. I am willing to accept that cost.

Mr. FORD. I will accept the cost, too.

But will the Senator yield? I want a little parliamentary procedure here, if I may.

The PRESIDING OFFICER. The Senator from Washington has the floor.

Mr. JACKSON. I yield to the Senator from Kentucky.

Mr. FORD. Am I correct in parliamentary procedure now that this is a motion the Senator intends to make, only if the sponsors make it? This is a motion to recommit with various numbers, and I see the incremental pricing is still in it; the Alaskan pipeline is not.

Is it the parliamentary procedure that the Senator could alter or change his motion any time he wants to or whenever he brings it up? Is it subject to change?

Mr. METZENBAUM. First, let me correct my good friend from Kentucky.

Mr. FORD. I want to be corrected. I want to be correct.

Mr. METZENBAUM. To the best of my knowledge, and certainly in accordance with our intent, and incremental pricing is not in the motion to recommit, and it specifically provides it is to be reported back with all references to the pricing of natural gas deleted therefrom.

Now. if the incremental pricing is in, then it is by reason of an error of draftsmanship.

But, answering the Senator's question more directly, I think he is asking whether or not we might change it.

Mr. FORD. The authors might change it.

Mr. METZENBAUM. That is correct. The authors might.

Let me respond to my good friend from Kentucky, because in the last several days on several occasions he kept talking about the fact that he did not know what we intended to do.

Mr. FORD. I still do not know and the Senator cannot tell me now what the motion is going to be.

Mr. METZENBAUM. I am trying to apprise the Senator and keep him as up to date and well informed as we are.

This is what we intend to do as of this moment, but that does not mean any of us in the Senate are duty-bound or obligated in any way not to change our position, including the Senator from Kentucky, who might even join our side at some point.

Mr. FORD. It is going to have to be the bill before I join it.

I have no objection, Mr. President.

The PRESIDING OFFICER. Is there objection?

The Chair hears none.

Mr. HANSEN addressed the Chair.

The PRESIDING OFFICER. Is the Senator from Wyoming making a reservation on the unanimous-consent request?

Mr. HANSEN. No; I am not.

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

The text of the motion to recommit follows:

Mr. METZENBAUM (for himself, Mr. ABOUREZK, Mr. KENNEDY, Mr. HANSEN, Mr. BARTLETT, and Mr. TOWER) submitted the following motion intended to be proposed in connection with the conference report on H.R. 5289, an Act for the relief of Joe Cortina of Tampa, Fla.:

I move that the conference report on H.R. 5289, the Natural Gas Policy Act of 1978, be recommitted to the Committee on Conference with instructions, that it be reported back with all references to the pricing of natural gas deleted therefrom, and that it embody the language contained in titles III, V, and VI of the conference report with such conforming language and/or definitions as may be required. The conferees are specifically instructed to report back with the following sections excluded from the conference report: Sections 101 through 208; section 303(d); sections 401 through 404; sections 502(d), 503, 504(a)(1), 504(b)(3), 505, 506(d), 507, and 508; and sections 601 (a)(1)(A), 601(a)(1)(B), 601(a)(1)(E), 601 (b)(1)(A), 601(b)(1)(E), 601(c)(1), 601(c) (2)(B), and 602(a).

Mr. METZENBAUM. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. METZENBAUM. Did the Senator from Alaska get his consent agreement agreed to, because it seemed to me——

The PRESIDING OFFICER. He has not made his unanimous consent.

Mr. STEVENS. If the Senator will yield, Mr. President——

The PRESIDING OFFICER. Does the Senator from New Hampshire yield to the Senator from Alaska?

Mr. McINTYRE. Yes.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. I might state to the Senator from Ohio, I merely announced the intention to offer the amendment on my behalf and on behalf of the Senator from Indiana and the Senator from Minnesota when the Senator's recommital motion is offered.

I am hopeful both sides of this controversy will understand the situation, that those provisions that appear in the conference report regarding pricing and treatment of Alaskan North Slope gas, will appear in both bills, no matter which one prevails. I only want to assure that this subject will be treated the same way the conference committee originally agreed it would be treated.

I thank the Senator.

Mr. HANSEN. Mr. President, would the Senator from New Hampshire yield me not to exceed 2 minutes?

I do have a very brief statement I would like to offer in order to better clarify this.

Mr. McINTYRE. Mr. President, I ask unanimous consent that I may yield to the distinguished Senator from Wyoming for 2 minutes without losing my right to the floor.

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

The Senator from Wyoming is recognized.

Mr. HANSEN. I thank my friend from New Hampshire.

Mr. President, there are basically two portions of the conference report as now before us. The first part, the wellhead pricing provisions and the associated incremental pricing provisions of titles I and II, along with the administrative and coordination portions of titles V and VI that apply to them are the results of the months of negotiations, secret meetings, and painful step-by-step haggling that has resulted in the creature that is now before us.

The second portion of the conference report, however, contains other provisions, primarily in title III on which there was little controversy. If this were a normal legislative situation and not a conference report, our course would be simple. We could simply move to amend the portions of the bill that were bad and unworkable and leave the remainder. However, as this is a conference report, with amendments not permitted, the only road available to this same end is a motion to recommit with instructions.

When those of us who would like to see something salvaged from the debacle of the past year decided on this course, we were united in the belief that we would prefer not simply to kill the conference report.

In this vein, we realize that if the conference committee needed considerable

additional haggling over controversial issues, this could not be accomplished. Therefore, we initially resolved that the motion to recommit with instructions would include instructions to adopt only such sections as we could ascertain among the Senators would be genuinely noncontroversial. This was because we had no desire to kill the bill by tying it up in a conference committee.

We had originally been able to ascertain that the provisions for Presidential emergency authority, for permitting the sale and assignment of surplus intrastate gas, and for allowing authority for expeditious transportation of gas by both intrastate and interstate pipelines were in that category. We were also resolved we had no objection in principle to adding other provisions which might be useful and noncontroversial.

I would note that I initially felt, and still feel, that the Alaskan pipeline can be built in the absence of these provisions. The President so assured the Congress when he sent up his Presidential decision on the Alaska pipeline in late 1977, and certainly the Congress in ratifying that decision was not of the impression that it was being asked to do a useless act. We have become convinced, however, that a situation has arisen where the adoption of the Alaskan provisions of this bill would add some additional certainty, and expedite the building of the pipeline under optimal conditions. I am pleased to state my support and the support of all GOP signers in our original group of 24.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. McINTYRE. Mr. President, it is time to resolve the conflict over natural gas pricing policy.

During the debate nearly a year ago, I was against the proposal to decontrol the price of natural gas. Instead, I favored a policy that would have provided incentives to the natural gas industry to bring in more gas, yet at the same time protect consumers from unwarranted increases and the inflationary effects of sudden price increases.

Now the compromise has reached the Senate floor, and I am disturbed that we as a deliberate body seem to be stalemated; we seem to be locked into the same extreme positions that forced the Senate to the extended debate last fall, and put the energy conferees through months of intense negotiation and bargaining over this one section of the energy program.

Moreover, this stalemate has a new and even more frustrating twist: The two opposing sides seem to be united against a solution.

Gas producers want Congress to defeat this bill; they expect that next year they can win the fight and bring about an end to all controls on natural gas.

They did not have any program to protect consumers against sudden price increases nor any plan to prevent the gouging that has become the trademark of big oil—and they have no such plan now.

On the other side, consumer lobbyists want the price of gas rolled back to correct the excesses perpetrated by the oil and gas lobby with the help of compliant bureaucrats in the past. And they rightly want to see the gas that is now being held from the public in the oil and gas States brought under Federal control.

No one knows better than I what the excesses of the oil and gas industries have been. No one wants to see the big petroleum and gas companies put in their place more than I.

And yet, my friends in the consumer lobby have not shown me a program that will produce enough oil and gas to end the shortages.

Clearly we need a compromise between these two extremes. Clearly we must establish a Federal policy that protects consumers and at the same time provides assurances and incentives to gas producers. Congress as a whole and the energy conferees have labored for nearly 17 long months to come up with a bill that provides this policy. They have put their collective wisdom into the compromise bill that is now before us.

It is apparent to all of us that the compromise is not perfect. Some of its flaws are obvious. For example, both the Senate and the House passed so-called incremental pricing provisions to protect residential consumers of gas from being hit with the biggest increases. Somehow, the compromise ended up with an incremental pricing provision that protects residential consumers less than either the Senate or House bill.

And it is argued that this compromise is extremely complex—a regulatory nightmare.

But the Chairman of the Federal Energy Regulatory Commission has told the Senate that the compromise can be enforced, given sufficient resources. And let us not forget that the regulatory system it is replacing, has created a backlog of some 15,000 cases.

I have no doubt that, given time, Congress could eventually come up with a marginally better bill. But if we spent the entire next 4 weeks on this bill, and the entire next Congress on it, I doubt that we would have a bill that would be a whole lot better. Furthermore, if we were to take all that time, we might risk losing what little remains in public confidence that we can do the job.

Granted, this bill is not perfect. But let us look at what it does do, and what it does not do.

First, it is not the "decontrol" bill that the gas and oil lobbies are trying to force on us. The compromise does deregulate new natural gas and some old, hard-to-produce gas after 1985. In the interim, it does provide price increases for both old and new gas.

It also extends regulations. For the first time, it brings large volumes of so-called intrastate natural gas—that is, the gas now sold within gas-producing States—under Federal controls.

In addition, it provides emergency authority to allocate natural gas in case of winter emergencies like those of 1976–77 and 1977–78. And it provides price relief necessary for the construction of the Alaskan gas pipeline, which will bring new supplies of natural gas to the Eastern United States.

On the negative side, it increases the revenues of gas producers by $29 billion over the next 7 years, according to the calculations of the Energy Information Administration.

To many of us, this seems like a gigantic raiding of the public pocketbook. But that $29 billion translates into less than a 6-percent increase in the average citizen's gas bill across the Nation—not 6 percent per year but 6 percent cumulatively between now and 1985. Under present law, average residential prices would rise to $3.14 per million Btu of gas; under the compromise, the price would rise to $3.31.

And what does the bill give consumers in return for prices 6 percent higher than they would be without the legislation?

First, it is projected that existing surpluses of a trillion cubic feet of gas per year would be made available to consumers. These surpluses are now being held back in the gas-producing States outside Federal regulation.

Second, it is projected that higher prices will stimulate a 12-percent increase in production in the lower 48 States.

Third, it is projected that this legislation will bring in an additional 800 billion cubic feet of gas a year from Alaska by 1983—a 5-percent increase in the national supply from this source alone.

Together, these three actions will increase supplies available to consumer States by 32 percent, according to the Department of Energy.

In addition, these increases in domestic production will result in 33 percent less gas being imported by 1985 than would be imported under present law. And petroleum imports would be 300,000 barrels per day less than without this legislation.

The production increases projected under this bill can wipe out the national shortage of natural gas by 1985; they can end the layoffs and plant closings that have characterized our last two winters; and they can help make us immune to threats from petroleum producers abroad.

To get these results, families across the Nation are asked to pay, on the average, less than 6 percent more for natural gas than they would be expected to pay under existing law.

This compromise is of particular advantage to New Hampshire. While gas users elsewhere would have to pay slightly more, gas users in New Hampshire are expected to save $3 million because we would be able to buy more domestic gas at lower prices than we now pay for imported gas and synthetic gas.

Because New Hampshire is at the end of the gas pipeline, our local gas utilities have had to supplement the gas they buy from the pipeline with synthetic gas and imported liquefied natural gas. These supplemental supplies cost from $4.00 to $6.00 per million BTU—which is double to triple the price of gas in the unregulated Texas market today.

If domestic production is increased, gas can be delivered to New Hampshire at prices of $2.80 to $3.50, according to calculations made at my request by the Department of Energy. This gas, even at

$3.50 is a bargain compared to the $4 to $6 we now must pay for supplemental gas supplies.

The Department of Energy estimates that this compromise bill could save New Hampshire consumers $3 million per year by 1985, compared to what we would be paying under existing regulations. New England as a whole could have $100 million per year by then.

But even if my State did not receive special benefits from this legislation, I would vote for it.

What is most important about this and the other energy bills awaiting congressional action is that the American people want—and have the right to expect—an energy program. They have the right to expect a whole energy program, not three-fifths or four-fifths of an energy program. Five years after the Arab oil embargo, and 17 months after President Carter proposed an energy program, Congress is still debating a bill that is long past due.

And if we defeat this compromise, what policy will we put in its place for the long run? Are we to cave in to full decontrol, which would create about as much new supply as this bill, but at substantially higher cost? That is what the gas lobby is hoping for. That is why they are prowling the halls of Congress. And the other opponents of this compromise—the consumer organizations, whom I count as my friends—they want to defeat the compromise in the hope that the Federal bureaucracy will roll back gas prices and will on its own begin regulating the gas that producers are now keeping in their own States.

But this is Congress job. The time has come for this body to put aside regional differences and partisan bickering. Both sides of the debate in this Congress have fought hard for what each thought was best. We now have before us a gas bill that gives neither side all that it wants. But this compromise does provide certainty; it does provide a unified Federal policy for the first time. It does provide substantial incentives for the production of more domestic natural gas. And at the same time it provides a measure of protection for consumers from sudden and unwarranted price increases.

It is not a perfect policy. But it is also not the disaster that its detractors in the gas and oil lobby want us to believe it is, and it provides far more assurance to consumers than the hope that Federal bureaucrats will do right by consumers without guidance from Congress.

The public has given Congress a mandate to resolve divisive issues and create a national energy policy. This bill, despite its imperfections, is the cornerstone of that policy, and I will cast my vote for it.

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

Mr. McINTYRE. I am happy to yield to the Senator from Washington.

Mr. JACKSON. Mr. President, as chairman of the Senate Committee on Energy and Natural Resources, which has the responsibility of managing this bill in conference, and as one who, like the Senator from New Hampshire, has supported strong regulation, I commend him for the statement he has just made on this bill.

The distinguished Senator from New Hampshire has outlined the basic issues very well and has made clear what our choices are.

I can sum it all up by saying that I must reemphasize to the Senate that this bill—on which we hope we will be voting before long—is a better bill than we have at the present time, in terms of the existing Natural Gas Act. I point out that the consumer will be better off, and we will have a better supply, and the dollar will be better off in terms of the international monetary problem.

Mr. McINTYRE. I thank the distinguished chairman of the Energy Committee, and I yield the floor at this time.

Mr. JACKSON. Mr. President, last Friday, September 8, I received two analyses of the administrative and enforcement aspects of the Natural Gas Policy Act conference report. The analyses were prepared by the chairman of the Federal Energy Regulatory Commission, the Honorable Charles B. Curtis, and the Director of the Commission's Office of Enforcement, Ms. Sheila S. Hollis.

I believe these analyses will lay to rest the charges that the conference report is an administrative nightmare. I recognize that the Natural Gas Policy Act is not problem free. But we must remember that the Natural Gas Act is certainly not problem free.

The FERC chairman's analysis graphically describes the problems with the current law as follows:

> FERC's current caseload is substantial, its backlog unacceptably large. This circumstance derives from a number of causes. First, the regulatory scheme, as presently implemented, is particularly cumbersome and appears incapable of keeping pace with the dynamics of the market. Second, this Commission's predecessor, the Federal Power Commission, was singularly unsuccessful in obtaining from the Congress adequate resources to perform the Commission's duties. Third, the evolution of the various producer-price methodologies, changing from producer-by-producer regulation to area rates, and lastly, to national rates for different gas vintages has created its own set of administrative problems and uncertainty in the marketplace. But perhaps the most difficult aspect which attends the administration of the current regulatory system is grounded in the bimodal character of the market and the limited regulatory reach of the Commission under the Natural Gas Act. These deficiencies place great stress on the regulatory system and add substantially to the administrative and enforcement duties of the Commission.

It is important to note the Commission chairman's conclusion that, "If one accepts the policy conclusions of the conferees as given, the question still remains whether the Natural Gas Policy Act can be effectively administered and enforced. It is my basic conclusion that it can be."

Contrary to the assertions of the opponents of the legislation, the conference report will actually greatly simplify the administrative duties of FERC and reduce the onerous burden of current regulations on natural gas producers and pipelines. The chairman's memorandum concludes that:

> Generally speaking, except for gas which is committed or dedicated to interstate commerce on the day before the date of enactment, the current utility-type regulatory mechanisms would be terminated. Thus, it would no longer be incumbent on producers to obtain certificate authorization for new sales in interstate commerce, dedications of new gas reserves would not be required nor would a producer need abandonment permission from the Commission to allow it to sell gas to another upon the conclusion of the contractual term. Also, in the case of sales of gas not previously committed or dedicated to interstate commerce occurring after date of enactment, tariff filings and rate increase applications would be dispensed with. This would also be true in the case of production from new onshore producing wells, new gas wells, and high-cost wells even if the gas is currently committed or dedicated. . . . It is reasonable to expect that the Commission's present caseload attributable to functions now conducted under the Natural Gas Act will significantly diminish in future years.

The memorandums discuss several areas in the conference report and accompanying joint statement of managers that may be ambiguous and would benefit from further clarification.

Because of the very wide differences in approach between the House and Senate passed natural gas bills, the conferees were faced with a considerable task in attempting to reconcile the two bills. We chose to proceed by developing an outline of a proposed compromise rather than working with statutory language. After we concluded our deliberations, the staff was instructed to draft the conference report and joint statement of managers. On July 31, 1978, the chairman of the conference, the Honorable HARLEY O. STAGGERS, circulated the staff's draft. That draft was reviewed by Mr. Curtis and Ms. Hollis, among others. Ms. Hollis and the general counsel of the Commission, Mr. Robert Nordhaus, participated with members of the staff in the further development of the final version of the conference report. It is that final version which has been presented to the Senate for its consideration.

The draft conference report and joint statement of managers were revised significantly during the course of the review process. In many areas the conferees had not discussed some of the details that the staff found it necessary to resolve in the course of drafting the documents. The staff, in essence, had to guess how the conferees would have filled in the details of the statute had they thought about them. The conferees specifically requested that the staff attempt a complete draft for circulation prior to its being reviewed by the conferees, the Commission, or anyone else. Upon review of that draft, the conferees determined that certain changes were to be made in the staff's draft documents. This somewhat unusual procedure was developed to expedite the completion of the documents.

Both Mr. Curtis and Ms. Hollis mention various revisions in the draft document which were made prior to the final version's presentation and consideration. I want to stress that the conferees do not—and I stress the words—do not intend that changes made in the draft are to be given any significance by the Commission or the courts in interpreting the

Congress intent. The draft which was circulated was simply that: a draft.

With this background in mind, I want to comment upon and resolve those areas of ambiguity and uncertainty which are discussed in the FERC memorandums. I do so at this time so that my colleagues will have an opportunity to understand and evaluate the intent of the conferees with as much clarity and as litle ambiguity as possible prior to voting in the conference report. My comments appear in the same order in which the referenced sections appear in the conference report.

SECTION 2—DEFINITION OF NATURAL GAS

The Natural Gas Policy Act does not intend to change the rule of law that synthetic gas comes under the jurisdiction of the Commission only when it is mixed with natural gas in interstate commerce. However, the regulation of synthetic gas commingled with natural gas would occur only under the Natural Gas Act, and not under the Natural Gas Policy Act. As the joint statement of managers points out, synthetic gas would not be regulated under the Natural Gas Policy Act, even if commingled.

SEC. 2—DEFINITION OF NEW LEASE

A "new lease" is a lease of submerged acreage on the Outer Continental Shelf entered into with the Secretary of Interior on or after April 20, 1977. Any OCS acreage which was leased prior to April 20, 1977, can qualify under the definition of "new lease" only if the old lease was terminated with the Secretary of the Interior. There is not intent to allow one party to "swap" or otherwise trade leases with another party, for the purpose of attempting to qualify under the definition of new lease.

SEC. 101(B)(5)—SALES QUALIFYING UNDER MORE THAN ONE PROVISION

This provision stands for the proposition that a producer may claim or apply for the highest price to which he is entitled. It does not imply an administrative duty to compel a State or Federal agency to search through the various price classifications under the act and find the highest permissible price.

SEC. 104 AND SEC. 109—MAXIMUM LAWFUL PRICES

The maximum lawful price computed in accordance with subsection 104(b) is the same as the maximum lawful price computed in accordance with subsection 109(b). The base rate used in both computations is subject to an inflation adjustment. In other words, the just and reasonable rates set by the Federal Power Commission and in effect as of April, 1977 are frozen as of that date and the inflation adjustment provided under this Act is to be added from that date forward. For example, the new gas rate set in FPC Opinion No. 770–A applicable to certain eligible producers was $1.45 in April, 1977.

Thus, $1.45 would be the base rate applicable to certain eligible producers subject to section 104 and for all gas subject to section 109. The conferees do not intend to allow both the escalators of 1 cent each calendar quarter provided by Opinion No. 770–A, and the inflation adjustment provided by this act, to operate. Only the inflation adjustment provided by this act will be allowed to operate after April, 1977.

SEC. 105 (b)(3)(A)—INTRASTATE ROLLOVERS

This subsection deals with price increases resulting from indefinite price escalator clauses in existing intrastate contracts. It is intended to apply only to contracts that were intrastate in nature prior to the date of enactment of the act. Some existing interstate contracts also contain indefinite price escalator clauses. However, operation of those clauses is prohibited by current Commission regulations. There is no intent to change or otherwise modify that prohibition.

SEC. 107(d)—TAX CREDITS

Subsection 107(d) is intended to dovetail the Natural Gas Policy Act high-cost natural gas maximum lawful prices with pending energy tax legislation that may be enacted. In the absence of approval of the tax bill, subsection 107(d) has no effect.

SEC. 311—AUTHORIZATION OF CERTAIN SALES AND TRANSPORTATION

Subparagraphs (b)(6)(A)(ii) and (b)(7)(B) are intended to apply only to contracts that an intrastate pipeline enters into with its suppliers after the date of enactment. The prohibition is not intended to apply to existing contracts between intrastate pipelines and suppliers.

SEC. 315(b)—RIGHT OF FIRST REFUSAL

Paragraph 315(b)(1) is not intended to restrict the authority of the Commission under section 7 of the Natural Gas Act to consider, among other factors, relative need for natural gas in certificating the transportation of natural gas produced from the Outer Continental Shelf.

SECTION 510(B)—GENERAL RULEMAKING AUTHORITY

The conference report and joint statement of managers provide the Commission authority to define additional terms as necessary for the purpose of implementing the act. As is indicated on page 69 of the joint statement of managers, it is the clear intent that the Commission shall have authority to define additional terms not defined in the act, and to further define or refine the definitions provided in the act, so long as the Commission does so in a manner that is consistent with the definitions provided.

SECTION 503(E)—INTERIM COLLECTION OF MAXIMUM LAWFUL PRICE

Subsection 503(e) contains two drafting errors which must be corrected by concurrent resolution before the legislation is signed into law. First, the procedure for collection of the section 109 price for new wells provides in subsection (e)(1)(B)(ii) that the seller must file a petition to a Federal or State agency for a determination of eligibility "within 90 days after the date of enactment of this act." The phrase should read "within 90 days after the date of enactment, or, if later, before any collection is made." This correction is in accord with the intent as expressed in the joint statement of managers—page 119. Second, the Commission's authority to order a refund with interest under subsection (e)(3)(B) appears to be limited to those cases in which it determines that the applicable maximum lawful price is "lower than that provided under section 109." It is not intended to be so limited. The phrase should read "lower than that charged and collected."

SEC. 503(b)(2)—REMAND ON BASIS OF COMMISSION INFORMATION

The Commission is permitted to remand a State or Federal agency determination if the Commission finds that the State or Federal determination "is not consistent with the information contained in the public records of the Commission, and which was not part of the record upon which such determination was made." The conferees recognize that the Commission maintains some confidential records and documents which are not presently a part of the public records of the Commission. There is no intention to prevent a Commission remand based upon information which was previously confidential, if the Commission makes the information public at the time of the remand. However, this does not confer any new authority on the Commission to make public any documents it is otherwise required to keep confidential.

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. FORD. 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. FORD. Mr. President, I understand the distinguished Senator from Vermont wishes to make some remarks, and I yield to him.

The PRESIDING OFFICER. The Senator from Vermont seeks recognition. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, being from the most energy-conscious area of the country and from one of the country's most energy-conscious States, I have weighed my decision on the natural gas conference report with a great deal of concern.

I have talked with strong supporters of the conference report, but I have talked with equally articulate opponents. I have studied its potential effects on my State and my country and the effect U.S. action will have on the world.

But ultimately, of course, the decision as a Senator from Vermont has to be my own.

I have decided to vote for the conference report and, Mr. President, to actively support it. Every Member of this body could disagree with some aspects of the report. Certainly I can. Every one of us could draft a bill more to his or her liking, and certainly I could. But we do not have the luxury of 100 bills or 435 more in the other body. We have one conference report.

The United States could speak with one voice on energy, and this has become more than a local issue, more than a national issue. It is an international issue. The world is asking whether our President can exercise leadership on

energy that the free world needs from its greatest member.

The country is asking whether the Senate can support the President in that leadership role. As a Senator from Vermont I answer yes on both counts.

Mr. President, as I said, this has not been an easy decision. If I were to think of the three or four most difficult votes I have cast or I planned to cast in the time that I have been in the Senate, certainly this would fall in that small handful.

I think the first decision I have to make is on the question of whether I would vote for cloture because of a filibuster, and that is easy. I always vote for cloture because I feel that, many times, we have a propensity to speak overly long on issues.

So let me come to the question of whether we should vote to recommit with specific instructions, a proposal made by some of my very good friends here in this body.

I considered that, Mr. President, and I considered their reasons. Some of the reasons appealed to me greatly, and some of the instructions on a motion to recommit appeal to me greatly. But when I looked at that plan, one thing became crystal clear, and that is that a motion to recommit was a motion to kill. There is no question in my mind that there would not be enough time for the conferees to get back together, report out another conference report, and have it voted on by the House and Senate.

So I decided, whether I was going to support the conference committee report or not, I could not support a motion to recommit because I felt, on an issue of this enormous import, the U.S. Senate had a duty to stand up and vote, either vote for the conference report or against it, but vote it up-or-down. The President of the United States has every right to expect that degree of cooperation from the legislative body, one of the three coequal branches of Government.

So, having made that decision, Mr. President, I came to the final decision of, whether we got past the filibuster and whether we got past the motion to recommit, how I would vote on the conference committee report itself. Once again I am faced with a decision which has to be made, which is a personal one, certainly one that I can live with not only with my conscience but following my duties as I see them under my oath of office.

It is a decision I have to make, keeping in mind the duties to my constituents, to my native State of Vermont, the people I represent and the people I love so dearly. But I also vote as a Member of a national body, a body which I feel is the greatest legislative body in the world.

In that regard, it becomes a duty to the United States and also a duty the United States owes to the rest of the world. I do not think I overstate the case, Mr. President, when I say this is an issue that falls into those major categories.

We vote on big issues and we vote on little issues here. We vote many times on little issues we try to make big issues, but we all know they have importance only of a passing moment. But this is not a matter of minuscule moment. This is a matter of great moment. It is a matter of great concern to the rest of the world, as it is to this country.

So, as I have said, Mr. President, not only will I vote for the conference committee report but I will work very actively to help those who are in support of it.

I might also say, Mr. President, I have talked at least three times longer than I had intended to.

I yield to the Senator from Washington.

Mr. JACKSON. Mr. President, will the Senator yield? I want to commend the distinguished Senator from Vermont for an excellent statement. I would point out that in many ways the people in my State have similar problems that the Senator from Vermont had to face in making this decision. We are a consuming State. We get a lot of our gas, incidentally, from Canada, and I believe you get a certain amount of gas——

Mr. LEAHY. All of it.

Mr. JACKSON [continuing]. All of it from Canada. We get 80 or 90 percent of it.

I am anxious to protect our consumers and, at the same time, make sure they have an adequate supply and are not caught in a difficult supply situation.

In all the 26 years I have been in the Senate I have supported strong regulation. I want to say to my good friend from Vermont that I am convinced in my own mind that our consumers are going to be a lot better off with the conference report bill than with the existing law. I would mention that under existing law the price of natural gas for new gas since 1970 has gone from 17 cents to $1.50.

I think the stand taken by the Senator from Vermont is the kind of action that is going to be helpful to his people as consumers, and it is going to be helpful to the people of Vermont and all of the United States in terms of strengthening the dollar and to demonstrate to the world that the Senate and the Congress of the United States are prepared to take action in the field of energy.

I want to commend the Senator.

Mr. LEAHY. I thank my friend from Washington.

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. LEAHY assumed the chair.)

Mr. MATSUNAGA. 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. MATSUNAGA. Mr. President, the conference report before the Senate addresses without doubt the most comprehensive and important domestic issue faced by the 95th Congress. H.R. 5289, the Natural Gas Policy Act of 1978, will long be remembered as the most significant accomplishment by this Congress in response to the call for action voiced by the President more than 16 months ago.

During these many months of intense and often emotion-laden debate over the issue of natural gas pricing, virtually every segment of our society has had the opportunity to have its views heard. If anything clear has emerged from the debate, it is that almost everyone can find some feature in the bill in which to disagree. The truth of the matter is that the measure before us will require burdens and sacrifices from all of us in the common interest of our Nation.

Mr. President, we must begin by recognizing that our country faces a serious energy crisis which imperils the future well-being of our Nation. Failure to enact this legislation could lead to disastrous consequences for our economic and national security.

On the international front, we see alarming evidences of a weakness in our economy, for which the lack of a strong energy policy must take much of the blame. Our trade deficit is headed toward being the highest in our Nation's history with payments for imported petroleum now running at an annual rate of over $42 billion.

At the same time, the value of the dollar has plunged to record depths in relation to other currencies. The dollar's value has declined 16 percent against the German mark, 34 percent against the Swiss franc, and 31 percent against the Japanese yen, all since the President declared the normal equivalent of war on our energy problem last year.

In recent months, Mr. President, as a member of this great body, I have had the opportunity to confer with many leaders of other nations—leaders of the European economic community, leaders of Japan, and leaders of other Asian nations as well. They have, on their own initiative, urged me as a member of the Energy and National Resources Committee to do all that I can within my influence to get the energy legislation passed, because it was their view that unless the United States resolves its energy problem, the dollar will continue to deteriorate, the United States will lose leadership in the world economy, and when that happens the United States will also lose leadership in maintaining the world's security. And when that happens, Mr. President, we will, of course, jeopardize our own national security. Our ability to defend ourselves and to maintain our national security depend upon maintaining a strong military defense. That, of course, cannot be done without a strong national economy. Our Nation's ability to pursue its foreign policy objectives as a free and independent nation is determined not only by our national will, but also by the strength of our economy.

More imminently, here at home, inflation is becoming a disease which threatens to get out of hand. We simply cannot afford to continue the present rate of double-digit inflation without eventually suffering severe dislocations in our economy.

Mr. President, the problems of our Nation here and abroad grow more serious each day and will continue to worsen unless we come to grips with the energy crisis.

It should not be surprising to find controversy surrounding natural gas pricing policy, an issue which has been debated for over 20 years in our search for the elusive solution.

On the contrary, it is surprising that any agreement at all was reached by the conference committee, considering the deep division which has existed among the members. I believe the compromise solution is the result of sincere and dedicated efforts by the majority of the conferees, and represents the best that could be realistically expected during this Congress. The alternative is to have no solution at all.

I, too, find myself in disagreement with some parts of the compromise. But I support the conference report because it is far better to have this legislation in the aggregate than to reject it for any particular provision contained therein. Mr. President, the moment has come in which we must look at the overall impact of the bill and leave the narrow issues behind. This is the nature of a conference report which forces us to agree to accept the whole or nothing.

I am convinced that the compromise will, on the whole, be good for the Nation, for a number of good reasons:

First. It will produce more gas than the status quo.

Second. It will remove the current inequities between the interstate and intrastate markets.

Third. It will insure construction of the Alaska gas pipeline, increasing interstate gas supplies by as much as 30 percent by the year 1990.

Fourth. It will maintain prices for homeowners and industrial users well below the cost of any other substitute fuel.

Fifth. It will save over 1 million barrels of imported oil per day by 1985, with savings of $5 to $8 billion a year in our balance of payments.

While consumer prices will rise under the bill, they will continue to be far below the cost of replacement gas, a condition which in itself calls for alarm. Natural gas consumers will also continue to pay the lowest price for the highest quality, cleanest and most valuable energy source. Last year, the average cost of gas for homeowners amounted to one-third less than the equivalent cost of oil, and in 1985, natural gas will continue to be priced well below the equivalent cost of oil and one-quarter the price of electricity.

Mr. President, no one would suggest that the conference report is a perfect document. But I urge my colleagues to support it because we can no longer afford to delay in meeting our responsibility of enacting a national energy program, of which this is a key part, in the face of a grave energy crisis. Passage of this legislation will be a demonstration of our willingness to accept the risks and sacrifices required in order to safeguard our economic freedoms and security for the generations to come.

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

Mr. FORD. Will the Senator withhold that suggestion?

Mr. MATSUNAGA. I do.

Mr. FORD. Mr. President, I compliment the distinguished Senator from Hawaii. As usual, he has made a decision, not necessarily one that he thinks is 100 percent, but in the spirit of what we are doing here he has made a decision which, in his opinion, is in the best interests of this country. I compliment him on a very fine statement and would like to associate myself with his remarks.

Mr. MATSUNAGA. I thank the distinguished Senator from Kentucky for his kind remarks. In turn, I congratulate and commend him for the strong leadership which he has continuously shown in the energy issue. Without his leadership I am certain we would not be in the position we are today to take this conference report through passage.

Mr. FORD. I thank the Senator.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. ABOUREZK. Mr. President, while we are waiting for other Senators to come over here, I want to take this opportunity to announce that I will hold a hearing tomorrow morning at 10 o'clock of the Administrative Practice and Procedure Subcommittee of the Judiciary Committee, in room 228 of the Dirksen Office Building, which will concern the feasibility of administration of the Natural Gas Act.

The primary witness will be Mr. Charles Curtis, who is the chairman of the Federal Energy Regulatory Commission. Other witnesses will testify on this aspect as well.

Mr. President, we have come across new evidence that indicates the estimated size and magnitude of the bureaucracy that would be created if this act were to become law, and we will take testimony in that regard tomorrow.

Mr. METZENBAUM. Mr. President, will the Senator yield for a question?

Mr. ABOUREZK. I am happy to yield for a question.

Mr. METZENBAUM. Does the Senator think that, based upon this new evidence, he may be persuaded to be opposed to the natural gas compromise bill?

Mr. ABOUREZK. I am not announcing my position on the bill yet. I want to say that my mind is open on the question; and if the evidence warrants it tomorrow, I may announce my position on the natural gas bill.

Mr. METZENBAUM. I know the Senator is always objective in viewing legislation.

Mr. BAKER. I am sure the country will await with anticipation the disclosure of that.

Mr. ABOUREZK. Of my decision? I thank the Senator.

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

Mr. ABOUREZK. I yield.

Mr. BARTLETT. Since we had a sort of debate yesterday, has there been any change in the position of the Senator since that debate?

Mr. ABOUREZK. On the natural gas bill?

Mr. BARTLETT. Yes.

Mr. ABOUREZK. No. My mind is still open.

[Laughter.]

Mr. BARTLETT. Well, so is mine.

Mr. GRIFFIN. Mr. President, I decided that I will vote in support of the conference report.

Mr. President, during 22 years of service in Congress, I have been confronted with a lot of difficult decisions. Few have been as tough as the call on this conference report.

Recently Robert Samuelson wrote in the National Journal:

> So Congress can choose between the disaster of passing an atrocious bill and the calamity of rejecting an "energy plan." It is a chapter straight from Dante.

The compromise plan we have before us is not as bad as opponents say, nor as good as supporters claim. But it is all we have—and it is the best we are going to get. Although it is not the kind of a bill I wish we were voting on, we are voting on it—and I will be among those voting "aye."

Were this merely a matter of politics, I would vote "no." But the interests of my State—and the interests of our Nation—transcend the "easy out" of a narrow political decision.

As distasteful as some provisions of this bill are, on balance, I believe it will be good for Michigan. It will increase energy supplies for consumers and industry through conservation and increased production; it will provide some needed certainty over the next 6 years; and it will protect supplies of natural gas for homeowners at little or no increase in cost.

As distasteful as some provisions of this bill are, on balance, I believe it will be good for the United States. It will reduce our dependence on foreign oil; it will improve our balance of trade; and it will help to reverse serious erosion of the dollar.

As a member of the Foreign Relations Committee, I cannot ignore the fact that the failure of this country to develop an "energy policy" is viewed as a sign of American weakness in the world community.

I am concerned that defeat of this conference report would intensify that world view; failure to adopt it would tend to make the United States the laughing stock of Europe, the whipping boy of OPEC, the easy mark of Japan.

I, for one, cannot stand by, nor stand silent, while that happens.

I realize that this bill is not adequate in all respects. But it is a long and important step in the right direction—and it is highly symbolic, both at home and abroad, of our national resolve to cope with our energy problems. It will stimulate increased conservation and production of natural gas, and I believe it will ease some of the severe economic pressures that are nudging us relentlessly

toward recession. In the final analysis, the choice we have is between this policy—or no policy at all. I believe the Senate should adopt this conference report.

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

The PRESIDING OFFICER. The Senate will be in order.

Mr. ROBERT C. BYRD. If we cannot get order, Mr. President, will the big, husky, Sergeant at Arms get order in the Senate? I have confidence that Nordy Hoffman can get order.

Mr. ABOUREZK. Get the Sergeant at Arms to sit down, first.

Mr. JACKSON. If not, we should take him out of the Hall of Fame.

[Laughter.]

Mr. ROBERT C. BYRD. Mr. President, numerous efforts have been made to secure an agreement which would allow the Senate to vote up or down on a motion to recommit the conference report on natural gas pricing, with instructions; and that failing, if it should, an agreement on a vote up or down on the conference report itself, at a specified date and time.

These meetings have been attended by proponents and opponents of the conference report. There have been give and take discussions, and we have arrived at what we hope will be an agreement that will meet with the approval of the Senate.

First, before I present that agreement, let me thank the distinguished minority leader, Mr. BAKER; the distinguished manager of the conference report, Mr. JACKSON; the distinguished Senator from Kentucky (Mr. FORD), who is a member of the conference; the distinguished Senator from New Mexico (Mr. DOMENICI), who is a member of the conference on the part of the Senate; the distinguished Senator from Idaho (Mr. MCCLURE), who also is a conferee on the part of the Senate; Mr. METZENBAUM, who is a very worthy Senator and is opposed to the conference report; Mr. ABOUREZK, who is a very worthy antagonist—

[Laughter.]

Mr. ABOUREZK. Is that the same as an unworthy opponent?

[Laughter.]

Mr. ROBERT C. BYRD. No, a very worthy opponent.

Also, Mr. LONG, who is chairman of the Committee on Finance; Mr. HANSEN, who is a very able member of the conference on the part of the Senate; and Mr. TOWER, who is a very worthy opponent of the conference report.

I believe that just about completes the list of those who have been in the conferences, but they have represented both sides of the aisle and both sides of the issue.

It is felt that with the workload that confronts the Senate and inasmuch as hope springs eternal from the human Senate breast that the Senate can complete its work by mid-October and hope-elections, and realizing that the debate has gone on now for quite a number of fully not have to return following the months, the time should come when the Senate votes up or down on the motion to recommit and up or down on the conference report and that everyone do his best to marshal support for his point of view. Every Senator will be on notice as to the hour of the vote and we will all approach high noon knowing that, win or lose, the matter will be disposed of.

So, with that being the basis of our discussions, we have arrived at the following tentative agreement which I now present:

UNANIMOUS-CONSENT REQUEST

Mr. President, I ask unanimous consent that a vote on a motion to recommit the conference report with instructions occur next Tuesday at 2:15 p.m. and that should the motion to recommit fail of recommittal a vote then occur on the conference report up or down at the hour of 5:15 p.m. with the time for debate to be equally divided between the manager of the conference report, Mr. JACKSON, and Mr. HANSEN, the distinguished Senator from Wyoming, also a member of the conference, and that the time for debate begin running following the adoption of this agreement, with the understanding that should Senators between this date and next Tuesday decide that they did not at that time wish to debate the conference report then other measures cleared for action on both sides could be called up. But anyhow that is the requst.

And it will be understood, Mr. President, that there will be no motion to table the motion to recommit that would be in order and that the Senator from Ohio (Mr. METZENBAUM) could call up his motion at any time and he would be assured that no motion to table that motion to recommit would be in order and that similarly no motion to table the conference report would be in order at any time.

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, I join with the majority leader in submitting this request to the Senate.

I very much hope there will not be an objection. I do not believe, in all candor, that either side has 50 votes on the motion to recommit. I think the issue is still up in the air. Only time will tell. Time is of the essence at this point in this session of the Senate.

While I oppose this conference report and while I will vote for the motion to recommit, I believe that it has a chance to prevail, and if it does not prevail I will vote against the conference report. These facts notwithstanding, I do believe it best serves the interests of those of us who oppose the report of the Senate and the country to get on with the business of deciding this issue.

With that in mind, then, Mr. President, I have consulted with many Senators on this side and I am hopeful that the unanimous-consent request will be granted.

I have asked the Republican cloakroom to notify all Senators on this side that this request would be made at this time so that everyone could be present. I believe the distinguished majority leader may have done the same.

I want it clearly understood, however, that in agreeing to this, those of us who oppose the conference report, the distinguished Senator from Texas, the distinguished Senator from Wyoming, and others who have been involved, in no way are suggesting that we have diminished our optimism or enthusiasm for trying to recommit this conference report in order to improve it, because I believe if we do recommit it we can significantly improve it and that it will come back and we will do a better service for the country.

In any event, I do not believe an extended debate beyond next Tuesday would serve anyone's best interests. I do not object.

Mr. ABOUREZK. Mr. President, reserving the right to object, I direct a question to the leader.

Was it part of the majority leader's request that there be 3 hours of debate or debate until 5:15 p.m.?

Mr. ROBERT C. BYRD. No. The debate would be until 5:15 pm.

Mr. ABOUREZK. Will the majority leader amend that to read 3 hours of debate, because there is a 15-minute rollcall?

Mr. ROBERT C. BYRD. Yes. I will so modify the request, which would mean that the first vote which would begin at 2:15 p.m. would end at 2:30 p.m. and then the second vote would begin at 5:30 p.m.

Mr. ABOUREZK. The second question I shall direct to the distinguished chairman of the Energy Committee.

I did not see anything in the press, but I was told by one of my staff that the distinguished chairman of the Energy Committee, Senator JACKSON, held a press conference yesterday saying that if this conference report were recommitted with instructions, he and the House of Representatives would not hold the conference meeting any further, that they themselves could kill the bill.

Will the distinguished chairman verify that or deny it?

Mr. JACKSON. I did not hold a press conference. There have been a lot of rumors around there was going to be a press conference. I did not hold one. I indicated to the press that it is my information that if the bill is recommitted to the conference it is dead. I think that is right. I have been so advised by the three leading principals on the House side of the conference.

That is just the reality of the situation. Obviously we cannot recommit a conference report with instructions to the House of Representatives to adopt it. We can recommit it to the conference and then we are going to be, of course, at the mercy, especially of the House of Representatives. The Speaker has made it clear previously that if a bill is recommited to the conference on this subject the chances of any action are nil. I think that is correct.

Mr. ABOUREZK addressed the Chair.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me first?

Mr. JACKSON. I yield.

Mr. ROBERT C. BYRD. Does he not agree that is a matter for the House of Representatives to decide?

Mr. JACKSON. That is a matter for the House of Representatives to decide.

Mr. ROBERT C. BYRD. We in the

Senate cannot say that the House of Representatives will not meet.

Mr. JACKSON. All I am passing on is what they have informed me.

Mr. ABOUREZK. Mr. President, I have one further question. Does the Chairman of the Energy Committee, Senator JACKSON, intend to try to kill the entire bill if it is recommitted?

Mr. JACKSON. If it is recommitted with instructions, I will do my duty. I will bring it back to the conference. That does not require me, of course, to indicate that we should or should not. I will simply give to the conferees the instructions that have been mandated to me by the Senate if that should be the will of the Senate.

I think this body should know, and every Member, I mean Members, of this body should know that if they vote to recommit what the likelihood will be of any action on the part of the conference. I am passing on only that which I have received informally from the leaders on the House side.

Mr. ABOUREZK. The Senator certainly does not support what the House will try to do——

Mr. JACKSON. I will——

Mr. ABOUREZK. Let me finish—their attempt to kill even an emergency allocation bill?

Mr. JACKSON. I follow the instructions of the Senate. But I think Members of this body ought to know what the House is apt to do, and I am passing on what they have informed me they will do.

Mr. ABOUREZK. We cannot control what the House does, obviously.

Mr. JACKSON. This is not like a referral back to a committee. That is an entirely different matter. This is a referral to a bi-representative system and not to a unirepresentative system.

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

Mr. BARTLETT. Mr. President, reserving the right to object, and I will object, first, let me say I was part of a few here on the floor who were not at the meeting, and I do not feel slighted at all. I did talk to our minority leader, and I would like the minority leader's attention. I did talk to him today, however, and I think I did convey before I knew of this unanimous-consent discussion request at 5 o'clock my concerns about this same matter.

I am of the opinion that if the recommittal motion would fail to pass that, perhaps, another recommittal motion with different instructions extracted from the conference report might pass, might meet the approval of this body, and I would like to have that opportunity to take a good look at the conference report to see if we think we can get some kind of report for such action.

So after you, Senator BYRD, our distinguished majority leader, and Senator JACKSON and everyone else have had an opportunity of saying what they like about my objection, I shall object.

Mr. BAKER. Mr. President, will the Senator withhold his objection for the moment so that I can respond?

Mr. BARTLETT. I am just reserving my right so that I can object and I am not recording my objection.

Mr. BAKER. If I might be recognized, Mr. President, at this point, on my reservation?

The PRESIDING OFFICER. Does the Senator from Oklahoma yield?

Mr. BAKER. Mr. President, will the Senator yield to me so that I can have a colloquy with him on this point?

Mr. BARTLETT. Of course.

Mr. BAKER. The Senator from Oklahoma did call me and indicated that he was in conference with the House of Representatives on another matter and that he had understood a request would be propounded sometime this afternoon. He requested that I protect him until he could reach the floor, which I would certainly want to do, and I represented to him that I would do so.

He has indicated to me since that time, and since he has reached the floor, that he felt inclined to object to this request. I think I breach no confidence when I say that I indicated to the Senator from Oklahoma that I was kind of hoping he would not object. But, of course, that is his privilege.

What I would like to do now, Mr. President, is to ask the distinguished Senator from Oklahoma if there is some way we can accommodate to his additional requirements.

For instance, I wonder if we might consider modifying the unanimous-consent request to provide a little additional time in the event the motion to recommit fails initially? May I reiterate, Mr. President, and to my friend from Oklahoma that I do not believe the motion to recommit will fail, and I do not agree with my esteemed friend and colleague from Washington that if it is recommitted we will never see it again. I believe we will because I think it is important to have a bill, and I have said that from the very outset. But in any event, is there some way by which we can address the particular concern the Senator from Oklahoma is expressing?

Mr. BARTLETT. I will say to my distinguished colleague, the Senator from Tennessee, our minority leader, that I feel very strongly we could vote on this matter tomorrow—I am talking about a motion to recommit which has been suggested—or the next day or the next day we are in session. I am ready to vote. I am not trying to hold up a vote, but I would like to keep our options open and I would like to keep the opportunity open without the unanimous-consent request, so I shall object.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator from Ohio wanted to reserve the right to object, and I yield to him.

Mr. METZENBAUM. Mr. President, reserving the right to object, and I will not object, I have for a considerable period of time now indicated that I thought we ought to move forward with a motion to recommit.

I think, I still believe, we should move forward with respect to a motion to recommit. I think my good friend from Oklahoma has a valid point that there may be modifications thereof that he would like to suggest after the original motion to recommit, and I would guess that the majority leader would be amenable to accepting that kind of time element.

I am only concerned at the moment that we try to work out something to move forward and bring this matter to a conclusion. I think there is much work which has been done, as much as can possibly be done, with various members of the Senate.

I do wish to inquire of the majority leader, and I am certain he had intended to indicate, and certainly implied he did indicate, that the motion to recommit, which is the subject under consideration, is that motion which I and various other Senators are propounding or some variation thereof, and that it will be no other person's or group of persons' motion to recommit about which we are speaking, the motion that Senator HANSEN, Senator BAKER, Senator TOWER, Senator ABOUREZK, Senator KENNEDY, Senator BARTLETT, and others have joined in?

Mr. HANSEN addressed the Chair.

Mr. ROBERT C. BYRD. I beg the Senator's pardon. What is the question?

Mr. METZENBAUM. I just want to tie down the motion we are talking about is that motion that is being considered by myself and a group of other Senators or something similar to it which we will have under our control.

Mr. ROBERT C. BYRD. That is what I had in mind, and I believe I indicated it was being offered by the distinguished Senator from Ohio (Mr. METZENBAUM) and the other Senators.

Mr. METZENBAUM. I appreciate that.

Mr. BAKER. Mr. President, if the Senator will yield to me, I can illuminate that a little. The distinguished majority leader asked me if this particular motion to recommit with instructions was what we had in mind, and I suggest to him an alternative, that it be a motion to recommit with instructions, and I had in mind it would be this or something similar to this.

Mr. METZENBAUM. I just wanted to be certain there would be no question in the RECORD but that it was that motion which those of us who are propounding the motion to recommit have under our control. I know the majority leader intended that.

Mr. ROBERT C. BYRD. Yes, absolutely. That is what we discussed in our meetings.

Mr. METZENBAUM. I have no objection.

Mr. ROBERT C. BYRD. Mr. President, may I say, I understand objection has been made, Mr. President, that I want to pursue this a little further.

I would like to call attention to the fact that a motion to recommit and instruct would be open to modification and change and the distinguished Senator from Oklahoma would certainly have an opportunity to contribute to the verbiage of that motion to recommit and, perhaps, something can be worked out whereby he would have that opportunity. He would have it anyhow. He can discuss it with

the Senator from Ohio. He can make whatever contribution he has in mind to that very motion and include it in that motion to recommit with instructions.

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

Mr. ROBERT C. BYRD. Yes.

Mr. DOLE. Could you have another separate motion to recommit?

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum—I withhold that suggestion.

Mr. HANSEN. Mr. President, if I could, I would like to be recognized to address some questions to my friend, the chairman of the Energy Committee, if I might, in order that I might clarify my thinking and, hopefully, clarify a little bit of what the situation is.

If the Senate were, by a majority vote, to recommit the bill with instructions, would that be illegal or inappropriate, insofar as the Senator from Washington understands?

Mr. JACKSON. Of course not. If the Senate instructs the Senate conferees to take a certain course of action, obviously that would be done.

Mr. HANSEN. That would be done, you say?

Mr. JACKSON. Yes, there is no question.

Mr. HANSEN. And under your leadership, too?

Mr. JACKSON. Yes. Well, I do not have any leadership. Whatever I am supposed to do, I will do. But I felt obligated to tell various Members of this body that I have been advised by the leaders on the House side that if there is a motion to recommit, they are going to be in serious trouble; the House is simply not going to entertain it. That is just being truthful.

Mr. HANSEN. A further question. When you speak of the leaders on the House side, you are speaking of the Democratic leadership on the House side; am I correct in that?

Mr. JACKSON. I am referring to the leaders on the House side of the conference. The House is not bound, as the Senator knows.

Mr. HANSEN. I am not trying to be impertinent, but when you speak of the leaders, of whom are you speaking?

Mr. JACKSON. I am referring to the chairmen of the three subcommittees, or the three committees, specifically.

Mr. HANSEN. A further inquiry. I know that Senator JACKSON has been humble, honest, and in my opinion very fair in trying to handle this conference; but as one who was not a participant in a great number of the sessions, I guess technically they were not meeting as a conference committee, because it lacked that special imprimatur that would have given them that special status, and made possible fewer numbers than the full membership of the conference to participate.

But my next question, then, to my friend from Washington is, what would he consider the responsibility of the Senate conferees to be, if we were to be instructed to recommit the bill and to take instructions with us to the conference between the Senate and the House as regards the wishes of the Senate? Would it be the duty of each and every one of us to try to see that that position was to prevail between the House and Senate conferees?

Mr. JACKSON. Our obligation would be to present it to the conference as a whole, after having appropriately notified the chairman of the conference and the members of the conference of the action taken by the Senate; and then, of course, it is up to them if they will even meet, as the Senator knows.

Mr. HANSEN. Yes.

Mr. JACKSON. I would discharge, obviously, any instructions voted by the majority of this body.

Mr. HANSEN. Well, if I could, then, pursue one further question: Assuming that the Senate were to instruct the conferees that a scaled-down version of the conference report which would include specific items, such as an extension of the President's emergency powers and title III of the bill, but would permit the movement of gas from areas where it is in surplus to areas where it might be needed, would the Senator from Washington, the chairman of the Energy Committee, make a prediction as to what might be the consensus of the Senate conferees in trying actively to pursue the achievement of those instructions coming from the Senate?

Mr. JACKSON. Let me say to my good friend I do not want to discuss the substance of purely suppositious motions to recommit with instructions. I can only say that I have been advised that if this proposition comes back on a motion to recommit to the conference, after all these months, and in the closing days of the session, they have indicated to me that they are simply not going to entertain any action on the part of the House conferees, that is, the majority of the House conferees.

I assume that they would take a vote to ascertain what the views are, but that, again, is up to the House conferees.

Mr. HANSEN. Would the Senator from Washington speculate on what the action of the Senate conferees might be if we were instructed by a majority vote to support a scaled down version of this bill?

Mr. JACKSON. This Senator is quite conservative on these matters, and he does not like to speculate.

Mr. HANSEN. Then, if I may say so, Mr. President, I think what really must be obvious here is that while the Senator has refrained from any speculation, I would be more encouraged enthusiastically to support, as I have earlier indicated I would, this scenario which would assure a precise time for voting on a bill, if I had assurances from the chairman of the Senate conferees that he indeed would try to see that the conference between the House and the Senate reflected the position that had earlier been indicated as that of the Senate, by a majority vote.

I do not know if we are going to be faced with the situation that a fair majority of the Senate conferees, despite the precise instructions which would follow, if this motion to recommit with instructions were to be passed—if that is not going to have the support of a majority of the conferees, it would seem to me that there is some indication as to where the responsibility would lie if we do not get a gas bill this year.

I think there is a lot of merit in that, and it would seem to me that if the Senate, by a majority vote, instructed us to go back to conference, and if we were supposed to try to push for those specific items contained in that instruction, I would say that there certainly would be some question as to the sincerity of our effort if I failed to hear from those who take a different view than I have on this bill that no matter what we say in the way of instructions, it will not matter anyway.

Mr. JACKSON. What the Senator is trying to propose here, and I do not see any point in trying to push this any further——

Mr. HANSEN. Well, I do not blame you.

Mr. JACKSON. No, wait a minute. What the Senator is trying to overcome is a rather difficult and impossible situation indeed, and that is to try to instruct the House conferees.

Mr. HANSEN. No, I did not say that at all. All I said was——

Mr. JACKSON. No, but it takes two to tango. It takes two to tango, and the so-called motion to recommit will not have much meaning if the other side is not going to cooperate.

I tried to do the decent thing, Senator. I tried to find out what the House position would be on a motion to recommit, and I have indicated the information that I have received from them. If there is any doubt about it, I suggest that my colleagues call Representative DINGELL, Representative STAGGERS, and Representative ASHLEY. They have to make the decision, as I related to you.

I think I would be dishonest and misleading to the Senate if I stood up here and said, obviously, that if the motion to recommit has been agreed to and is adopted, and we go over there, the House is going to go along with it. I think I have an obligation to convey to the Members of this body the fact that if we move to recommit we run the risk of killing it, not having it come back again. That is all I am saying.

Mr. HANSEN. Mr. President, I want to make this point——

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for a moment?

Mr. HANSEN. Yes, I yield, but I would like, if I may, to respond, before we get clear off base on this point.

Mr. ROBERT C. BYRD. Yes. Mr. President, I would hope we can get an agreement. That is the first place we have to go. I would hope we could get an agreement as to a time and date. I know Mr. BARTLETT has objected, and I am not going to press for that any further today, but I would hope we could get an agreement as to a time for a vote up or down on a motion to recommit with instructions, and that—Mr. President, may we have order in the Senate? The Senator from Wyoming has graciously yielded to me; I hope we may have order.

Mr. President, I am waiting on order in the Senate, and if the Senator from

Wyoming will allow me, I will not proceed until we get order.

The PRESIDING OFFICER. The Senate will be in order. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I understand the apprehension with respect to what may happen if a motion to recommit with instructions carries.

I understand that. That motion will be made whether we get an agreement or not. That motion will be made, I am sure. Somebody will make that motion. We will have to take our chances then.

Obviously, a motion to recommit with instructions is only a motion to instruct Senate conferees. I have no doubt of the sincerity of the Senate conferees, that if they are instructed to take a certain position they will do their best to take that position. But I would hope that we would concentrate at this point, as much as possible, on our endeavor to get an agreement, to vote on a certain date at a certain time on a motion to recommit with instructions, and a vote for a certain time and date to vote on the conference report. Then we can debate up and down the aisle on the instructions. I have seen a motion at the desk, but it can be changed and undoubtedly will be changed.

I do not think we ought to get too involved in what may happen once they get back to the conference, if they are sent back there. First they have to be sent back by the Senate. I would like to see us reach a time and a date on a vote for that. Once they are sent back, we will see what happens, if that happens. I have no doubt of their sincerity, none at all.

The motion to recommit with instructions is merely advisory. It is not mandatory. But I have no doubt about the sincerity of the Senate Members to take their instructions.

We cannot say what the House conferees may do. Today they might say one thing and tomorrow something else. It is up to the House to determine, and those conferees over there to determine, whether or not they will accept a motion to recommit. They have not seen what we are going to recommit. It would seem to me they would like to see what will be recommitted and what the instructions are.

Mr. ABOUREZK. Will the Senator yield?

Mr. HANSEN. If I may, I would like to say one other thing. To me, this is the crux of the whole matter. I have never asked the Senator from Washington to guarantee me what the House conferees might do. I know, though certainly not as well as he, that there is no way on Earth that anyone in this Chamber can say what the House may decide to do. I did not ask that question. I simply asked the question which I thought was fairly simple and straightforward. What would be the position of the Senate conferees?

Realistically and candidly there is not much point in us going through the charade of trying to persuade a majority of the Members of this body that there is merit in recommitting the bill with instructions if we do not have an indication from the chairman of the Senate conferees that he is going to follow through in good faith and say to the House Members, "This is our position."

If we cannot leave this body knowing that the Senate conferees—and there are 17 of us, I believe—are not willing to say, "We will go in good, earnest purpose to the House and try to persuade them that there is merit in looking at a scaled-down version of the bill, and if we all agree in this country that we do need an energy package, that this is one on which people can agree," then I would say let us leave up to the House the decision and the burden of responsibility if they decide that they want to kill the whole bill.

I did not ask for any guarantee as to what the House might do, but it seems unreasonable to say that under this scenario I would hope that the majority of the Senate conferees, at least, would keep faith with the Senate and say, "This is our offer." Let them turn us down, if they want to, but for heaven's sakes let us not go over there and say no matter how we may be instructed there will be a majority of Senate conferees voting against it anyway. If that is the deal, then I must say I think that is a display of less than full faith in what the Senate instructed us to do, and I would not be quite so enthusiastic about it.

Mr. JACKSON. Will the Senator yield?

Mr. HANSEN. I will be happy to yield.

Mr. JACKSON. I want to reiterate what I said. I said I would act in good faith. I will remind my friend that in accordance with the Senate procedures, I am quoting from Dr. Riddick's book on Senate procedure, 1974, so we know what the precedents are, on page 310——

Mr. HANSEN. As of that time, 1974. We have made quite a few changes since then.

Mr. JACKSON. Could I read the precedents? I do not know of anything later than that.

Conferees are not bound by instruction; "the conferees could even ignore the instruction."——

Mr. HANSEN. And they have.

Mr. JACKSON. To continue:

and the report would not be subject to a point of order.

I am saying if the conferees on our side are instructed, as chairman on the Senate side I will act in good faith on those instructions.

Mr. ABOUREZK. Will the Senator yield?

Mr. HANSEN. I will be happy to yield in a moment.

We passed the so-called Pearson-Bentsen bill, granted by a small majority but we did pass it. Yet, with everyone having a perfect right to do as his own conscience indicated and dictated he should do, we came up with a different result. I am not complaining about that. I am saying now if we want to make a good faith effort, I think it is incumbent on us as Senators who are concerned with representing our constituencies, being fair to the Senate and keeping faith with the country, to try to follow through and keep with what might be instructions coming out on the issue. I am happy to yield to my friend from South Dakota.

Mr. ABOUREZK. I will try to answer the question on what would the conference committee do if we recommit the bill with instructions. The conference committee, in my view, will do exactly what President Carter and James Schlesinger tell them to do because that is exactly what has been going on. At least a bare majority of the conference will do that. I have talked to any number of the conferees after they have come out of their secret meetings. The ones I have talked to have said, "Well, we do not like this bill but, you know, the President wants it. He is hung out on a limb on this bill. We have to try to help the President."

That is what will happen. Let us not try to fool anybody. I think SCOOP is right, the House probably did tell him that they would not come back with a bill, that the bill would be dead. But I do not believe what the House is saying, and I do not think SCOOP believes it.

I think what is going to happen if we recommit it is they will come back out so fast you will not be able to blink your eyes with anything that has "Energy Bill" written on top of it so that they can pass it and get the President off that limb that he got himself onto. That is exactly what is going to happen. Let us not try to fool anybody to get votes against recommittal by saying we are going to kill the bill. We know it will not kill the bill.

Mr. LONG. Will the Senator yield?

Mr. HANSEN. I yield.

Mr. LONG. I believe the Senator from Wyoming as well as many other Senators have had experience in going back with a conference report. I submit it is somewhat disappointing to have the Senate turn you down on a conference report, but in my view, to say that the House will not talk to the Senate about a conference report, if we vote to recommit with instructions, is ridiculous.

This is a bill of great significance. The House passed a bill which was more or less oriented toward the consumer. The Senate passed a bill which is generally perceived to be more a producer-oriented bill. The conference then sent back a bill that does not please the producer or the consumer. This bill pleases only those people who were inside the room in the closed meetings, that is, the bureaucracy. They are tickled pink with it. They are the only people who are pleased with the bill.

Mr. President, what the conferees have sent back to the Senate is a counterproductive, administrative nightmare.

So they compelled LONG to get in bed with ABOUREZK. I never planned on that situation. But then they compelled LONG to get in bed with METZENBAUM. "My goodness, save us. What next?" We are not particularly concerned with who saves us at this point, but certainly if we recommit this bill with instructions we can make considerable improvement.

In my view, now that consumer groups and producers have attempted to digest what is in this bill, concessions may be much more easily achieved. Many producers would be willing to make some

concession on price if we just "save them from the bureaucracy."

So, the conference can send us back a bill where the producers and consumers come to terms. I submit that a compromise is in reach if we recommit this bill with instructions.

What is the alternative? To ram through something where the best argument for it is, "we have to do something," or "it is this or nothing." That is their only real good argument, that it is this bill or nothing. But that is a very poor argument. The only defense of that argument is they do not have any better one for their conference report. And they do not have a better one.

They cannot defend the conference report. It is a monstrosity from the administrative point of view. The enforcement office at the FERC, whose job it is to administer bills, have been highly critical of this bill.

So we asked them: "Tell us what you want," and what they wanted was even more bureaucracy to administer this morass of redtape.

What some of us want is the opportunity, to vote on a motion to recommit; if that does not carry, we would like to see if we cannot attempt to make a broader agreement, that is, to accept more of the things in the conference report.

Frankly, I can find enough things in the conference report to make a good bill provided you leave the rest of them out. I think those on the consumer side will be able to agree.

It seems to me, Mr. President, that to say, "I hate to say it fellows, but my best argument is that if you don't take this bill as is, nothing can be done"—that is pretty ridiculous. Everybody agrees we need to pass a bill to do something to increase gas production. Everybody knows we need to pass a bill that is going to make it possible to move gas from intrastate commerce into the interstate market, and that we need to do things that will expedite production. We all know that. We all know that, in doing so, we are going to have to accommodate the consumer interests. We know that.

To say that the House will not talk to us if the Senate votes to recommit this conference report just does not make a lot of sense. The fact is that the House wants to legislate just as much as we do. What the House would like is an expression from the Senate.

What would the Senate like to do? I do not have the slightest doubt that you will find one or two committee people who would say, "If they don't do what I say, there will be no bill." The day when the committee chairman was supreme and ruled the House absolutely is gone. It is gone in the Senate and it is gone in the House of Representatives. Today, the majority rules. When the majority wants a bill, we can get a bill. In fact, Mr. President, it is possible to work out a gas bill without any conferees. Just send the House a bill, saying what we would like to do, and let them amend it and send it back. Then we could send it back with a further indication of what we would like to do and let them amend it again. So, therefore, it could be worked out without conferees. But to say, "You have to accept this and nothing else can be considered, it is this or nothing"—that old saw has been worn out.

When we pass something of such great significance, a matter of great significance to the President, the Senate, the House, the country, and the entire world, it is ludicrous to say "Oh, we have to do it this way or that particular committee chairman or that subcommittee chairman won't even talk to us." Mr. President, that just does not make sense in this type of situation.

In this type of situation, if the Senate can agree to some reduced version of a gas bill that the producers, the consumers, labor, and business would prefer, there is no reason why the Senate cannot express itself. It is utterly ridiculous to say the House would not consider our proposition. If they do not want to consider it, we can put it on the tax bill or the debt limit bill and send it back to them. It is easy enough to get their attention.

Mr. BARTLETT. Mr. President, when the majority leader is finished with his discussion, is anybody else going to have a chance to comment on this?

Mr. ROBERT C. BYRD. I was only going to go to morning business, but I yield.

Mr. BARTLETT. I object, Mr. President.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, before I make this consent request, may I suggest that we do what we can overnight to meet, visit, and, in the morning, get together to see if we can possibly come up with an agreement that meets with everybody's approval?

Mr. BAKER. Mr. President, there are very few subjects which have consumed more time in this body than the debate over a national energy policy. No one doubts the need for a policy which is effective, coherent, and comprehensive; but we part company over how such a policy should be devised and what its components should be.

After emphasizing the need for a national energy policy and characterizing the situation as "the moral equivalent of war," the President sent his troops into the field with a battle plan that would spell defeat for even the best battalions. Simply put, the administration's proposal guaranteed higher prices to consumers with no concomitant increase in the domestic supply. The fact that the House of Representatives passed the bill basically intact is more a tribute to the legislative skills of the Speaker than it is to the merits of the proposals.

Fortunately, the Senate passed a much improved bill which would provide some of the incentives necessary to increase the domestic supply of natural gas while protecting consumers from an assortment of so-called conservation taxes.

I have long advocated the deregulation of natural gas because it is necessary to establish a market price at which the extraordinary costs of finding and producing natural gas are offset by the price received for the sale of the fuel. However, I have also long supported adoption of a "plowback" provision which would require producers to either plow much of their pretax income back into exploration or pay inordinately high tax rates on it. That position was advocated by the Republican Conference over a year ago.

However, the gas bill which passed the Senate did not include a plowback provision or any significant excess profit tax. To its credit though, it did include phased decontrol of interstate natural gas prices. There were many other improvements upon the House bill enacted by the Senate.

The conferees worked long and hard on resolving the differences over the House and Senate bills. In my judgment, they deserve very high praise for attempting to resolve this problem before the end of the present Congress. But they should know that if we fail to enact the so-called compromise which they have developed, it is not because some lack the will to face a tough problem and try to solve it, but rather because the solution proposed is worse than no solution at all.

Therefore, Mr. President, I plan to oppose the gas conference report and support the motion to recommit it with instructions, when that motion is made.

The reasons for my decision are numerous. They stem from the anticipated impact of the conference report upon both the natural gas industry and the consuming public. The effects of this bill would include an extension of controls over prices paid for both interstate and intrastate gas, a sharp increase in the regulatory or administrative burden imposed upon both the Federal Government and the producers, and, finally, little or no increase in the supply of domestic gas. Let us look at the bill from the standpoint of the industry, then from the standpoint of the consumer, and finally from the vantage of the dollar overseas.

The conference report would increase the amount of regulation that exists in the industry by extending the regulatory powers of the Federal Government to the intrastate market. It would not provide for rapid decontrol of the price of natural gas but rather would extend controls and regulation until 1985. At that point, only about 40 percent of the gas supply would be sold at decontrolled prices.

Thus, this measure would not allow the market system, which is the backbone of our economy, to dictate the supply of gas, but rather would rely upon administrative regulation. In my judgment, until we restore the free market system in this area, we will never be able to insure the supply of natural gas necessary to meet our present and future needs.

It has been effectively proven over the past year and a half that a sufficient increase in the price allowed for natural gas will increase the supply available. And yet, this bill would simply perpetuate the present price setting mechanisms while not insuring that even in 1985 there would be a removal of price controls. Such uncertainty breeds apprehension on the part of producers, and uncertainty as to the cost of gas for the consumers of this Nation.

It is, and has been, my desire to provide the necessary incentives for natural gas producers that will insure an ample supply of gas for the consuming public. But this measure simply would not guarantee that.

In the course of this debate, I have heard some repeat the old adage that "It's better to have half a loaf than no loaf at all." But, what if the loaf is lacking in nutritional value and would actually be unhealthy for the body as a whole? That is precisely the type of "half loaf" that this compromise report represents. It provides little nourishment to the market system and would be unhealthy for producers and consumers alike.

In addition to the extension of price controls over more of the gas industry, this bill would create a regulatory nightmare. It would establish between 17 and 23 new categories of gas to be overseen by both the Federal Energy Regulatory Commission (FERC) and the States' public service commissions.

Conflicting memoranda have surfaced from within the Government regarding the administrative feasibility of the bill. But regardless of which memorandum one believes, the fact remains that the creation of so many new complex categories of gas flies in the face of the effort to deregulate the industry. It is difficult to see how doubling or tripling the burden of paperwork and redtape imposed upon the producer, coupled with the extension of price controls to intrastate gas is going to encourage new exploration and production. Indeed, I am afraid that it will have just the opposite effect.

From the standpoint of the consumer, there is even less to be gained from the conference report. Any proposal which would increase the price of gas paid to the producer in order to encourage exploration and production is going to cost the consumer money. The question is how to devise a plan so as to maximize the increase in the discovery and production of new domestic gas reserves for every dollar increase in the consumer's fuel bill.

According to the Energy Information Agency, the bill passed by the Senate last year would have had a net cost to the consumer which was less than is now projected under the pending conference report. Moreover, it has been shown that this bill would not increase the gas supply in future years over what could be achieved by simply permitting the Federal Energy Regulatory Commission to set a new, higher price for natural gas. In other words, the conference report will cost consumers an estimated $41 billion in additional costs between now and the end of 1985, with no commensurate increase in the domestic supply.

Finally, it is worth reviewing the effect of the compromise bill from the vantage of the dollar overseas. The administration and others have argued that enactment of the bill is necessary to bolster the sagging dollar and reduce our balance of payments deficit. While I will readily concede that passage of this bill, or any other significant bill, would have a positive, and perhaps stabilizing, effect upon the dollar, I am convinced that the effect would be temporary.

While leaders of the industrialized world might be encouraged by the fact that the United States finally adopted an energy policy, I seriously doubt it would engender much confidence in the dollar once it was realized that the policy would do very little to increase the domestic supply of gas and, therefore, reduce dependence on foreign imports. Moreover, many economists and bankers believe that the problems facing the dollar abroad are not so much the result of an excessive dependence upon imported oil, but rather an inability to come to grips with the problem of inflation and Government spending. I share that view and find the arguments in favor of the conference report based upon the status of the dollar unpersuasive.

For those reasons, Mr. President, I intend to oppose the pending gas conference report and support the motion to recommit.

The merits of the motion to recommit the report with instructions are several. The intrastate market would remain free of controls, thereby creating the optimum incentive for greater gas production. In times of emergency, the President could order allocation of certain gas, and could permit sales at unregulated prices, but still under his control. Interstate and intrastate pipelines would be able to move gas for each other without bringing any new parties under general Federal regulation. The Federal Energy Regulatory Commission would set the price for interstate gas based upon 1977–78 data. And finally, retail gas pricing would be left to the State regulatory commissions.

In my judgment, Mr. President, the motion to recommit the conference report with instructions to report back with the bill just outlined is a far better way to address the energy situation confronting this country. It would maximize the increase in the supply of domestic gas at a justifiable cost to the consumer. It represents a solution that we can be proud of both at home and abroad.

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, with the statements therein limited to 5 minutes, and that the period not extend beyond 30 minutes.

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

MESSAGES FROM THE HOUSE

At 10:37 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bills without amendment:

S. 3119. An act to transfer certain real property of the United States to the District of Columbia Redevelopment Land Agency; and

S. 3120. An act to enhance the flexibility of contractual authority of the Temporary Commission on Financial Oversight of the District of Columbia.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3075) to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act, and for other purposes.

At 3:29 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House has passed the bill S. (3375) to amend title 28 of the United States Code to make certain changes in the places of holding Federal district courts, in the divisions within judicial districts, and in judicial district dividing lines, with an amendment in which it requires the concurrence of the Senate.

The message also announced that the House has passed the following bills, each with amendments in which it requests the concurrence of the Senate:

S. 1103. A bill to permit States the reciprocal right to sue in the Supreme Court of the District of Columbia to recover taxes due the State;

S. 1895. A bill to amend the Natural Gas Pipeline Safety Act of 1968 to authorize appropriations for fiscal year 1979; and

S. 2556. A bill to change the name of the District of Columbia Bail Agency.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 10311. An act to amend the District of Columbia Redevelopment Act of 1945, and for other purposes;

H.R. 12116. An act to amend the District of Columbia Self-Government and Governmental Reorganization Act to repeal the authority of the President to sustain vetoes by the Mayor of the District of Columbia of acts passed by the Council of the District of Columbia and repassed by two-thirds of the Council, to change the period during which acts of the Council of the District of Columbia are subject to congressional review, and for other purposes;

H.R. 12165. An act to extend until the close of June 30, 1981, the existing suspension of duties on certain metal waste and scrap, unwrought metal, and other articles of metal; and

H.R. 13243. An act to amend the District of Columbia Self-Government and Governmental Reorganization Act to authorize the Council of the District of Columbia to delegate its authority to issue revenue bonds for undertakings in the area of housing to any housing finance agency established by it and to provide that payments of such bonds may be made without further approval.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

S. 3075. An act to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to authorize international security assistance programs for fiscal year 1979, and for other purposes;

S. 3119. An act to transfer certain real property of the United States to the District of Columbia Redevelopment Land Agency;

S. 3120. An act to enhance the flexibility of contractual authority of the Temporary Commission on Financial Oversight of the District of Columbia;

S. 3454. An act to amend the Act of August 29, 1974 (88 Stat. 795; 10 U.S.C. 8202 note), relating to the authorized numbers for

the grades of lieutenant colonel and colonel in the Air Force and to authorize the President to suspend certain provisions of law when he determines that the needs of the Armed Forces so require, and for other purposes; and

H.R. 13087. An act to authorize the issuance of substitute Treasury checks without undertakings of indemnity, except as the Secretary of the Treasury may require.

The enrolled bills were subsequently signed by the President pro tempore (Mr. EASTLAND).

HOUSE BILLS REFERRED

The following bills were read twice by their titles and referred as indicated:

H.R. 10311. An act to amend the District of Columbia Redevelopment Act of 1945, and for other purposes; to the Committee on Governmental Affairs;

H.R. 12116. An act to amend the District of Columbia Self-Government and Governmental Reorganization Act to repeal the authority of the President to sustain vetoes by the Mayor of the District of Columbia of acts passed by the Council of the District of Columbia and repassed by two-thirds of the Council, to change the period during which acts of the Council of the District of Columbia are subject to congressional review, and for other purposes; to the Committee on Governmental Affairs;

H.R. 12165. An act to extend until the close of June 30, 1981, the existing suspension of duties on certain metal waste and scrap, unwrought metal, and other articles of metal; to the Committee on Finance; and

H.R. 13243. An act to amend the District of Columbia Self-Government and Governmental Reorganization Act to authorize the Council of the District of Columbia to delegate its authority to issue revenue bonds for undertakings in the area of housing to any housing finance agency established by it and to provide that payments of such bonds may be made without further approval; to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MUSKIE, from the Committee on the Budget, without amendment:

S. Res. 544. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to consideration of H.R. 11092, a bill to amend the act of December 22, 1974 (88 Stat. 1712), relating to the Navajo and Hopi Indian Relocation Commission (Rept. No. 95–1189).

S. Res. 549. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to consideration of S. 2083 (Rept. No. 95–1190).

By Mr. GLENN, from the Committee on Governmental Affairs, without amendment:

S. Res. 560. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 7700. Referred to the Committee on the Budget.

By Mr. GLENN, from the Committee on Governmental Affairs, with an amendment:

H.R. 7700. An act to amend title 39, United States Code, to insure the continuation of public services performed by the United States Postal Service, and for other purposes (together with additional views of the Committee on Commerce, Science, and Transportation) (Rept. No. 95–1191).

By Mr. MOYNIHAN, from the Committee on Finance, with an amendment and an amendment to the title:

H.R. 4007. An act to amend the Internal Revenue Code of 1954 to designate the home of a State legislator for income tax purposes, and for other purposes (Rept. No. 95–956).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

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

John Warren McGarry, of Massachusetts, to the Federal Election Commission (together with additional and minority views) (Ex. Rept. No. 95–28).

(The above nomination from the Committee on Rules and Administration was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

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. DANFORTH:

S. 3495. A bill for the relief of Alexis Maria Davaraj; to the Committee on the Judiciary.

By Mr. DOLE (for himself, Mr. BAYH, Mr. CASE, Mr. DECONCINI, Mr. DOMENICI, Mr. HATCH, Mr. PAUL G. HATFIELD, Mr. GARN, Mr. MATHIAS, Mr. MARK O. HATFIELD, and Mr. METZENBAUM):

S. 3496. A bill to amend title 35 of the United States Code, to establish a uniform Federal patent procedure for small businesses and nonprofit organizations; to create a consistent policy and procedure concerning patentability of inventions made with Federal assistance; and for other related purposes; to the Committee on the Judiciary.

By Mr. MOYNIHAN:

S. 3497. A bill to amend the Internal Revenue Code of 1954 to allow a taxpayer who does not itemize his deductions to deduct amounts paid as State and local income taxes from gross income; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOLE (for himself, Mr. BAYH, Mr. CASE, Mr. DECONCINI, Mr. DOMENICI, Mr. HATCH, Mr. PAUL G. HATFIELD, Mr. GARN, Mr. MATHIAS, Mr. MARK O. HATFIELD, and Mr. METZENBAUM):

S. 3496. A bill to amend title 35 of the United States Code, to establish a uniform Federal patent procedure for small businesses and nonprofit organizations: to create a consistent policy and procedure concerning patentability of inventions made with Federal assistance; and for other related purposes; to the Committee on the Judiciary.

SMALL BUSINESS NONPROFIT ORGANIZATION PATENT PROCEDURE ACT

● Mr. DOLE. Mr. President, today Senator BIRCH BAYH and I and others are introducing the "Small Business, Nonprofit Organization Patent Procedures Act. This bill will not only remove an unfortunate bottleneck in the flow of technology to the public, it will also underscore the need for the public and private sectors to work in partnership on the many problems facing this Nation.

FEDERAL PATENT POLICY BOTTLES UP INNOVATIONS

Inventions developed with Government support at this country's major universities and research institutes are wasting away on the shelves of bureaucracies all across Government. The present Government policy mandates the Government to take title to all inventions it has had a hand in funding. The policy discourages participation by the private sector, with the end result being that the innovation will never be brought to the marketplace for use by the public. Inventions that could make the difference for this Nation's most pressing problems of jobs, inflation, energy, and health are being relegated to the scrap heap.

Why is the Government willing to bottle up much of this country's most important technological innovations? Rather than acknowledging the need for the public and private sectors to work in partnership on the many problems facing this Nation, we maintain policies that foster an adversary relationship between Government and private industry. I can assure you that this attitude will not encourage startups of new small businesses, nor will it enhance economic growth, nor increase employment, nor trade competitiveness, nor solve our energy shortage.

It is time we stop paying lip service to the contributions of the private sector. Although patents may be but a small factor in establishing meaningful private-public collaborations, it does provide an opportunity for the Government and private sectors to display mutual trust and willingness to work together on common problems.

To this end Senator BIRCH BAYH and I are introducing today the Small Business, Nonprofit Organization Patent Procedures Act. The bill provides to universities, nonprofit organizations, and small businesses patent rights to inventions they have made with Government grant and contract support. The intent of the bill is to provide the incentives necessary to unleash the creative energies of the private sector in tackling the societal challenges of health, energy, and urban decay.

SUPPRESSION OF TECHNOLOGY IN HEW

Nowhere are the problems raised by Government patent policy more catastrophic than in the biomedical research programs of the Department of Health, Education, and Welfare. At this moment, people are being condemned to needless suffering because of the refusal of HEW to release the rights to medical devices and pharmaceuticals developed with Government support.

For more than a year now, potentially lifesaving medical technology from the world's most renowned medical research laboratories supported by the National Institutes of Health has been shut down. HEW has decided to pull the plug on development of biomedical research, and withhold from the American public potential cures and revolutionary new diagnostic techniques for treating such diseases as cancer, arthritis, hepatitis, and emphysema.

In August when I raised this issue on the floor of the Senate, I was informed

by the General Counsel of HEW, Mr. Peter Lebassi, that the delay in the release of the more than 30 cases was only a matter of paperwork. But now another month has gone by and still nothing has been released by HEW. We are not witnessing in HEW "an unavoidable bureaucratic delay," but a calculated policy of "search and destroy" aimed at innovations from this country's scientific research programs.

THE DEMISE OF A LIFE SAVING INVENTION

Let me illustrate the attitude of some of the zealous bureaucrats in HEW who are now determining the policies for this country. Yesterday, I was informed by the legal counsel of the Weissman Institute of Israel, one of the world's most prominent medical research centers, that the petition for ownership rights submitted by its president, Professor Sella, who is a renowned scientist in cancer research, had been denied. Under a contract from NCI for an investigation of carcino-embryonic antigens (CEA) as a diagnostic marker for cancer, Dr. Sella invented a revolutionary new blood test for detecting cancer of the breast, digestive tract, and pancreas. From all indications it appears to be superior to all presently available procedures, and is especially important for postoperative followup diagnosis and prognosis of these dreaded cancers. Clinical trials of this marvelous new discovery that were to take place in collaboration with a private pharmaceutical firm have been canceled in light of the decision by HEW. I fear we will never know how many lives this invention would have saved.

What possibly could have prompted the HEW General Counsel to reach the decision to deny to Dr. Sella the rights to his own invention? I can only wonder who is served by HEW's policy? Certainly not the taxpayers who pay for this country's medical research. Certainly not Dr. Sella who has devoted so much of his life to conquering cancer. And certainly not the hundreds of thousands of us unfortunate enough to be stricken with cancer who need this technology to sustain life.

Rarely have I witnessed a more unfortunate example of overmanagement by the bureaucracy. In the anticipation of a presently nonexistent abuse, or perhaps out of a preoccupation with the rising cost of health care, HEW is willing to shut down the innovative process.

We must not allow this unfortunate state of affairs to be repeated. Legislation of a Government-wide patent policy is needed, and it is needed now.

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. 3496

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Small Business Nonprofit Organization Patent Procedures Act."

AMENDMENT OF TITLE 35, UNITED STATES CODE, PATENTS

SEC. 2. Title 35 of the United States Code is amended by adding after Chapter 17, a new chapter as follows:

Chapter 18—PATENTABILITY OF INVENTIONS MADE WITH FEDERAL ASSISTANCE

Sec.
200. Policy and Objective.
201. Definitions.
202. Disposition of Rights.
203. March-in Rights.
204. Return of Government Investment.
205. Preference for United States Industry.
206. Confidentiality.
207. Background Rights.
208. Relationship to Anti-trust Laws.
209. Uniform Clauses.
210. Foreign Patent Protection and Federally Owned Patents.
211. Regulations Governing Federal Licensing and Small Business Preference.
212. Coordination of Federal Licensing Practices.
213. Restrictions on Exclusive and Partially Exclusive Licenses of Federally Owned Patents.
214. Precedence of Chapter.
215. Effective Date.

POLICY AND OBJECTIVE

SEC. 200. It is the policy and objective of the Congress to use the patent system to promote the utilization of inventions arising from Federally-supported research or development by nonprofit organizations and small business firms; to encourage maximum participation of small business firms in Federally-supported research and development efforts; to promote collaboration between commercial concerns and nonprofit organizations, including universities; to insure that inventions made by nonprofit organizations and small business firms are used in a manner to promote free competition and enterprise; to promote the commercialization and public availability of inventions made in the United States by United States industry and labor; to insure that the Government obtains sufficient rights in Federally-supported inventions to meet the needs of the Government and protect the public against nonuse or unreasonable use of inventions; and to minimize the costs of administering policies in this area.

DEFINITIONS

SEC. 201. As used in this Chapter—

(a) The term "Federal agency" means any "executive agency", as defined in 5 USC 105, and the military department, as defined by 5 USC 102,

(b) The term "funding agreement" means any contract, grant, or cooperative agreement entered into between any Federal agency and any person for the performance of experimental, developmental, or research work funded in whole or in part by the Federal Government, such term includes any assignment, substitution of parties, or subcontract of any type entered into for the performance of experimental, developmental, or research work under a funding agreement as herein defined.

(c) The term "subject inventor" means any person that is a party to funding agreement.

(d) The term "subject invention" means any invention of the subject inventor conceived or first actually reduced to practice in the performance of work under a contract.

(e) The term "practical application" means to manufacture in the case of a composition or product, to practice in the case of a process or method, or to operate in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are to the extent permitted by law or government regulations available to the public on reasonable terms from the subject inventor or licensee or assignee of the subject inventor.

(f) The term "made" when used in relation to any invention means the conception or first actual reduction to practice of such invention.

(g) The term "small business firm" means a small business concern as defined at section 2 of Public Law 85–536 (15 USC 632) and implementing regulations of the Administrator of the Small Business Administration.

(h) The term "nonprofit organization" means universities and other institutions of higher education and organizations of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)) and exempt from taxation under section 501(a) of the Internal Revenue Code (26 USC 501(a)).

DISPOSITION OF RIGHTS

SEC. 202. (a) Each nonprofit organization or small business firm may, within a reasonable time, elect to retain title to any subject invention; provided, however, that each Federal agency may promulgate regulations otherwise (i) when the subject invention is made under a contract for the operation of a Government-owned research or production facility, (ii) when such election to retain title might cause disclosure of classified information or otherwise impair national security; or (iii) in exceptional circumstances when it is determined by the agency that restriction or elimination of the right to retain title will better promote the policy and objective of this Chapter. The rights of the nonprofit organization or small business firm shall be subject to the provisions of paragraph (b) of this section and the other provisions of this Chapter.

(b) The subject inventor shall disclose to each Federal agency which is a party to a funding agreement under which the subject invention was made within a reasonable time after the making of a subject invention, and in any event at least 6 months before public disclosure thereof, the subject matter of the subject invention and whether the subject inventor intends to retain title to the subject invention or to relinquish title to the Government. The subject inventor shall file United States patent applications where appropriate within a reasonable time from making such disclosure and not later than six months after filing such United States applications shall inform the Federal agency as to the foreign countries in which the subject inventor intends to file patent applications.

(c) Each funding agreement with a small business firm or nonprofit organization shall contain appropriate provisions to effectuate the following:

(1) The right of the Federal Government upon request, to receive title to any subject invention not reported to the Federal agency within such times as are prescribed in Section 202(b) hereof and in the regulations promulgated hereunder.

(2) The right of the Federal Government, upon request, to receive title to any subject inventions in the United States or other countries in which the subject inventor has not filed patent applications on a subject invention within such times as are prescribed in Section 202(b) and in the regulations promulgated hereunder.

(3) The right of the Federal Government, upon request, to receive title to any subject invention in which the subject inventor does not elect to retain rights or fails to elect rights within such times as are prescribed in Section 202(b) and in the regulations promulgated hereunder.

(4) With respect to any invention in which the subject inventor elects rights, the Federal agency shall have a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States any subject invention throughout the world, and may, if provided in the funding agreement, have additional rights to sublicense any foreign government pursuant to foreign policy considerations or any existing or future treaty or agreement.

(5) The right of the Federal agency to re-

quire periodic reporting on the utilization or efforts at obtaining utilization that are being made by the subject inventor or his licensees or assignees; provided that any such information may be treated by the Federal agency as commercial and financial information obtained from a person and privileged and confidential and not subject to disclosure under the Freedom of Information Act.

(6) An obligation on the part of the subject inventor, in the event a United States patent application is filed by or on its behalf or by any assignee of the subject inventor, to include within the specification of such application and any patent issuing thereon, a statement specifying that the invention was made with Government support and that the Government has certain rights in the invention.

(7) In the case of a nonprofit organization, (a) a prohibition upon the assignment of rights to a subject invention in the United States without the approval of the Federal agency, except where such assignment is made to an organization having prior approval of the Federal agency which has as one of its primary functions the management of inventions and which is not, itself, engaged in the manufacture or sale of products or processes that might utilize the invention or be in competition with embodiments of the invention and provided that such assignment is made subject to regulations promulgated hereunder governing rights in inventions and assignments of subject inventions; (b) a prohibition against the granting of exclusive licenses under United States Letters Patent in a subject invention by the Contractor or by a person deriving rights directly or indirectly from the Contractor for a period in excess of the earlier of five years from first commercial sale or use of the invention or eight years from the time before regulatory agencies necessary to date of the exclusive license excepting that obtain premarket clearance unless, on a case-by-case basis, the Federal agency approves a longer exclusive license. Exclusive field of use licenses may be granted and commercial sale or use in one field of use shall not be deemed to end the exclusive period as to unrelated fields of use; (c) a requirement that the balance of any royalties or income earned by the subject inventor with respect to subject inventions, after payment of expenses (including any payments to inventors) incidental to the administration of subject inventions, be utilized for the support of scientific research or education.

(8) If a subject inventor does not elect to retain title to a subject invention in cases subject to this Chapter, the Federal agency may consider and grant requests for retention of rights by the inventor subject to the provisions of this Act and regulations promulgated hereunder.

(9) In any case when a Federal employee is a co-inventor of any subject invention under this Chapter, the Federal agency employing such co-inventor is authorized to transfer or assign whatever rights it may require in the subject invention from its employee to a subject inventor electing to acquire rights hereunder subject to the conditions set forth in this Chapter.

MARCH-IN RIGHTS

SEC. 203. With respect to any subject invention in which a small business firm or nonprofit organization has acquired title under this Chapter, the Federal agency under whose funding agreement the subject invention was made shall have the right, in accordance with such procedures as are provided in regulations promulgated hereunder to require the subject inventor, an assignee or exclusive licensee of a subject invention to grant a nonexclusive, partially exclusive, or exclusive license in any field of use to a responsible applicant or applicants, upon terms that are resonable under the circumstances, and if the contractor, assignee or exclusive licensee refuses such request, to grant such a license, itself, if the Federal agency determines either—

(a) That such action is necessary because the subject inventor or assignee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the subject invention in such field of use; or

(b) That such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the subject inventor, assignee, or their licensees; or

(c) That such action is necessary to meet requirements for public use satisfied by the contractor, assignee, or licensees.

RETURN OF GOVERNMENT INVESTMENT

SEC. 204. (a) If a nonprofit organization or small business firm receives $250,000 in after tax profits from the licensing of any subject invention, in a period of ten years following reporting of the invention the United States shall be entitled to a share, to be negotiated, of up to 50 percent of all net income during said period from licensing received by contractor above $250,000; provided, however, that in no event shall the United States be entitled to an amount greater than that portion of the Federal funding under the funding agreement under which the subject invention was made which was expended on activities related to the making of the invention.

(b) In addition, if a nonprofit organization or small business firm receives after tax profits in excess of $2,000,000 on sales of products embodying or manufactured by a process employing a subject invention, during a period of ten years commencing with commercial exploitation of the subject invention, the Government shall be entitled to a share, to be negotiated, of all additional income accruing from such sales up to the amount of the portion of the Government funding under the contract under which the invention was made which was expended on activities related to the making of the invention less any amounts received by the Government in accordance with paragraph (a) of this section 204.

(c) The Director of the Office of Federal Procurement Policy is authorized and directed to revise the figures of $250,000 and $2,000,000 in paragraphs (a) and (b) of this section at least every three years in light of changes to the consumer price index or other indices which he considers reasonable to use.

PREFERENCE FOR UNITED STATES INDUSTRY

SEC. 205. (a) Notwithstanding any other provision of this Chapter, no small business firm or nonprofit organization which receives title to any subject invention and no person which receives an assignment of the subject invention shall assign the right to practice such invention in the United States or grant an exclusive license to practice the invention in the United States to any foreign corporation or any other organization substantially owned or controlled by foreign interests. However, in individual cases, this restriction may be waived by the Federal agency under whose funding agreement the invention was made.

(b) Notwithstanding any other provision of this Chapter, no small business firm or nonprofit organization which receives title to a subject invention and no person which receives an assignment of the subject invention from them shall assign the right to practice the invention outside the United States or grant an exclusive license to practice the invention outside the United States to any foreign corporation or any other organization substantially owned or controlled by foreign interests unless it shall have first undertaken reasonable efforts, as defined by regulations promulgated pursuant to this Chapter, to interest domestic, United States organizations or corporations in such foreign rights.

CONFIDENTIALITY

SEC. 206. Any report of a subject invention under this Chapter may be treated by the Federal agency as a record exempt from disclosure pursuant to 5 USC 552 (b)(4) unless (i) a United States patent application describing the invention has been filed (provided that copies of the actual patent application may be treated by the Federal agency as records exempt from disclosure pursuant to 5 USC 552 (b)(4)), (ii) a description of the invention has been published elsewhere by the inventor, (iii) the subject inventor has not elected to retain title and/or a subject inventor or inventor has not requested the retention of title or other commercial rights, or (iv) the subject inventor has not elected to retain title and/or the Federal agency has denied the request of the subject inventor to retain title or other commercial rights.

BACKGROUND RIGHTS

SEC. 207. Nothing in this Chapter shall be deemed to preclude a Federal agency from obtaining rights in any background invention of a subject inventor or other contractor.

RELATIONSHIP TO ANTI-TRUST LAWS

SEC. 208. Nothing in this Chapter shall be deemed to convey to any person immunity from civil or criminal liability, or to create any defenses to actions, under any antitrust law.

UNIFORM CLAUSES

SEC. 209. The Office of Federal Procurement Policy, after receiving recommendations of the Office of Science and Technology Policy, may issue regulations which may be made applicable to Federal agencies establishing standard funding agreement provisions required under this chapter.

FOREIGN PATENT PROTECTION AND FEDERALLY OWNED PATENTS

SEC. 210. Each Federal agency is authorized to—

(1) apply for, obtain, and maintain patents or other forms of protection in the United States and in foreign countries on inventions in which the Federal Government owns a right, title, or, interest;

(2) promote the licensing of inventions covered by federally owned patent applications, patents, or other forms of protection obtained with the objective of maximizing utilization by the public of the inventions covered thereby;

(3) grant nonexclusive, exclusive, or partially exclusive licenses under federally owned patent applications, patents, or other forms of protection obtained, royalty-free or for royalties or other consideration, and on such terms and conditions, including the grant to the licensee of the right of enforcement pursuant to the provisions of chapter 29 of title 35, United States Code, as determined in the public interests;

(4) make market surveys and other investigations for determining the potential of inventions for domestic and foreign licensing and other forms of utilization, acquire technical information, and engage in negotiations and other activities for promoting the licensing and for the purpose of enhancing their marketability and public utilization;

(5) withhold publication or release to the public information disclosing any invention in which the Federal Government owns or may own a right, title, or interest for a reasonable time in order for a patent application to be filed;

(6) undertake all other suitable and necessary steps to protect and administer rights to inventions on behalf of the Federal Government either directly or through contract;

(7) transfer custody and administration, in whole or in part, to the Department of

Commerce or to another Federal agency, of the right, title, or interest in any invention for the purpose of carrying out the provisions of paragraphs (1) through (4), without regard to the provisions of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471); and

(8) designate the Department of Commerce as recipient of any or all funds received from fees, royalties, or other management of federally owned inventions authorized under this Act.

REGULATIONS GOVERNING FEDERAL LICENSING AND SMALL BUSINESS PREFERENCE

SEC. 211. The Administrator of General Srevices is authorized to promulgate regulations specifying the terms and conditions upon which any federally owned invention may be licensed on a nonexclusive, partially exclusive, or exclusive basis. First preference in licensing federally owned inventions shall go to small business firms.

COORDINATION OF FEDERAL LICENSING PRACTICES

SEC. 212. The Secretary of Commerce is authorized in cooperation with other Federal agencies to—

(1) coordinate a program for assisting all Federal agencies in carrying out the authority set forth in section 210;

(2) publish notification of all federally owned inventions that are available for licensing;

(3) evaluate inventions referred by Federal agencies, and patent applications filed thereon, in order to identify those inventions with the greatest commercial potential and to insure promotion and utilization by the public of inventions so identified;

(4) assist the Federal agencies in seeking and maintaining protection on inventions in the United States and in foreign countries, including the payment of fees and costs connected therewith;

(5) accept custody and administration, in whole or in part, of the right, title, and interest in any invention for the purposes set forth in paragraphs (1) through (4) of section 210, with the approval of the Federal agency concerned and without regard to the provisions of the Federal Property and Administrative Service Act of 1949 (40 U.S.C. 471);

(6) receive funds from fees, royalties, or other management of federally owned inventions authorized under this Chapter, but such funds shall be used only for the purposes of this Chapter; and

(7) undertake such other functions directly or through such contracts as are necessary and appropriate to accomplish the purposes of this title.

RESTRICTIONS ON EXCLUSIVE AND PARTIALLY EXCLUSIVE LICENSES OF FEDERALLY OWNED PATENTS

SEC. 213. (a)(1) Each Federal agency may grant exclusive or partially exclusive licenses in any invention covered by a federally owned domestic patent or patent application only if, after public notice and opportunity for filing written objections, it is determined that—

(A) the interests of the Federal Government and the public will best be served by the proposed license, in view of the applicant's intentions, plans, and ability to bring the invention to practical application or otherwise promote the invention's utilization by the public;

(B) the desired practical application has not been achieved, or is not likely expeditiously to be achieved, under any nonexclusive license which has been granted, or which may be granted, on the invention;

(C) exclusive or partially exclusive licensing is a reasonable and necessary incentive to call forth the investment of risk capital and expenditures to bring the invention to practical application or otherwise promote the invention's utilization by the public; and

(D) the proposed terms and scope of exclusivity are not greater than reasonably necessary to provide the incentive for bringing the invention to practical application or otherwise promote the invention's utilization by the public.

(2) A Federal agency shall not grant such exclusive or partially exclusive license under paragraph (1) of this subsection if it determines that the grant of such license will tend substantially to lessen competition or result in undue concentration in any section of the country in any line of commerce to which the technology to be licensed relates, or to create or maintain other situations inconsistent with the antitrust laws.

(b) After consideration of whether the interests of the Federal Government or United States industry in foreign commerce will be enhanced, any Federal agency may grant exclusive or partially exclusive licenses in any invention covered by a foreign patent application or patent, after public notice and opportunity for filing written objections, except that a Federal agency shall not grant such exclusive or partially exclusive license if it determines that the grant of such license will tend substantially to lessen competition or result in undue concentration in any section of the country in any line of commerce to which the technology to be licensed relates, or to create or maintain other situations inconsistent with the antitrust laws.

(c) The Federal agency shall maintain a record of determinations to grant exclusive or partially exclusive licenses.

(d) Any grant of an exclusive or partially exclusive license shall contain such terms and conditions as the Federal agency determines appropriate for the protection of the interests of the Federal Government and the public, including provisions for the following:

(1) periodic written reports at reasonable intervals including, when specifically requested by the Federal agency, the extent of the commercial or other use by the public that is being made or is intended to be made of the invention;

(2) a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for the Federal Government the licensed invention throughout the world by or on behalf of the Federal Government (including any Federal agency), and the additional right to sublicense any State or domestic local government or to sublicense any foreign government pursuant to foreign policy considerations, or any treaty or agreement if the Federal agency determines it would be in the national interest to retain such additional rights;

(3) the right of the Federal agency to terminate such license in whole or in part unless the licensee demonstrates to the satisfaction of the Federal agency that the licensee has taken effective steps, or within a reasonable time is expected to take such steps, to accomplish substantial commercial or other use of the invention by the public; and

(4) the right of the Federal agency, commencing three years after the grant of a license, to require the licensee to grant a nonexclusive or partially exclusive license to a responsible applicant, upon terms reasonable under the circumstances to terminate the license in whole or in part, after public notice and opportunity for a hearing, upon a petition by an interested person justifying such hearing, if the Federal agency determines, upon review of such material as it determines relevant and after the licensee or other interested person has had the opportunity to provide such relevant and material information as the Federal agency may require, that such license has tended substantially to lessen competition or to result in undue concentration in any section of the country in any line of commerce to which the technology relates, or to create or maintain other situations inconsistent with the antitrust laws.

PRECEDENCE OF ACT

SEC. 214. This Chapter shall take precedence over any other act which would require a disposition of rights in subject inventions in a manner that is inconsistent with this Chapter, including but not necessarily limited to the following:

(1) Section 10(a) of the Act of June 29, 1935, as added by Title 1 of the Act of August 14, 1946 (7 USC 427l(a); 60 Stat. 1085);

(2) Section 205(a) of the Act of August 14, 1946 (7 USC 1624(a); 60 Stat. 1090);

(3) Section 501(c) of the Federal Coal Mine Health and Safety Act of 1969 (30 USC 951(c); 83 Stat. 742);

(4) Section 106(c) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 USC 1935(c); 80 Stat. 721);

(5) Section 12 of the National Science Foundation Act of 1950 (42 USC 1871(a); 82 Stat. 360);

(6) Section 152 of the Atomic Energy Act of 1954 (42 USC 2182, 68 Stat. 943);

(7) Section 305 of the National Aeronautics and Space Act of 1958 (42 USC 2457);

(8) Section 6 of the Coal Research Development Act of 1960 (30 USC 666; 74 Stat. 337);

(9) Section 4 of the Helium Act Amendments of 1960 (50 USC 167b; 74 Stat. 920);

(10) Section 32 of the Arms Control and Disarmament Act of 1961 (22 USC 2572; 75 Stat. 634);

(11) Subsection (e) of section 302 of the Appalachian Regional Development Act of 1965 (40 USC App. 302(e); 79 Stat. 5);

(12) Subsection (a)(2) of section 216 of title 38, United States Code;

(13) Section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 USC 5901; 88 Stat. 1978);

(14) Section 3 of the Act of June 22, 1976 (42 USC 1959d, note; 90 Stat. 694);

(15) Subsection (d) of section 6 of The Saline Water Conversion Act of 1971 (42 USC 1959(d); 85 Stat. 161);

(16) Section 303 of the Water Resources Research Act of 1964 (42 USC 1961c-3; 78 Stat. 332);

(17) Section 5(d) of the Consumer Product Safety Act (15 USC 2054 (d); 88 Stat. 1211);

(18) Section 3 of the Act of April 5, 1944 (30 USC 323; 58 Stat. 191); and

(19) Section 8001 of the Solid Waste Disposal Act (42 USC 6981; 90 Stat. 2829).

The Act creating this Chapter shall be construed to take precedence over any future Act unless that Act specifically cites this Act and provides that it shall take precedence over this Act.

EFFECTIVE DATE

SEC. 215. This Chapter shall take effect 180 days after the date of enactment of this Chapter, except that the regulations referred to in Section 209, or other implementing regulations, may be issued prior to that time.●

● Mr. BAYH. Mr. President, I am pleased today to join in introducing the University and Small Business Patent Procedures Act. This bill is the result of a substantial amount of investigation and consultation involving both Senator DOLE and his staff and me and my staff. I am pleased to join in the leadership of this bipartisan effort with my distinguished colleague from Kansas, and

I am pleased also that our colleagues, Senators MATHIAS, DECONCINI, PAUL HATFIELD, GARN, HATCH, MARK HATFIELD, METZENBAUM, and DOMENICI have joined us as cosponsors.

The bill addresses a serious and growing problem: Hundreds of valuable medical, energy, and other technological discoveries are sitting unused under Government control, because the Government, which sponsored the research that led to the discoveries, lacks the resources necessary for development and marketing purposes, yet is unwilling to relinquish patent rights that would encourage and stimulate private industry to develop discoveries into products available to the public.

The cost of product development exceeds the funds contributed by the Government toward the initial research by a factor of at least 10 to 1. This together with the known failure rate for new products, makes the private development process an extremely risky venture, which industry is unwilling to undertake unless sufficient incentives are provided.

The problem is substantial in HEW, the Department of Defense, the Department of Agriculture, and the National Science Foundation. But nowhere is the patent situation more disturbing than in the biomedical research programs. Many people have been condemned to needless suffering because of the refusal of agencies to allow universities and small business sufficient rights to bring new drugs and medical instrumentation to the marketplace.

For example, Department of Energy and Department of Health, Education, and Welfare procedures of reviewing all of the requests for patent rights from universities are resulting in delays of almost 2 years. In many cases these inventions could make significant contributions to the health and welfare of the American people, but are being frustrated by this present patent policy.

The bill that we are introducing today strikes a careful balance between the rights of the Federal Government to use for itself and the public good inventions arising out of research that the Federal Government helps to support, and the equally important rights of the inventor and the public to see that the inventions receive their full potential in the marketplace and reach the people they may benefit. This bill will allow universities, nonprofit organizations, and small businesses to obtain limited patent protection on discoveries they have made under Government-supported research, if they spend the additional private resources necessary to bring their discoveries to the public. Our experience has shown that unless inventors, universities, small businesses, and the private sector generally are given sufficient incentives to work together and bring inventions to the public, new technology is likely to languish.

This bill addresses part of a larger problem that I find very disturbing, namely, that America seems to be falling behind in technological innovation and inventiveness.

In a two-part series which appeared in the Washington Post on September 3, and September 10, 1978, Mr. Bradley Graham pointed out a number of indicators that something is going wrong with American industry's long-recognized ability to lead the world in technological developments. Mr. Bradley mentions several troubling statistics:

The number of U.S. patents issued per year to U.S. inventors reached a peak in 1971 and has declined steadily since. But the number granted to foreign inventors has increased steadily since 1963. In 1977, foreigners claimed 35 percent of all patents issued in the U.S. across a broad range of fields.

The U.S. balance of trade has worsened, due not only to increased oil imports, but also to more imports of foreign manufactured goods.

Productivity, which is partly a function of technological innovation, has slumped severely. In the past decade, the rate of growth in U.S. productivity has averaged only half of what it was the previous 20 years. In contrast, productivity growth rates in Europe and Japan have been on the rise.

From 1953 to 1966, U.S. investment in research grew at an impressive rate of 10 percent annually in inflation-adjusted dollars. However, investment in research by all sectors in the U.S. over the past 10 years has shown essentially no growth in constant dollars. Further, a number of major U.S. corporations have announced recently they intend to spend even less on long-term basic research and more on development of short-term, quick-profit products.

There are, of course, a number of theories which have been offered to explain this situation. Some observers have cited the dropoff in Government-supported research, the nature of the modern corporation, changes in lifestyle, the entrance into the work force of inexperienced workers, and overregulation of businesses by the Government. Others have said that this technological lag is merely a misperception, and that new technological developments are being made, but that they are of necessity not as exciting as the unprecedented technological breakthroughs that followed World War II.

I do not wish to speculate on these theories beyond saying that many of our prominent scientists, educational leaders and businessmen believe that this problem is a very real one, one in fact so serious that it strikes at the traditional heart of the American economy—our ability to adapt to a changing world.

A September 4, 1978 column by Jack Anderson and a July 3, 1978 article in Business Week discuss the unique problems facing small businesses with respect to our declining national role in technological innovation. I ask unanimous consent that all four of these articles be printed at the conclusion of my remarks.

It is time that we start identifying the causes of this troubling trend, and seek solutions. One such area where I am confident progress can be made immediately is with inventions arising from federally supported university and small business research. That is why we are introducing the University and Small Business Patent Procedures Act. In many cases research efforts of small businesses and universities are being frustrated by the policy of the Government of retaining patent rights in most cases, on inventions arising out of research funded in whole or in part by the Federal Government. Small businesses and our universities have been among the most innovative sectors of our economy and have a proven capacity to develop the sort of bold, new inventions that our country needs to maintain its leadership in the world economic community.

The University and Small Business Patent Procedures Act is designed to meet this aspect of the larger problem of lagging technological innovation.

Mr. President, I would like to outline some of the important sections of the bill. I would particularly like to draw the attention of my colleagues to section 204 which provides that if the invention achieves a certain level of success payment must be made back to the Government until this payment equals that amount invested in the invention by the Government.

Section 202 provides that each nonprofit organization (defined in the bill to include universities) and small business shall have a reasonable amount of time to elect to retain title to subject inventions. The federal agency may retain title if the invention is made under a contract for operation of a government owned research or production facility, might cause the disclosure of classified information or imperil national security, or if granting patents would not be in the public interest in terms of the purpose to be served by this legislation.

Section 202(c) provides that each funding agreement shall contain provisions to: (1) insure the right of the federal government to receive title to any subject invention not reported to it within the prescribed times of the contract; (2) insure the government's right to receive title to inventions when the inventor does not intend to file for patent rights; and (3) provide that the agency shall have a nonexclusive, nontransferable, paid-up license to use the invention.

Section 202(c)(7) prohibits nonprofit institutions from assigning rights without the approval of the federal agency; prohibits granting such rights in excess of the earlier of 5 years from the date of first commercial use or 8 years from the date of invention, whichever comes first; and provides that all proceeds shall be used to support scientific research or education.

Section 203 gives the federal agency the right to require the subject inventor or his assignee to grant additional licenses if the agency feels that sufficient steps are not being taken to achieve commercialization. Additional licensing may also be required to alleviate health and safety needs, or under provisions for public use as specified by federal regulations.

Section 204 provides that if the patent holder receives $250,000 in after tax profits from licensing any subject invention during a ten-year period, or receives in excess of $2,000,000 on the sales of products embodying or manufactured by a process employing the subject invention within the ten-year period, that the government shall be entitled to collect up to 50% of all net income above those figures until such time as the amount of government research money has been repaid.

Section 205 specifies that no foreign owned or controlled firm shall be eligible to receive patent rights under this Act unless the federal agency determines that this is the only available means of achieving commercialization; a similar provision covers licensing the invention outside the U.S.

Section 210 will allow federal agencies to grant exclusive, partially exclusive, or nonexclusive licenses on government owned patents to achieve commercialization; the De-

partment of Commerce is authorized to receive patents held by other agencies and to make the necessary steps to determine the market potential of the patent and to receive any fees or royalties due to the government.

Section 211 authorizes the Administrator of GSA to issue regulations regarding such licenses and gives first preference in licensing federal patents to small businesses.

Section 213 specifies that federal licenses be issued only after public notification and opportunity for filing objections and that exclusive or partially exclusive licenses not be granted if the result would be a lessening of competition; the agency has the right to require more licensing if it feels that this is necessary after three years and to require periodic written reports on progress toward commercialization.

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

[From the Washington Post, Sept. 3, 1978]

SOMETHING'S HAPPENED TO YANKEE INGENUITY

(By Bradley Graham)

It's been 89 years since Angus Campbell put the first automatic cotton picker to work, 70 years since Henry Ford gassed up his first Model T, 39 years since Du Pont introduced a super fiber called nylon and 30 years since Edwin H. Land marketed the first instant picture camera.

All of which helps recall a time America's inventive spirit seemed unbounded and unceasing. Ideas flowed to the marketplace as fast and furious as mountain rapids flow downhill.

But what was once thought to be an endless stream of U.S. inventions has of late been trickling out less startling and less competitive products. Meantime, adding pain to the drain, the inventive powers of foreign nations have been in ascendance. The question, once raised in a whisper, is now asked in loud and urgent tones. Has American enterprise lost its innovative touch?

Consider the facts.

The number of U.S. patents issued per year to U.S. inventors reached a peak in 1971 and has declined steadily since. But the number granted to foreign inventors has increased steadily since 1963. In 1977, foreigners claimed 35 percent of all patents issued in the U.S. across a broad range of fields.

The U.S. balance of trade has worsened, due not only to increased oil imports, but also to more imports of foreign manufactured goods.

Productivity, which is partly a function of technological innovation, has slumped severely. In the past decade, the rate of growth in U.S. productivity has averaged only half of what it was the previous 20 years. In contrast, productivity growth rates in Europe and Japan has been on the rise.

From 1953 to 1966, U.S. investment in research grew at an impressive rate of 10 percent annually in inflation-adjusted dollars. However, investment in research by all sectors in the U.S. over the past 10 years has shown essentially no growth in constant dollars. Further, a number of major U.S. corporations have announced recently they intend to spend even less on long-term basic research and more on development of short-term, quick-profit products.

In a world where power and progress are often measured in terms of technological breakthroughs and scientific prowess, such trends are indeed disturbing.

For a nation that has always prided itself on its tinkerers—on those lone souls who brought forth from their garages and basement labs such revolutionary devices as power steering, the office copier and the zipper—they are downright depressing.

From boardroom to research lab, there is a deepening sense that something has happened to the once unchallengeable Yankee ingenuity. Just what, though, no one quite knows.

Some insist it is in rapid decline, choked by an unfavorable economic climate, government regulation and, perhaps, by the lethargy and shortsightedness of big business. Others say it has simply taken new forms, becoming more subtle and incremental in nature than grand and revolutionary. Either way, the country's genius for invention does not appear, at least, to be what it once was.

Alarm bells are going off all over. First, Michael Boretsky, a senior policy analyst in the Commerce Department: "All the indicators imply that the rate of U.S. innovation is measurably down. It's very disconcerting."

Next, Dr. Alden Bean, director of research for the National Science Foundation: "There's no solid evidence to suggest that the U.S. is going to hell in a handbasket in science and technology. But there is serious cause for concern about some trends we've seen."

After several years of arm-waving and shouting about waning U.S. innovation, the nation's research establishment finally caught the ear of the White House. Several months ago, the Carter administration launched a major policy review of things to be done to foster innovation in private industry. The study is being coordinated by the Commerce Department and involves more than 15 agencies. A final report, including recommendations for the president, is expected by April.

But many experts say another study is hardly necessary. The worrisome state of innovation in America has been assessed and reported on many times since the first major policy review conducted by Commerce in 1967. In the interim, the problems only have become more obvious.

For one, the economic climate for innovation is poor. The financial incentives that in the past encouraged the rich and the bold to risk their money on slim-chance projects no longer exist, thanks to increases in the capital gains tax and tighter rules on stock options. Inflation, too, has put the squeeze on capital investment by existing corporations.

Also, with the winding down of space and defense programs, government support of industrially performed research has diminished. Throughout the 1950s, the government annually supported more than one-third of industrial research activity. This level of support reached almost 40 percent in 1962, but has been falling consistently and is 25 percent today.

Increased government regulation, too, has increased operating costs and shrunk the share of profits formerly available for research. So has the higher cost of energy.

Together, these developments have forced a shift in industrial research activities from the offensive to the defensive. "Major effort is being diverted into defensive research," said Howard Nason, president of the Industrial Research Institute in St. Louis. "Much more emphasis is being placed on short-term cost reductions than on long-term product and process improvements."

But as important as such external economic factors may be in explaining the innovation slump, there are certain features about the internal structure of corporate America today which some say have had a debilitating effect on innovation.

Writing in the July-August issue of the Harvard Business Review, Alfred Rappaport, professor of business at Northwestern University, blames the research lag on the increasing emphasis American business places on short-term results. Rappaport asserts that management incentive programs are biased toward quick profits at the expense of perhaps smarter long-term investment.

"American business would do well to reexamine its own self-administered incentive systems," Rappaport concludes.

Industrial research today is dominated by a small number of very large corporations. The top 10 percent of those firms doing R&D in 1976 performed almost 70 percent of the total U.S. R&D effort. Ten firms accounted for more than 36 percent of all expenditures that year. This concentration may itself work against innovation.

"A large part of the blame for the lack of innovation lies with the oligopoly nature of American industry," said Mark Green, director of Ralph Nader's Congress Watch. "Big companies get habituated to their products and there is a reluctance to break through. If you already dominate an industry, where is the incentive to take a chance on a new and costly approach?"

But the history of innovation in America is ambiguous on this point. Studies done on whether big business or little business is more inventive have come to no conclusive end as a whole.

Certainly, many major innovations have come from outside an established industry. The ballpoint pen, for instance, was invented by a sculptor, the dial telephone by an undertaker. It took an electrical engineer employed by a shipbuilding firm in the 1930s to develop the automatic transmission, called by some the last major innovation of the auto industry. IBM's disk memory unit, the heart of today's computer, was not the logical outcome of a decision made by IBM management—rather, it was developed in one of its labs as a bootleg project, over the stern warning from management that the project had to be dropped because of budget difficulties.

At the same time, certain large firms in the fields of electronics, pharmaceuticals, telecommunications and computers have been highly innovative.

In their seminal study in 1958 on the sources of invention, Harvard professor John Jewkes and his colleagues said they could not conclude that inventions flow primarily from any one source. When the study was revised in 1969, the authors stated only the obvious; that inventions can come from firms of varying size.

Business leaders, of course, refute the charge that they are less innovative today than in the past. "There's no lack on the part of big business to be innovative," said General Motors Corp. Chairman Thomas Murphy in a phone interview. "It's a big country, so we have to be big. We couldn't do all of the things we do if we weren't as large as we are."

To the public, a car may still look like a car. But auto officials say the changes which have taken place inside during the past five years have been as revolutionary as anything which has come before.

"There's a perception problem," said Thomas J. Feaheny, the man in charge of car engineering for Ford Motor Co., where "better ideas" were once not only a management dictum but a successful ad slogan. "We've never been as innovative as we are now. But the things we're doing aren't as glamorous and aren't noticed much by the consumer."

Critics note, however, that what the auto industry heralds as advances in development (the catalytic converter, on-board use of minicomputers to govern fuel efficiency and control pollution, greater use of aluminum and other lightweight durable materials) are, in fact, only more logical applications of off-the-shelf technologies rather than breakthroughs in the state of the art.

Of even greater concern, though, than what has or hasn't happened is the prospect for the future. Many major corporations have tailored research budgets to yield more practicable and immediate results. In 1958, industry allocated as much as 38 percent of its R&D dollar to the "R" part. By last year, this had dropped to 25 percent.

Corporations say the reasons for this shift from research into development have noth-

ing to do with being too big or too comfortable. The reasons, basically, are greater pressures from government regulators to meet health, safety and environmental standards as soon as possible, and greater uncertainty about the likely profitability of longer-term, riskier ventures.

"It used to be much easier to bring new products to market," said Du Pont Chairman Irving Shapiro in an interview. "If you hit something, you'd have more time to develop it. Now it's more difficult.

"Also, the pot of gold at the end of the rainbow just isn't there. The economic environment has changed. Our thinking has had to change, too. It's become more short range."

Added Richard Hechert, Du Pont's senior vice president for R&D: "We're not exploring wholly new areas. We're concentrating instead on opportunities for research in established areas. . . . We are less able to take risks. We have to concentrate on surer projects."

The degree of such thinking does vary from company to company and industry to industry. Certain high-technology fields (instrumentation, computers and electronics) remain rooted in innovation and continue to churn out impressive new products. In other industries, though—particularly those most apt to be subject to regulation and high energy costs (steel, chemicals, paper, packaged goods and autos)—product innovation has levelled.

Part of the difficulty in deciding what to do about the innovation lag is figuring out how to define it. To begin with, innovation defies measurement.

"There are no indicators which you can look at to measure the advancement of knowledge," said NSF's Dr. Bean. "Some people count patents, but that's unreliable in part because some firms don't like to patent things and would rather rely on trade secrets rather than disclose important discoveries. Others count citations in the research literature, but that's unreliable, too."

But even without sure data, many have not hesitated to push the panic button. "You can't use statistics to say there's a problem," said Jordan J. Baruch, the assistant Secretary of Commerce who is directing the government's innovation policy review. "But you'd have to be blind not to see it."

Urgency about the problem is all the greater because America seems uniquely stricken. Western Europe and Japan grow more inventive, or so it appears, while U.S. firms age. Examples abound of foreign firms taking the lead in both new and traditional product areas. The Japanese, for instance, totally eclipsed the American communications industry in the development of video tape recorders. The Germans and Swiss now set the pace in textiles. Inventiveness in the steel industry has centered in Belgium and Austria. Some U.S. cities are even going abroad to scout for new ways to handle old problems. (The Council for International Urban Liaison here publishes a monthly newsletter called Urban Innovations Abroad that goes to 5,000 city officials in the U.S.)

Moreover, U.S. productivity rates have been in a rut for a decade—and that has serious consequences for everyone's real income and for the nation's overall standard of living. Of course, technological change by itself does not make or break productivity. There are other contributing factors, most important among them being capital investment and improved labor skills. But technology is an important ingredient in the mix.

With industry's current bent toward the here and now, there is concern that the U.S. may be cutting its innovative bridges. Some economists, notably Charles P. Kindleburger at MIT, have drawn disturbing parallels between the way U.S. firms are responding to America's battered competitive leads and the responses of British firms in the twilight of the English empire. British firms, just as American firms now, became defensive—that is, rather than redoubling efforts to generate innovations, they curtailed investment and demanded government protection against imports.

Does the current emphasis on small, incremental kinds of advances rather than on big breakthrough threaten the dominant position the U.S. still holds?

No one is sure. Despite all the studies of innovation and productivity, no one can say whether there is an optimum rate of invention a society should adhere to, or how much innovation is enough.

There does seem to be general agreement, though, on this. The rapid technological growth which th U.S. experienced during the first two decades after World War II was unusual and is not likely to be repeated.

"We made an enormous investment in the war, made some great technological advances during it, and came out of it with a great belief in the power of technological progress," said J. Herbert Hollomon, director for the Center of Policy Alternatives at MIT. "We also were handed an accidental lead, in having survived the war better than anyone else. But one of the things that is increasingly going to be the case is that new technological innovations are going to happen outside the U.S."

Holloman said that American business has in the past displayed an NIH (not-invented-here) complex, meaning that U.S. managers have been arrogant toward anything not thought up first in America and slow to embrace it. This is one of the things that he said will have to change if American firms hope to continue to compete in world markets. American businesses must learn to be quick to adapt, to exploit foreign inventions as well as their own, he warned.

"The problem is not with basic science," Holloman said. "The problem really is how effective we can be in adjusting and adapting."

Some have argued that U.S. multinationals may themselves have hastened this competitive bind on America by transferring their best technologies to foreign markets in recent years. Those who say this also urge legislation that would restrict further transfers of technology.

But most who have studied the innovation problem say the solution lies in fostering a innovation at home—through more liberal tax policy, a relaxed regulatory policy, less aggressive antitrust practices and, in general, a more cooperative spirit between business and government such as exists in Japan and the leading Western European countries.

And above all, they argue for greater certainty in government policy. "I think that more than an increase in government support of R&D or a reduction in regulation, what private industry people are interested in is a reduction in uncertainty about government action," said Dr. Bean. "Look, there's enough economic uncertainty in the R&D process without the government."

[From the Washington Post]

U.S. PRODUCTIVITY: GOLDEN DAYS OVER

(By Bradley Graham)

(NOTE.—This is the second of two articles discussing whether, as is widely perceived today, the dynamic vitality of the American economy is faltering. Last week's piece examined the lag in U.S. innovation. This week's describes the forces behind the nation's productivity slump.)

Like a movie that changes from fast- to slow-motion and then gets stuck on a single frame, America's productivity rate is creeping closer and closer to a dead stop.

For two decades following World War II, the productivity in the U.S. sprinted up the growth charts untiringly. Spurred by a labor force anxious to get back to peaceful industrial employment and by a string of technological breakthrough that gave the U.S. a commanding lead in product markets around the world, the American economy seemed unfailing and unstoppable.

But the rise began to slacken about a decade ago. In the past 10 years, productivity gains averaged 1.6 percent a year, only half the rate of the golden-growth days. This year, productivity has taken an even sharper turn for the worse, showing almost no increase at all.

Barry Bosworth, director of the President's Council on Wage and Price Stability, told a congressional committee recently: "We're turning into the British situation of the early '70s when they had almost no productivity growth." Calling the slowdown "a real puzzle," Bosworth said the U.S. has practically stopped showing gains in output per hour worked.

Moreover, the slump has been widespread. About two-thirds of the 67 industries regularly surveyed by the government have registered productivity declines. What makes the slowdown even more critical is that while productivity has been falling in the United States, it has been rising in Europe and Japan. Since 1967, the productivity rate has surged ahead 105 percent in Japan, 54 percent in Italy and France, and 39 percent in Canada. Even Great Britain topped America, edging past the U.S., 25 percent to 24 percent.

The meaning of all this is simple enough—and deeply disturbing. Without a gain in productivity:

Inflation will be more difficult—probably impossible—to control.

America's ability to compete in world markets will continue to weaken.

Real wealth in America will shrink effectively strangling the campaign against poverty and eroding everyone's standard of living.

But what is behind the slump is much less simple and less certain. Some say it is the result of basic shifts in the economy—we have been transformed, so the story goes, from a nation of industrial workers to one of lawyers, insurance agents and real estate brokers. Others blame the lag in productivity on environmental and safety rules which have redirected business investment into less productive (though perhaps more socially desirable) ends. Still others cite a change in both worker and management attitudes—people, they say, don't want to work as hard as they used to, and corporate managers have lost the sense of adventure and the willingness to take risks that was once their mark in trade.

In any case, the sense of desperation mounts as productivity indicators slide. The national doomsayers club has never had so many illustrious members.

"America's economic survival will depend on its ability to increase its rate of productivity advance to former levels," General Motors Corp. Chairman Thomas Murphy said in a recent interview, "That is no exaggeration."

"You've got to be worried," said Irving Shapiro, chairman of Du Pont. "You can't be comfortable about the future, you can't be sure your earnings will be real earnings without gains in productivity."

The term "productivity" has different meanings to different people. It is often associated with other words like "efficiency," "automation" and "hard work." In some minds, it conjures up images of a production line running faster and faster.

But basically the productivity rate is a measurement of outputs divided by inputs, computed quarterly by the Bureau of Labor Statistics. It is, simply, what you can get out (automobiles, ice cream cones and so on) for what you put in (labor, capital and other resources).

Despite all the fuss over what's happened to U.S. productivity, no one on the national level appears to be doing much to meet the

emergency. The one federal agency specifically charged with attacking the problem is going out of business at the end of this month. Established in 1970 to find ways of improving productivity, the National Center on Productivity and the Quality of Working Life runs out of money on Sept. 30, with both Congress and the White House content to see it go. Underfunded and politically orphaned from the start, the center was ruled ineffective and expendable in a General Accounting Office report this year.

George Kuper, the center's director, calls it a mistake to eliminate the center without providing something in its place. "Productivity growth is not automatic," Kuper said. "In view of the dismal productivity record of the American economy over the past ten years, there is an urgent need for a concerted effort to bolster the forces that sustain productivity growth."

But administration officials contend that the productivity problem is not something the government can solve by creating a center. "The best thing we can do for productivity is to create a healthy climate for private investment," said one administration official. "In the final analysis, productivity is basically the responsibility of the private sector."

A few businesses and industries have made encouraging efforts to spur efficiency on their home turf. Methods tried range from streamlining production lines and reorganizing work teams to fattening up compensation plans and instituting so-called "flextime" programs that allow employes some latitude in setting working hours.

On the whole, though, the self-help record of American industry on this score is sadly deficient. Spoiled by the ease with which productivity gains flowed during in the early postwar period, managers have been slow to respond to the current crisis.

"They figured it was something that would always be there," said C. Jackson Grayson, former business school dean and head of the wage and price council during the Nixon administration. "Managers have ignored productivity and played the game of money and demand management. Most companies have no explicit program to improve productivity."

To foster greater national awareness of the problem, and to help corporations establish their own productivity improvement programs, Grayson last year set up his own center on productivity in Houston founded on $8.5 million contributed by more than 80 companies.

But the reason for management's sluggishness in tackling this issue may have more to do with a lack of inspiration than with any lack of awareness. The mood of the American business community today is characterized more by despair than by diligence, and the sense of malaise is worsening.

Surveys by the Conference Board, a New York-based economic research group, show business confidence in the economy has declined steadily since the surveys began two years ago. This lack of faith has translated into a reluctance on the part of many managers to invest in new equipment and larger plants. Termed by some a "capital strike," such lag in investment has been a major contributor to the slowdown in productivity growth in recent months.

The malaise feeds on itself because, without new investment, business processes age, productivity declines, profits shrink and industries grind to a halt. It is true that unemployment has dropped to record lows in recent months. But what this suggests is that output has been increased by putting more people on payrolls, not by improving each person's capacity to produce. This can go on only so long.

What accounts for management's depressive state of mind? "A heritage of economic trauma of the past decade," said Edgar Fiedler, director of research for the Conference Board, who proceeded in an interview to tick off a list of economic jerks and jolts that have shaken the confidence American managers once had in their economic machine, leaving members of the business community scurrying or their security blankets.

His list included the acceleration of inflation, the erosion of profits, the aid to the old international exchange rate system, shortages of goods and resources, the first peacetime wage and price controls, the oil embargo and two recessions. "Little wonder that everyone is feeling shaky about the future," Fiedler concluded.

But sagging confidence and a falloff in capital investment only go part way in explaining what might be behind the slump in productivity. A good bit of the slowdown, say the experts, may have been inevitable.

Edward Denison, a Brookings Institution economist and one of the nation's leading authorities on productivity, says some of the steam was bound to run out of the U.S. economic engine. He notes two forces—the migration of farmers to factory jobs and the mass education of society—that initially powered America's postwar industrial drive have now run their course. Also, he says, the influx of relatively inexperienced teenagers and women into the work force has acted as a productivity depressant, albeit a temporary one.

Beyond these, Denison blames the growth of government regulation for squeezing out much of the productive energy that was left.

Of course, productivity alone neither makes nor breaks a nation. It is just one element—although an important one—in the overall growth equation. Other factors include a nation's resource base, its entrepreneurial spirit, and its rate of savings and investment.

Also, in weighing political choices, a nation often finds itself balancing certain quality-of-life goals such as cleaner air and guaranteed safety against the moneyed concerns of efficiency and economic growth. To the extent American industry's slower growth is the natural outcome of ensuring greater health and safety for consumers, it is plainly and simply the peoples' choice.

Denison, however, is worried that the trade-off might have tilted too far, particularly in recent months. "The outlook is extremely uncertain," he said. "I've never seen a period like this before."

Part of the uncertainty reflects not only confusion about the source of the downward trend, but also misgivings about the numbers themselves. The situation may not be as alarming as the figures suggest.

This is because the methods used to collect national input/output data leave room for inaccuracies. Also, the traditional way of measuring productivity ignores many social welfare gains and only incompletely accounts for improvements in quality.

Still, the figures always have been subject to such qualifications. Many experts say what counts in the current debate is not so much the accuracy of the measurements but their startling, stubborn slide relative to the way they always have been computed.

In any case, there is cause for hope. As the negative effect of the influx of unskilled workers reverses itself, and as industry becomes accommodated to regulatory standards, U.S. productivity should climb again. The Bureau of Labor Statistics estimates that it will be back to about the 2.5 percent rate by the early 1980s.

But few experts believe America will return to its postwar rate of more than 3 percent. As Denison put it, "In the long sweep of history, the high postwar rate is an aberration."

Many businessmen tend now to write off the economy's stumbling performance during the Seventies as a costly learning experience, a period of expensive adjustment from which American managers soon will emerge with renewed vigor and a stronger sense of direction. "The Seventies had an enormously revolutionary impact," said Du Pont's Shapiro. "It's been one of those periods. Now we have a whole new ball game."

With the old forces that propelled America's postwar blastoff now on the wane, the nation's productive future rests on two principle factors: the ability to innovate and, as it has been put, the ability to "work smarter."

Innovation will cue off of an improved economic climate for risk capital, though not everyone agrees on how best to achieve this. Business is arguing for lower taxes and less regulation. Labor says that if tax cuts go anywhere, they should go to consumers to spur spending and, in that way, improve general business conditions. Congress and the White House are debating what the mix should be.

There also is no easy way to get people to "work smarter." Observers note that U.S. business generally has been good at harnessing intelligence.

Much of the internal challenge that corporations faced in the last decade concerned adjusting to a change in employee attitudes toward work and the work place. The robot theory of mass production is out; in its place has risen the "quality of worklife" program, stressing teamwork and giving workers a greater voice in determining what they do and how they do it.

Such changes can lead to a happier, more productive plant. But movement here generally has been sluggish, slowed both by management resistance and union reluctance.

"You can't do the things you did before," said GM's Murphy of the change in labor-management relations. "It's not enough today to follow the old Army tradition of 'do as we say and don't ask questions.' But what do you do? It's always been a difficult thing to find the better way."

[From the Washington Post, Sept. 4, 1978]

SMALL FIRMS STINTED ON RESEARCH

(By Jack Anderson)

Following their epochal 1903 Kitty Hawk flight, the Wright brothers got a five-year runaround from Washington before receiving any government financial help to pursue their aeronautical research. Small-time inventors and innovative businessmen today are getting the same short shrift, even though billions are being doled out by the federal government for research and development.

Butter-fat corporations lap up the cream from the research subsidies, even though they're interested more in profits and cost-cutting than new inventive breakthroughs. Small companies with fewer than 1,000 employees get skim milk from the federal churn.

Yet the little enterprising businesses rather than the corporate giants have been responsible for such developments in this country as insulin, zippers, power steering, ball point pens and self-winding watches. This was in keeping with the tradition of individual inventive geniuses symbolized by the Wright brothers, Alexander Graham Bell, Samuel Morse and Thomas Edison.

The superiority of small business research has been cited in a study which the Office of Management and Budget strangely never published. The study credited firms having than 1,000 employes with almost half of the industrial innovations between 1953 and 1973.

According to the study, 16 small technology firms created 25,558 jobs for American workers during the 20-year period because they came up with new ideas. Yet the budget office was advised that small firms were drawing inadequate funding from the government, getting less than 4 percent of the research and development layouts.

Spurred by the report, the budget office drafted a memo intended for all federal agencies, urging vigorous efforts to channel more of the research to small businesses "which are having difficulty in competing in the big leagues."

The memo added, "there is considerable evidence that the small proportion of federal research and development work that is being awarded to small technologically based firms is contributing to a serious loss of high technology capabilities in our nation. It is important that we see some real progress within the first 18 months of the administration."

This ringing call for a new deal was never sent to the agencies. Les Fettig, head of the office that was supposed to be directing the crusade, said the report and the memo were news to him until we asked what happened. He explained that the documents "fell through the cracks" during the transition period between the Ford and Carter administrations.

Fettig said his office is alert to the problem and is taking steps to make it easier for small businesses to get research and development help.

Footnote: Investigation shows that the Energy Department under James Schlesinger has been perhaps the worst offender in government in encouraging research at the Little League level. The department claimed it awarded 10.3 percent of its research contracts to small operators in the 1977 fiscal year. The General Accounting Office has challenged the statistic. GAO auditors found the amount was about 2.6 percent, because the Energy Department has counted subcontracts that trickle down from the big corporations.

[From Business Week, July 3, 1978]

VANISHING INNOVATION

A grim mood prevails today among industrial research managers. America's vaunted technological superiority of the 1950s and 1960s is vanishing, they fear, the victim of wrongheaded federal policy, neglect, uncertain business conditions, and shortsighted corporate management. They complain that their labs are no longer as committed to new ideas as they once were and that the pressures on their resources have driven them into a defensive research shell, where true innovation is sacrificed to the certainty of near-term returns. Some researchers are bitter about their own companies' lax attitudes toward innovation, but as a group they tend to blame Washington for most of their troubles. "[Government officials] keep asking us, 'Where are the golden eggs?'" explains Sam W. Tinsley, director of corporate technology at Union Carbide Corp., "while the other part of their apparatus is beating hell out of the goose that lays them."

That message—and its implications for the overall health of the U.S. economy—is starting to get through. Following months of informal but intense lobbying led by such executives as N. Bruce Hannay, vice-president for research and patents at Bell Telephone Laboratories Inc., and Arthur M. Bueche, vice-president for research and development at General Electric Co., the White House has ordered up a massive, 28-agency review of the role government plays in helping or hindering the health of industrial innovation. "Federal policy affecting industrial R&D and innovation must be carefully reconsidered," wrote Stuart E. Eizenstat, the White House's domestic policy adviser, in a recent memo outlining the review's intent.

One thing that the study clearly will not accomplish is a quick fix for the deepening innovation crisis. The problem is regarded as immensely complex by the Administration, and is inextricably tied to other economic dilemmas now facing Carter's White House.

"Historically, the government's role has been to buy more science and R&D," says Martin J. Cooper, director of the strategic planning division at the National Science Foundation (NSF). "Now maybe we better go with investment incentives." Says Jordan J. Baruch, Assistant Commerce Secretary for science and technology, who will be the review's day-to-day manager: "This study developed in an environment of people concerned about economics, business, and technology."

The Administration's concern is underscored by the fact that it is organized as a domestic policy review, the highest sort of attention a problem can receive within the executive branch. Among its objectives, such a review must produce options for corrective action by the President. According to Ruth M. Davis, Deputy Under Secretary of Defense for research and development, "this is the only such review at the policy level in 20 years that transcends the interests of more than one agency."

The White House also seems determined not to conduct the study in a governmental vacuum. Baruch is soliciting input from groups such as the Industrial Research Institute (IRI), the Business Roundtable, and the Conference Board. "We want both CEOS and R&D vice-presidents," says a White House official. Labor groups have been asked to participate, too, along with public-interest groups. Congressional leaders such as Senator Adlai E. Stevenson (D.-Ill), chairman of the Senate subcommittee on science, technology, and space, have been brought into the early planning. And the 28 agencies involved extend beyond obvious candidates, such as the Environmental Protection Agency, to the Justice Dept. and even the Small Business Administration.

The study's scope is so sweeping, in fact, that some Federal officials are talking about a "thundering herd" approach to policymaking. But one government science manager demurs. "It beats having one guy write a national energy program in three months," he sniffs.

Philip M. Smith, an assistant to Presidential science adviser Frank Press and an early organizer of the study, concedes that "a lot of people have told us that we are likely to fail." But such skepticism, he believes, does not take into account the considerable clout of those involved in the effort. Commerce Secretary Juanita M. Kreps, for example, is chairing the study, and she heads a coordinating committee whose members include Charles L. Schultze, chairman of the Council of Economic Advisers, Administration inflation fighter and chief trade negotiator Robert S. Strauss, and Zbigniew Brzezinski, Carter's national security adviser. Even more important is the support of Eizenstat, who, says Smith, "is very interested in this particular review."

FINDING "NEW DIRECTION"

On the other hand, there is already grumbling within the Agriculture Dept., which was left off Krep's committee. "We are red-faced," says a high-ranking Agriculture official. "We are out of the project because this Administration and those before it do not place any priority on agricultural reesarch." However, Jordan Baruch insists that the department will play a role in the study. Agriculture experts point out that farm commodity exports of over $24 billion play a key role in the U.S. balance of payments. They note also that superior technology is the basis of the commanding American position among world food exporters.

Whatever its outcome, the White House policy review is being undertaken at a time when, as Frank Press puts it, "we badly need some new directions." Many experts view with alarm the declining federal dollar commitment to R&D, which has dropped from 3% of gross national product in 1963 to just 2.2% this year. For its part, industry as a whole has more or less matched the inflation rate and then some with its own spending. But such macroscale indicators do not tell all. "We've got to find out what the story is sector by sector, because each industry is going to be different," says Press. "We also have to find out what's going on abroad."

Better data on the relationship between industrial innovation and the health of the economy are becoming available. According to a 1977 Commerce Dept. report, for instance, technological innovation was responsible for 45% of the nation's economic growth from 1929 to 1969. The study went on to compare the performance of technology-intensive manufacturers with that of other industries from 1957 to 1973, and found that the high-technology companies created jobs 88% faster than other businesses, while their productivity grew 38% faster.

The numbers help to establish the central role of industrial innovation in stimulating economic development, but they also are beginning to reveal the changing character of industrial research. The amount of basic research that industry performs, for instance, has dropped to just 16% two years ago from 35% of the national total in 1955.

And a new IRI survey of member companies for the National Science Foundation demonstrates how federal policy has directly altered the nature of the research effort in another way, making it more and more defensive. The study shows that surveyed companies increased R&D spending devoted to proposed legislation by a striking 19.3%, compounded annually, from 1974 to 1977. And the rate was 16% a year for R&D devoted to Occupational Safety & Health Administration (OSHA) requirements. "When overall R&D spending is not growing nearly this fast," note the survey's authors, George E. Manners Jr. and Howard K. Nason, "other categories of effort—especially research—must be suffering."

Other observers compare the viability of industrial innovation in the U.S. with that of foreign countries. One expert is J. Herbert Hollomon, director of the Center for Policy Alternatives at Massachusetts Institute of Technology. According to Hollomon, a reason the U.S. is losing its leadership is that "we're arrogant—we have an NIH [not invented here] complex at the very time a majority of technological advances is bound to come from outside the U.S." Consequently, he argues, the U.S. has not organized itself to capitalize on these advances, as foreign countries have done for years with American knowhow. Since as much as two-thirds of all R&D is now conducted by foreign laboratories, Hollomon says, it should be no surprise that they have taken the lead in such technologies as textile machinery and steel production.

"We essentially prohibited West Germany and Japan from defense and space research," says Hollomon. "So it's no accident they concentrated on commercial fields." He adds: "I believe other nations better understand that the innovation process is important."

Says a research director for one high-technology company: "For a country like ours, the technology leader of the world, what has been happening is downright embarrassing." Indeed, even the presumed sources of strength in a consumer-oriented society are today under intense pressure. "Our experience with Japan in the consumer electronics industry—namely televisions, radios, audio, and transceiver equipment—shows some of our weaknesses," testified Gary C. Hufbauer, a Deputy Assistant Treasury Secretary, before a congressional subcommittee. In 1977, he said, "we had a $3.6 billion trade deficit with Japan in high-technology goods, and

about two-thirds of this was accounted for by imports of consumer electronic goods."

THE ROLE OF REGULATION

The cumulative response to these developments has been alarm. "The system has now sharpened its pencils in a way that discourages changes that are major," worries Robert A. Frosch, head of the National Aeronautics & Space Administration. "We have been so busy with other things that we may have inadvertently told the people who think up ideas to go away."

Even labor unions, which historically have left R&D decision-making up to corporate board rooms, now are complaining about lack of innovation. "Having helped to develop and pay for this technology," says Benjamin A. Sharman, international affairs director of the International Association of Machinists, "American workers have a right to demand government responsibility for using it to create new products, more jobs, better working conditions, and general prosperity." And Charles C. Kimble, research director of the Electrical, Radio & Machine Workers union, goes so far as to suggest that labor should now have a say in how industrial research money is spent.

Among research managers themselves, excessive or contradictory federal regulatory policy is the single greatest complaint. Hannay of Bell Labs points to Food & Drug Administration requirements as a case in point. According to one study, says Hannay, a 1938 application for adrenaline in oil was presented to the FDA in 27 pages. In 1958, a treatment for pinworms took 439 pages to describe. "By 1972," he says, "a skeletal muscle relaxant involved 456 volumes, each 2 in. thick—76 ft. in total thickness and weighing one ton."

Regulation, says Tinsley of Union Carbide, has put a bottleneck on new-product development in the chemical industry and has so added to the cost of getting any new chemical approved that only those targeted at a vast, assured market are attempted today. Food and drug industry researchers echo that complaint. "Today," says Al S. Clausi, director of technical research at General Foods Corp., "our industry does work that is fostered by unreal and invalid public concerns."

But regulation can have less obvious impacts, such as forcing an industry to stick with old technology rather than to experiment with new approaches to problems. "The overall effect of regulations on the auto industry has been to build an envelope around the internal-combustion device and the whole car structure," says Harvard Business School Professor William J. Abernathy, who specializes in technology management. "'Don't do anything really new, don't change.' That's what these regulations say." Paul F. Chenea, vice-president for research at General Motors Corp., agrees. "You just don't have time to explore wild new ideas when a new rule is so closely coupled to your current business," he says.

"THE SCIENCE OF THE MATTER"

In Congress, where the regulatory laws are written, such thinking has so far found a small audience. "A great number of the regulations that we would call environmental . . . may actually be self-defeating," muses Harrison H. Schmitt, the former astronaut from New Mexico who is the ranking Republican on Stevenson's Senate subcommittee. "Instead of looking at pollution controls, if we were looking at building a more efficient and therefore less-polluting engine, we would not only be solving our environmental problems, but we would be producing a new thing for export."

Schmitt is one of only three federal legislators with the semblance of a science background. "We probably have exercised very poor judgment in the past," he says, "because the Congress overall—members as well as staff—have not been able to understand what is possible technologically and what is not, and therefore not been able to relate the costs [of legislation]."

Jason M. Salsbury, director of the chemical research division at American Cyanamid Co., pleads, "Before the lawyers write the legislation, let them know the science of the matter." Not only may some mandates be beyond what industry can legitimately perform, he says, but the rules force a conservative approach to science. One key indicator of this trend is the increasing number of toxicologists now employed in chemical company research labs. "Toxicologists don't innovate," notes Frank H. Healey, vice-president for research and engineering at Lever Bros. Co.

Then there is the regulatory bias against new ideas. In the EPA's grant programs for waste-water treatment at the municipal level, for instance, equipment specifications must be written so that gear can be procured from more than one source. That means a company with a unique process is discriminated against. What is more, the mandate for cost effectiveness precludes trying out innovative approaches whose value can only be measured if someone is willing to gamble on them.

If the domestic policy review is to solve such questions, it will depend in large part on the willingness of regulators to see matters in a new light. According to Philip Smith, there is "a sense that people like [EPA Administrator] Doug Costle and [FDA Administrator] Don Kennedy want to work with industry, and they don't want to fight all the time. I think we have a team of people now in government that may be able to do something."

THE INVESTMENT CLIMATE

But industry should not expect a major overhaul of regulatory practices to emerge from the study. EPA Administrator Douglas M. Costle concedes "a tremendous growth in the last decade in health and safety regulations—13 major statutes in our area alone." Though Costle agrees that the economic impact of such rules should be more closely quantified, he contends that "this rapidly widening wedge of regulation has been a response to a massive market failure—failure of the marketplace to put an intrinsically higher value on pollution-free processes."

Most regulators agree that not enough research has been done on the true nature of the environmental problems they are empowered to combat, but they also argue that regulation has led to cost-saving practices, especially in the area of resource recovery, where closed-cycle processes now help capture reusable material. OSHA officials also cite examples where the agency has laid down rules that have led to cost-cutting innovations. But Eula Bingham, the OSHA administrator, emphasizes that the "legislatively determined directive of protecting all exposed employees against material impairment of health or bodily function" requires tough regulation without quantitative weighing of costs and benefits. "Worker safety and health," she insists, "are to be heavily favored over the economic burdens of compliance."

Bingham and her boss, Labor Secretary Ray Marshall, may represent an increasingly isolated view, however. Economic issues have come to dominate thinking within the Carter Administration, and it is precisely these questions that industry has stressed in its discussions with science adviser Press and other White House officials. Just over a month ago, Treasury Secretary W. Michael Blumenthal told a meeting of financial analysts in Bal Harbour, Fla., "We are now devoting a very sizable chunk of our private investment to meeting government regulatory standards . . . and in some of these areas we may well be reaching a breaking point." Blumenthal also noted: "Our technological supremacy is not mandated by heaven. Unless we pay close attention to it and invest in it, it *will* disappear."

A month before the Blumenthal speech, GE's Bueche suggested to an American Chemical Society gathering that "we step back and look at R&D for what it really is, an investment. It is an investment that, like more conventional investments, has become increasingly less attractive."

Bueche, along with most other research managers, rejects the idea of direct federal subsidies to industrial R&D. Instead, he points out that "perhaps 90% of the total investment required for a successful innovation is downstream from R&D [and thus] it becomes . . . clear why we must concentrate on the overall investment climate." Bueche attacks Administration proposals to eliminate special tax treatment of long-term capital gains, plumps for more rapid investment write-offs, and says "it is extremely important to provide stronger incentives for technological innovation by making permanent and more liberal the 10% investment tax credit."

CRITICS IN INDUSTRY

Bueche's arguments suggest the broad—yet often indirect—way in which federal policy runs counter to the best interests of innovation. Fear of antitrust moves from the Federal Trade Commission or the Justice Dept., for instance, has prevented many companies from sharing research aimed at a problem common throughout an industry—including new technology aimed at solving regulatory questions. At General Electric, the legal staff must now be notified if a competitor visits a company research facility, even if no proprietary material is involved.

For their part, Justice Dept. trustbusters claim that fears that their policies stifle innovation are not justified. They say they are flexible enough to recognize the differences in the pace of innovation from industry to industry, and that is why they allow a fair number of mergers among electronics companies. "That's an industry where you don't have to worry about someone cornering the market," says Jon M. Joyce, an economist in the Justice Dept.'s antitrust division. "There's just a lot of guys out there with good ideas."

Industry further claims that the inability to secure exclusive licenses on government-sponsored research leaves much good technology on the shelves, while federal attempts to market new products are often silly at best. Richard A. Nesbit, director of research at Beckman Instruments Inc., recalls a government circular that waxed rhapsodic over the federal commitment of billions of dollars to R&D. Included with the letter was a syringe for sampling fecal matter, and the suggestion that Beckman might want to license the technology. "I wondered if they spent billions to develop that," Nesbit recalls. "The contrast was ludicrous."

Even national accounting procedures draw criticism from industry. A major target is the 1974 ruling by the Financial Accounting Standards Board that stipulated that R&D spending could no longer be treated as a balance sheet item, but must be listed as a direct profit or loss item in the year spent. R. E. McDonald, president and chief operating officer at Sperry Rand Corp., recently told an executive management symposium, "The ramifications of that rule change are quite complex, but the next effect has been to dry up a lot of potential venture capital investments. . . . I can say quite candidly that Univac would not be here today if we had not had the advantage of the old rule for so many years."

The shortage of risk capital has had a tremendous impact on small, technology-oriented companies trying to arrange new

public financing. According to a Commerce Dept. survey, 698 such companies found $1.367 billion in public financing in 1969. In 1975, only four such companies were able to raise money publicly, and their numbers rose to just 30 in 1977. Equally ominous is the experience at Union Carbide, which, according to Tinsley, has not been able to compete for venture capital and has thus canceled plans to start a number of small operations built around interesting new technology. Years ago, says Tinsley, Carbide was reasonably successful at getting such funding. "And you must remember that these ideas are perishable," he says. "They don't have much shelf life."

The Treasury Dept., in fact, has an ongoing capital-formation task force that will be integrated into the policy review under the direction of Deputy Secretary Robert Carswell. Carswell notes that "you can't draw a clear line" between R&D support and investment in general, but "if it turns out that we find some form of capital formation gives the economy a greater multiplier effect than another form, we at the Treasury would not shy away from whatever policy would help most."

WASHINGTON'S CHANGING ROLE

Even as it has pursued policies detrimental to industrial R&D, the federal government has withdrawn as a major initiator of innovation. Research managers generally believe that companies are better equipped than government to bring new technology to society because they are more attuned to market pull. But Lawrence G. Franko of Georgetown University, an international trade expert, recently pointed out to a congressional committee that the U.S. government has in the past played an important role "as a source of demand for new products and processes, and as a constant, forbearing customer in computers, semiconductors, jet aircraft, nuclear-power generation, telecommunications, and even some pharmaceuticals and chemicals. . . ."

According to the Defense Dept.'s Davis, both Defense and NASA "have faded" in this role, the result of the Vietnam war and concerns over the military-industrial complex. "The consumer marketplace and other government agencies have not been able to pick up where DOD and NASA left off," she says. "The Department of Energy should be able to help with this, but it hasn't yet. And the Department of Transportation just never blossomed in this role." An unreleased IRI study for the Energy Dept. summed up industry's views. The company officers interviewed said government could spur industry's energy R&D only by creating a national energy policy, increasing its managerial competence, and offering financial incentives rather than massive contracts.

On the other hand, there have been some recent, notable government efforts to spur the innovation process. "We've talked to the leading semiconductor companies about our hopes for their innovation," says Davis. She says that the Defense Dept. expects to program $100 million over the next five years for industrial innovation in optical lithography, fabrication techniques involving electron-beam technology, better chip designing and testing to meet military specifications, and system architecture and software implementation.

At the Transportation Dept., chief scientist John J. Fearnsides wants to involve the private sector much earlier in the government's R&D process, thereby allowing industrial contractors to develop technology alternatives instead of having to cope with rigid specifications at the outset. Such a policy, some believe, might have resulted in major savings for the Bay Area Rapid Transit system, for instance. "It is more expensive to fund a wider range of choices, but only at first," says Fearnsides.

The NSF also has announced a new industry-university grant program for cooperative exploration of "fundamental scientific questions." The aim is to make "a long-term contribution toward product and/or process innovation."

THE FAILURES OF BUSINESS

While agreeing on the need for federal policies that bolster innovation, those knowledgeable about industrial research think that the companies themselves share some of the blame for stagnation and must be willing to examine their practices critically. Alfred Rappaport, a professor of accounting and information systems at Northwestern University's graduate school of management, believes that one reason the U.S. lags in R&D is that the incentive compensation systems that corporate executives live under tend to deter intelligent risk-taking. "Incentive programs are almost invariably accounting-numbers oriented and based on short-term earnings results," he says. "That puts management emphasis on short-term business considerations." Another criticism has been of the haphazard way in which companies have launched new R&D programs. In essence, industry should try to learn how to weed out bad ideas early on, say the detractors. To that end, Dexter Corp. has instituted an eight-factor "innovation index" approach to research management that weighs questions such as effectiveness of communications, competitive factors, and timing, and comes up with an "innovation potential" for new ideas. At Continental Group Inc., D. Bruce Merrifield, vice-president of technology, says that "constraint analysis" of new ideas now means that eight of 10 projects that survive the review will generate cash flow within two to four years. That contrasts with accepted estimates that only one in 50 ideas that come out of research labs even generates cash flow, and not for seven to 10 years.

Large companies often fail to exploit their own resources effectively. In the 1950s and 1960s, some companies set up centralized research facilities, but many of these did not yield the hoped-for synergism—in many cases, apparently, because the different parts of the company were in businesses too unrelated to one another.

On the other hand, Raytheon Co. was highly successful in transferring its microwave expertise to its newly acquired Amana appliance subsidiary in 1967, resulting in the counter-top microwave oven. That was done through a new-products business group set up specifically for such purposes. And more recently, this group, headed by Vice-President Palmer Derby, brought the company's microwave talent to bear on its Caloric subsidiary's product line, resulting in a new, combination microwave-electric range.

In such ways, industry can maximize its potential for innovation in the most adverse environment. But the future health of the nation's economy, many experts believe, requires a much more benign environment for industrial R&D than has existed over the past decade. And Jordan Baruch, the enthusiastic leader of the multi-agency federal study, believes that such an environment is likely to emerge as a result of the Administration's concern.

"We may have bitten off more than we can chew," notes Frank Press, "and it may be that we can't get much done in a year. But even if it takes three or five or 10 years, I think it is historically very important." ●

● Mr. MATHIAS. Mr. President, I welcome the opportunity to join Senator DOLE, Senator BAYH and others in introducing the "University and Small Business Patent Procedures Act."

The patent system has served this country well since the beginning of the Republic. It protects and nurtures the creative genius of our inventors, and accounts in great measure for the industrial might of the country. Not only does it give the inventor a chance to make a profit from his discoveries, but it gives his competitors a chance to "invent around" his discovery—refining it, improving it, even making it obsolete.

Abraham Lincoln observed that the patent system "added the fuel of interest to the fire of genius." Our bill will restore the fuel that the Department of Health, Education, and Welfare has cut off.

I say this because of the freeze the Department has imposed on the granting of greater rights in inventions that were made under Department-funded grants and contracts to universities that do not hold Institutional Patent Agreements with the Department.

Specifically, I have been informed that the Johns Hopkins University petitioned the Department for greater rights in two such inventions over a year ago and that, to date, no determination has been made. One of the inventions is a pharmaceutical composition that is contemplated to be useful in the treatment of various liver disorders. In fact, related drugs invented under Department-funded grants by the same investigator have been licensed in a number of countries and are already being marketed in Europe. The Johns Hopkins University is apprehensive that failure to obtain greater rights in the invention could jeopardize efforts to commercialize the drug, resulting in loss of its benefit to the public.

Our bill will solve this problem by allowing universities, nonprofit organizations, and small businesses to obtain limited patent protection on discoveries they have made under Government-supported research if they spend the additional private resources necessary to bring their discoveries to the public. It will restore that "fuel or interest" that Abraham Lincoln thought so important.

The bill is a good one, Mr. President, and I urge all of our colleagues to support it.●

By Mr. MOYNIHAN:

S. 3497. A bill to amend the Internal Revenue Code of 1954 to allow a taxpayer who does not itemize his deductions to deduct amounts paid as State and local income taxes from gross income; to the Committee on Finance.

Mr. MOYNIHAN. Mr. President, I am today introducing a bill which addresses a problem of great seriousness to millions of taxpayers—the problem of ever-increasing State and local income taxes.

State and local income taxes have more than doubled as a percentage of personal income in the last two decades, and have risen much more quickly than Federal income taxes. Since the inception of the graduated income tax in 1913, State and local taxes have been deductible from income for Federal tax purposes. However, as the zero bracket amount has risen, fewer and fewer taxpayers find it advantageous to itemize deductions. As a result, fewer and fewer Americans are in fact able to deduct State and local in-

come taxes on their Federal tax returns. With State and local income taxes rising, it is obvious that many Americans are very much caught in this crunch.

My bill would allow all taxpayers to deduct their State and local income taxes, regardless of whether they itemize deductions. Most of the benefits of this bill will go to taxpayers earning under $30,000, many of whom have seen their tax burden increase significantly in the last few years.

I urge my colleagues to support this measure.

I ask unanimous consent that the text of my bill be printed in the RECORD.

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

S. 3497

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) part VI of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to itemized deductions for individuals and corporations) is amended by adding at the end thereof the following new section:

"SEC. 193. STATE AND LOCAL INCOME TAXES.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a deduction for the taxable year within which paid or accrued State and local income taxes (within the meaning of section 164(a) (3)).

"(b) APPLICATION WITH SECTION 164.—No deduction shall be allowed under this section for any taxable year for which the taxpayer claims the deduction allowed by section 164 (relating to taxes).".

(b) Section 62 of such Code (relating to definition of adjusted gross income) is amended by inserting after paragraph (13) the following new paragraph:

"(14) STATE AND LOCAL INCOME TAXES.—The deduction allowed by section 193.".

(c) (1) Paragraph (1) of section 57(b) of such Code (defining adjusted itemized deductions) is amended—

(A) by inserting "(determined without regard to paragraph (14) of section 62" after "adjusted gross income" in subparagraph (A), and

(B) by striking out "the taxpayer's adjusted gross income for" and inserting in lieu thereof "the taxpayer's adjusted gross income (determined without regard to section 193) for".

(2) Subparagraph (E) of section 170(b) (1) of such Code (relating to definition of contribution base) is amended by inserting "and without regard to section 193" after "section 172".

(3) Paragraph (1) of section 213(a) of such Code (relating to allowance of deduction for medical, dental, etc., expenses) is amended by inserting "(determined without regard to paragraph (14) of section 62)" after "adjusted gross income".

(4) Subsection (b) of section 213 of such Code (relating to limitation with respect to medicine and drugs) is amended by inserting "determined without regard to paragraph (14) of section 62)" after "adjusted gross income".

(5) Subparagraph (A) of section 3402 (m) (2) of such Code (defining estimated itemized deductions) is amended by striking out "paragraph (13)" and inserting in lieu thereof "paragraphs (13) and (14)".

(d) The table of sections for part VI of subchapter B of chapter 1 of such Code is amended by inserting after the item relating to section 192 the following new item:

"SEC. 193. State and local income taxes.".

SEC. 2. The amendments made by the first section of this Act shall apply to taxable years beginning after December 31, 1978.

ADDITIONAL COSPONSORS

S. 1845

At the request of Mr. BAYH, the Senators from Minnesota (Mrs. HUMPHREY and Mr. ANDERSON), the Senator from South Dakota (Mr. ABOUREZK), the Senator from Colorado (Mr. HART), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Montana (Mr. MELCHER), the Senator from Illinois (Mr. PERCY), the Senator from Maryland (Mr. MATHIAS), and the Senator from Alaska (Mr. GRAVEL) were added as cosponsors of S. 1845, a bill to control the use of polygraphs in employment.

SENATE JOINT RESOLUTION 159

At the request of Mr. WALLOP, the Senator from Kansas (Mr. DOLE), and the Senator from New Mexico (Mr. SCHMITT) were added as cosponsors of Senate Joint Resolution 159, providing for disapproval of implementation of national water resources policies, and for other purposes.

SENATE RESOLUTION 560—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. GLENN, from the Committee on Governmental Affairs, reported the following original resolution, which was referred to the Committee on the Budget:

SENATE RESOLUTION 560

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 7700. Such waiver is necessary because the bill would authorize expenditures estimated at between $25 million and $33.2 million for Fiscal Year 1979 and the Committee was unable to report on H.R. 7700 by May 15, 1978. H.R. 7700 was referred to the Committee on April 11, 1978, and a companion bill on which the Committee amendment is based was introduced in the Senate on June 23, 1978. Consideration of the legislation was deferred by the Committee's consideration of other priority legislation, including Civil Service Reform (S. 2640) and because the Committee believed it advisable to defer action until the U.S. Postal Service and representatives of its bargaining unit employees had substantially completed negotiations for a new labor-management agreement pursuant to Chapter 12 of title 39, United States Code.

SENATE RESOLUTION 561—SUBMISSION OF A RESOLUTION WAIVING CONGRESSIONAL BUDGET ACT

Mr. RIBICOFF submitted the following original resolution, which was referred to the Committee on the Budget:

S. RES. 561

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such act are waived with respect to the consideration of S. 2, the Program Reauthorization and Evaluation Act of 1978. Such waiver is necessary because the bill authorizes the enactment of appropriations in fiscal year 1979 and the Committee on Rules and Administration did not report S. 2 until July 13 (legislative day, May 17) 1978. The Committee on Governmental Affairs reported S. 2 on July 1, 1977.

The Congressional Budget Office estimates that the cost of implementing the provisions of S. 2 which go into effect in Fiscal Year 1979 would be approximately $1 million, an amount so small that its consideration will not significantly affect the Federal budget. Because the requirements of S. 2 effective in Fiscal Year 1979 which were reported by the Committee on Rules and Administration are nearly identical to the provisions of S. 2 as reported by the Committee on Governmental Affairs the authorization for this activity clearly could have been contemplated to be part of the national budget to the exent that it has any significant fiscal impact.

● Mr. RIBICOFF. Mr. President, I am submitting today a resolution to waive section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2, the Program Reauthorization and Evaluation Act of 1978.

This legislation was reported unanimously by the Committee on Governmental Affairs on July 1, 1977. We are asking a waiver of the Budget Act provisions, however, so that S. 2 may be considered by the Senate in light of the fact that the Committee on Rules and Administration was unable to report this measure until July 13, 1978.

The Congressional Budget Office has estimated that the cost of implementing the provisions of S. 2 which would go into effect in fiscal year 1979 would be approximately $1 million, an amount so small that its consideration would not significantly affect the Federal budget.

Because the requirements of S. 2 as reported by the Rules Committee which go into effect in fiscal year 1979 are nearly identical to the provisions of S. 2 as reported by the Committee on Governmental Affairs, it is fair to say that the authorization for this activity clearly could have been contemplated to become part of the national budget to the extent that it will have any significant fiscal impact.●

AMENDMENTS SUBMITTED FOR PRINTING—DEPARTMENT OF EDUCATION—S. 991

AMENDMENT NO. 3588

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

Mr. STEVENS (for himself, Mr. YOUNG, Mr. GOLDWATER, Mr. CHILES, Mr. ANDERSON, Mr. BARTLETT, Mr. CHURCH, Mrs. HUMPHREY, Mr. HANSEN, Mr. BURDICK, Mr. JACKSON, Mr. GRAVEL, and Mr. MATHIAS) submitted an amendment intended to be proposed by them, jointly, to S. 991, a bill to establish a Department of Education, and for other purposes.

Mr. STEVENS. Mr. President, on behalf of myself and Senators YOUNG, GOLDWATER, CHILES, ANDERSON, BARTLETT, CHURCH, HUMPHREY, HANSEN, BURDICK, JACKSON, GRAVEL, and MATHIAS, I submit an amendment to S. 991, a bill to establish a Department of Education, and for other purposes, and ask that it be printed.

The PRESIDING OFFICER. The amendment will be received and printed, and will lie on the table.

NOTICES OF HEARINGS

SUBCOMMITTEE ON FEDERAL SPENDING PRACTICES AND OPEN GOVERNMENT

● Mr. CHILES. Mr. President, the Subcommittee on Federal Spending Practices and Open Government is announc-

ing the continuation of hearings on the General Services Administration contract fraud investigation on Monday, September 18, at 10 a.m., in 3302 Dirksen Senate Building.

Any inquiries regarding the hearing should be directed to Mr. Ronald Chiodo, subcommittee chief counsel and staff director (244–0211).●

SUBCOMMITTEE ON THE CONSTITUTION

● Mr. BAYH. Mr. President, the Subcommittee on the Constitution has scheduled 2 additional days of hearings on S. 1845 proposing legislation to protect the rights of individuals guaranteed by the Constitution of the United States and to prevent unwarranted invasion of their privacy by prohibiting the use of polygraph type equipment for certain purposes, for Tuesday, September 19, 1978, beginning at 9 a.m. in room 6226, Dirksen Senate Office Building, and Thursday, September 21, 1978, beginning at 9 a.m. in room 5110, Dirksen Senate Office Building.

Any persons wishing to submit written statements for the hearing record should send them to the Subcommittee on the Constitution, suite 102–B, Russell Senate Office Building, Washington, D.C. 20510.●

SUBCOMMITTEE ON ADMINISTRATIVE PRACTICE AND PROCEDURE

● Mr. ABOUREZK. Mr. President, I wish to announce that the Subcommittee on Administrative Practice and Procedure of the Committee on the Judiciary, will hold a hearing Thursday, September 14, 1978, at 10 a.m., concerning the feasibility of administering the natural gas conference report. Hearing will be in room 2228, Dirksen Building.●

ADDITIONAL STATEMENTS

ALCOHOL FUELS IN BRAZIL

● Mr. BAYH. Mr. President, there has been quite a bit of publicity given recently to the Brazilian Government's strong support of the use of alcohol fuels in that country. Earlier this summer, the Wall Street Journal published an article on the subject, which I reprinted in the RECORD for the information of my colleagues.

Recently, Mr. President, the Washington Post also contained an article on the use of alcohol—both in pure form and in blends with gasoline—by Brazilians in their automobiles. There are still those who say that alcohol fuels cannot work, or are economically feasible, but the Brazilian experience is proving them wrong.

Mr. President, I ask that the Washington Post article entitled "Gas Guzzlers Becoming Alcoholics in Brazil," be printed in the RECORD at this point.

The article follows.

GAS GUZZLERS BECOMING ALCOHOLICS IN BRAZIL

(By Larry Rohter)

SAO PAULO, BRAZIL.—For the last year, hundreds of state-owned cars with stickers saying "This Vehicle Is Powered by Alcohol" have been driven around this city of more than 8 million people.

Local auto parts shops sell a $200 kit to run on pure alcohol.

A nearby industrial center has just ordered a fleet of non-polluting alcohol-powered buses. In half a dozen major cities, Brazilians now fill the tanks of their car with "gasohol"—a mixture of 80 percent gasoline and 20 percent ethyl alcohol.

That mixture requires no engine modification. By 1980, when alcohol production is to reach 1 billion gallons annually, all pumps are to offer only gasohol or alcohol.

The president of the Brazilian Automobile Manufacturers' Association, Mario Carrero, has predicted that by 1981 more than 16 percent of all cars built here—currently 1 million per year—will come equipped with engines that burn pure alcohol.

Only a few years ago, none of these projects would have been considered practical. In the heady days of Brazil's economic upsurge in the early 1970s, planners here followed the example of the United States and other industrialized countries and looked to cheap gasoline to fuel the booming economy. They gave little thought to "nonconventional" energy sources.

Today, however, Brazil imports 83 percent of its petroleum, costing $4 billion yearly—the largest oil import bill in the Southern Hemisphere. Now, Brazil is seeking its salvation in one of the oldest and most plentiful substances known to man: alcohol distilled from sugar cane, manioc and other tropical plants that grow abundantly in this giant land.

The effort is already far enough along that energy experts consider Brazil the world leader in using alcohol as a motor fuel. This year alone, Brazil's alcohol program will result in the consumption of 635 million gallons of ethyl alcohol either as a gasoline substitute or supplement.

"This is one area of energy research and development in which the Brazilians have an advantage not only over us, but over everybody else," said a White House aide during President Carter's March visit here, when the United States and Brazil agreed on an energy information exchange program. "There are really a lot of things for us to learn from them."

The process by which vegetable material—or "biomass," as it is technically known—is transformed into alcohol fuel is simple. Brazilians have been converting sugar cane into alcohol by fermentation since colonial days, and ethyl alcohol was mixed with gas as early as the 1930s, when record low prices of sugar brought on by the worldwide depression forced Brazil to divert part of its bumper crop into fuel.

But systematic investigation of the large-scale use of alcohol as a gasoline substitute or additive began only with the advent of the international energy crunch in 1973. In the last five years Brazil's National Alcohol Commission has approved some 170 projects and earmarked $800 million for biomass conversion and engine modification efforts.

"The emphasis has been not so much on research and development as on the expansion and implementation of programs that already existed on paper," says an American official in Brasilia. "They've mostly done things like modernize old sugar mills and improve their distribution system."

But at the aerospace and technology Center, a government research facility near here, scientists have undertaken 34 different programs to design engines that will run on pure alcohol or to convert gasoline engines to alcohol at minimum cost. Elsewhere, agronomists are engaged in genetic research in an attempt to increase yields of crops that will be distilled into alcohol.

Thus far, sugar cane alcohol has received more attention from the Brazilians, but Petrobras, the giant state oil monopoly, has recently begun operating a manioc distillery near the industrial city of Belo Horizonte that turns out 16,000 gallons of manioc alcohol daily.

Experimental programs conducted in major cities have shown that alcohol, whether derived from sugar cane or manioc, has several major advantages over ordinary gasoline. Although it leaves a slight odor, it burns cooler, cleaner and more efficiently, giving virtually the same mileage as gasoline, but without leaving lead or sulphur pollutants. Hydrocarbon residues "can be lowered to negligible levels," according to a recent study.

While alcohol engines are harder to start than ones that run on gasoline, this is less of a problem in Brazil's tropical climate than it would be in the temperate United States. The Brazilians attach a gadget to the motor that starts the car each day on a small quantity of pure gasoline. After that, they say, the residual heat is sufficient for the pure alcohol to catch without difficulty.

The converted cars use normal gas tanks and the experts say they have encountered no problems with evaporation. For all the interest in alcohol as fuel, the government—which is pouring billions of dollars into nuclear and hydroelectric energy programs—has proven more reluctant to take what one foreign energy expert calls "the big leap" to pure alcohol.

"There are no technological reasons whatsoever to prevent alcohol from eventually taking the place of gasoline," said Professor Jose Goldemberg of the University of Sao Paulo, president of the Brazilian Society of Physics and one of the strongest advocates of the biomass program. "What's holding them back are political and economic considerations."

"Petrobras opposes the alcohol program because the pump price it charges for gasoline is a purely artificial one that is four times the actual cost," Goldemberg said. "Since alcohol currently costs twice as much to make as gasoline, that means both Petrobras' profits and government tax revenues would drop if a crash program to replace gasoline with alcohol were put into effect."

Proponents of the alcohol program say these economic shortcomings are offset by other gains. In widely publicized speeches recently, two influential government ministers argued that a full-scale pure alcohol effort would generate jobs in Brazil and that all expenses incurred would be in cruzeiros not dollars—thus avoiding adverse effects on Brazil's uncertain balance-of-payments situation.

In the long run, say both foreign and Brazilian energy experts, there is no doubt that alcohol will emerge as an economically attractive source of energy, both for Brazil and for other nations.

"The trend seems to be that while oil prices will rise, the price of alcohol will continue to drop, perhaps by as much as 20 percent as methods of production become more efficient," says a U.S. official.

Some Brazilian officials are already looking ahead a decade and predicting that their nation will be able to export alcohol and alcohol technology to Africa, Latin America and perhaps even the industrialized world. Patents have already been taken out by Brazil on engine modifications and distillers improvements that have been developed here.

"Biomass energy just may be the wave of the future," says the U.S. official. "If it is, the Brazilians are going to have the jump on the rest of us."

Biomass fuels were once associated with underdevelopment and Brazilians have had to overcome their pride to enter the field. They note, however that others are following West German and Scandinavian scientists have bought the results of Brazil's studies.●

NATIONAL GALLERY DESERVES KUDOS FOR HIRING VIETNAM-ERA VETERANS

● Mr. CRANSTON. Mr. President, I would like to take this opportunity to bring to the attention of my colleagues the efforts being made by the National Gallery of Art to hire Vietnam-era veterans under the veterans readjustment appointments (VRA) authority in section 2014 of title 38, United States Code. As Members know, VRA appointments are excepted appointments in the Federal civil service designed to help veterans who served on active duty during the Vietnam era and who have less than 14 years of education find suitable employment during the year following their release from the service. The VRA program has provided employment opportunities for over 100,000 Vietnam-era veterans since the program's inception in 1970.

As my colleagues are aware, on June 1, 1978, the new East Wing of the National Gallery was opened to the public. In anticipation of the opening, the National Gallery began increasing its security staff in January 1978; and, between January 1 and May 31, 62 Vietnam-era veterans received VRA appointments as security guards.

These veterans were actively recruited by the Gallery's personnel office, which placed advertisements in the local newspapers describing the eligibility requirements for a VRA appointment. In addition, the Gallery asked the Department of Manpower of the District of Columbia and the Civil Service Commission for lists of VRA eligibles. Finally, persons applying for security guard positions at the National Gallery were questioned to determine their eligibility for a veterans readjustment appointment.

Mr. President, as chairman of the Committee on Veterans' Affairs, I would like to congratulate the National Gallery for its policy of hiring educationally disadvantaged Vietnam-era veterans under the VRA program and to express thanks and appreciation for a job well done to those officials of the National Gallery who are responsible for this policy.●

SENATOR KENNEDY AND THE SOVIET UNION

● Mr. RIBICOFF. Mr. President, during the past several months our relations with the Soviet Union have been difficult. I have shared with many of my colleagues a sense of apprehension that we and the other great super power might be entering a period of rising tension. Lately there have been signs that give cause for some encouragement. The most recent is the successful trip to the Soviet Union by the distinguished senior Senator from Massachusetts.

In November Senator BELLMON and I will lead a delegation of 13 Senators to the Soviet Union.

Mr. President, I believe that the United States and the Soviet Union must learn to live with each other.

Senator KENNEDY returned to the United States with the welcome news that 18 families will be allowed to emigrate; all 18 had previously been denied permission to leave the Soviet Union. There are some other signs which could be cause for hope that relations are improving. The release of International Harvester official Francis Crawford, despite the dubious grounds for arresting him in the first place, is welcome news. And the decision to relegate to a minor issue the accusations against reporters from the Baltimore Sun and the New York Times suggest the realization that such treatment of reporters is not conducive to good relations.

Mr. President, we are indebted to our colleague from Massachusetts for a productive week in the Soviet Union, for having renewed the basis for cooperation between the Soviets and Americans. His statement upon returning from the Soviet Union is an account of the positive directions we should be pursuing. I ask that the statement be printed in the RECORD.

Today's Washington Post has an editorial entitled "Senator KENNEDY and the Kremlin" which underscores the importance of this mission to Moscow. The Post observes that "The Senator played his part expertly." I ask that this editorial be printed in the RECORD.

The material follows:

STATEMENT OF SENATOR EDWARD M. KENNEDY ON HIS VISIT TO THE SOVIET UNION

I returned yesterday evening from a one-week visit to the Soviet Union, where I had the opportunity to raise a number of major issues in the areas of health care, foreign policy and human rights.

The purpose of this visit was to attend an international conference on primary health care in Alma Ata, which was attended by representatives of over 100 nations. The conference was sponsored by WHO and UNICEF, and the United States delegation was headed by Assistant Secretary of Health Julius Richmond.

As a member of the delegation, I addressed the conference on the issues of international health priorities in the industrial world and the developing nations. Each year, tens of millions of people, particularly children and the elderly, die of curable diseases. The industrial nations have an obligation to do far more than they are now doing to alleviate this needless worldwide tragedy. The Alma Ata Conference was an important step in helping all nations to understand this challenge and move forward to meet it.

I was also able to visit the Soviet cities of Samarkand and Tashkent, where I had the opportunity to meet with students and health professionals and to visit urban and rural clinics. One of the most impressive aspects of my visits to these cities was the overwhelming desire for peace expressed by the many Soviet people I met. They often emphasized their friendship for the United States, and spoke with great feeling of the loss of over 20 million Soviet lives in their common cause with America in World War II.

In Moscow, I met for two hours with President Brezhnev and was also able to meet with other Soviet officials. The primary emphasis of our discussions was on arms control and military deployments, the political issues between our two nations, and the issue of human rights.

The relationship between the United States and the Soviet Union today is more tense and difficult than when I last met with President Brezhnev in 1974. He indicated to me, however, that he is strongly committed to an effective and equitable SALT II agreement, to the rapid negotiation of a comprehensive nuclear test ban, and to other agreements to end the nuclear and conventional arms races.

While obvious obstacles remain in the way of satisfactory U.S.-Soviet relations, this commitment to ending the arms race is shared by the Carter Administration and by the overwhelming majority of the American people. The prevention of nuclear war is too important to the fate of our two nations and the world to be made hostage to other political issues between us.

This does not mean, of course, that we must ignore the other issues that divide us. In particular, in my discussions with President Brezhnev, I emphasized three other areas of deep concern—the need for military restraint by the Soviet Union around the globe, the need for greater political cooperation between our two nations on issues that divide us and the need for greater respect for human rights and social justice.

First, I stressed the concern of the United States about destabilizing military deployments that fuel the arms race. Examples on their side are th SS–18 heavy strategic missile, the SS–20 intermediate-range missile, and the Soviet tank deployments in Central Europe. They stressed to me their concern about our cruise missiles and our M–X and MAP options for strengthening our ICBM forces.

Second, I emphasized the need to develop a more constructive, predictable and enduring relationship between our two nations. I suggested as examples the desirability of greater cooperation in reaching just and comprehensive settlements in the Middle East and Southern Africa. They emphasized to me their perception of a global, anti-Soviet campaign in which their interests and responsibilities are undermined. They stressed, for example, that they would have no objection to normalization of relations between the United States and the People's Republic of China. But they warned sharply against any anti-Soviet manipulation by the United States of our developing relations with China.

Third, I spoke of the strong commitment of the American government and the American people to human rights and social justice. I emphasized the depth of concern in the United States and other Western nations for Soviet dissidents, especially as symbolized by the trials of Anatoly Shcharansky and other Soviet men and women of conscience sentenced over the past few months.

At the same time, I welcome the high emigration rates permitted by the Soviet Union thus far this year. I emphasized that Soviet actions facilitating the emigration process for those desiring to leave—including dissidents already sentenced—would make a profound contribution to detente and cooperation between our two countries. Although I was disappointed with the conviction of Francis Crawford, I was pleased with his release by the Soviet authorities while I was in Moscow.

The most important tangible result of the visit came in the discussions concerning the refuseniks. While in the Soviet Union I raised a large number of cases involving individuals wishing to emigrate. Some of these cases will be pursued over the longer term.

But I am pleased to be able to report that the Soviet Government has already agreed to reconsider the cases of 18 specific families. I have every expectation that all of these families will be permitted to leave for the United States or Israel in the very near future.

One of these cases involves Dr. Benjamin Levich and his wife. Dr. Levich is a world-renowned physical chemist and a member of the Soviet Academy of Sciences. He has been invited to accept an appointment as a professor on the faculty of the Massachusetts Institute of Technology, and he has also been offered positions in numerous other distinguished universities in the United

States and overseas. Permission for Dr. Levich and his wife to emigrate will be an extraordinary gesture by the Soviet Government and will, I believe, contribute to the improvement of relations between our nations.

In addition, it is my expectation that Mr. and Mrs. Boris Katz and their daughter Jessica will be permitted to join their relatives in Massachusetts. The Katz family has attracted special concern in the United States because of Jessica's inability to digest normal food. It will be particularly appropriate if she and her family are permitted to emigrate in the aftermath of the international health conference in Alma Ata.

In addition to these two cases, there are 8 additional cases of divided families who will be permitted to join their relatives in Massachusetts, and eight cases of families who will be permitted to emigrate to Israel.

All 18 of these families represent individuals who have been denied permission to emigrate for periods as long as eight years. In many cases, members of these families had demonstrated, unsuccessfully, for the right to emigrate as recently as last spring.

On the night before leaving Moscow, I was able to meet privately with Andrei Sakharov and both the mother and brother of Anatoly Scharansky. Boris Katz was also a member of the group, and others included Jacob Alpert, Ellen Bonner, Eitan Finkelstein, Alexander and Juliet Lerner, Naom Meman, Abe Stolar and Victor Yelistratov.

The meeting was extremely moving. These brave people spoke eloquently and with great passion about their plight and about their commitment to human rights. They also spoke with deep feeling of their appreciation for the continuing support they have received from the American people, the Congress and the Administration.

Almost all of the dissidents agreed with Dr. Sakharov that our two nations have an obligation to make progress on arms control. They urged us to conclude the SALT II agreement as soon as possible, on its own merits. They felt strongly not only that the agreement would be in the highest interest of peace, but also it would create a more favorable environment to pursue our concerns about human rights.

This is a critical time for our two countries. Tensions and areas of confrontation have increased in recent years, and they have reached a peak this summer.

But both nations must see the danger of continued confrontation. As the only two nations with the power to destroy the world, the United States and the Soviet Union have a special obligation to reduce the risk of confrontation, to enhance the cause of peace, and to lay the groundwork for greater cooperation in the future.

In recent weeks, there have been positive signals from the Soviet Union. These developments offer hope that the recent downward spiral of Soviet-American relations may be at an end, and that an opportunity for progress may be available.

I have expressed my views to the Carter Administration and I continue to give my strong support to the Administration's efforts on SALT and in other areas. My hope is that both Congress and the Administration will be able to seize the moment and use the current fragile thaw to achieve the successful conclusion of the long-awaited SALT agreement and to move forward on all the other areas that concern us.

The 18 family cases are listed on the following page.

LIST OF EIGHTEEN FAMILY CASES CITED BY SENATOR KENNEDY

FAMILY EXPECTED TO LEAVE THE SOVIET UNION

Dr. and Mrs. Benjamin Levich, Soviet Academy of Sciences.

PERSONS EXPECTED TO LEAVE THE SOVIET UNION AND JOIN RELATIVES IN MASSACHUSETTS

1. Mr. Jonas Cijunelis of Vilnuis, Lithuania to join Mrs. Glayds Cijunelis, Mother, Brockton, Mass.

2. Mr. and Mrs. Boris Katz and daughter Jessica of Moscow to join Mr. Victor Katz, Cambridge, Mass.

3. Mr. and Mrs. Mikhail Alexandrovich Kochergin of Moscow to join Mrs. Eita Sheinin, Mother, Brighton, Mass.

4. Ms. Erna Kirkums of Latvia to join Ms. Arvids Kirkum, Sister, Westwood, Mass.

5. Mr. and Mrs. Stepan Mounjoukian and Family Members of Yerevan, Armenia to join Ms. Katherine Keshishian, Daughter Malden, Mass.

6. Mrs. Daiva Sabina Puzauskiene of Vilnuis, Lithuania to join Ms. Kazys Tamosaitis, Aunt, South Boston, Mass.

7. Mrs. Rachil Lvovna Shechtmar of Moscow to join Mrs. Emanuel Borok, Daughter, Newton Center, Mass.

8. Mr. Antanas Stuoka of Kaunas, Lithuania to join Mr. Longines Svenlis, Cousin, Needham, Mass.

9. Mrs. Vera Zarins of Latvia to join Mr. Leonids Tomsons, Brother-in-law, Jamaica Plain, Mass.

PERSONS EXPECTED TO LEAVE THE SOVIET UNION AND JOIN RELATIVES IN ISRAEL

1. Ms. Regina Isaacouna Berman, Moscow.
2. Mr. Alexander Amos Bolshoi, Moscow.
3. Ms. Galena Gregory Niznyekova, Moscow.
4. Ms. Gegagena Jacob Rezker, Moscow.
5. Mr. Lev David Roytburg, Odessa.
6. Ms. Olga Constantinovna Serova, Moscow.
7. Mr. Vadim Eusay Struzman, Leningrad.
8. Mr. Michael Anatole Zinberg, Moscow.

SENATOR KENNEDY AND THE KREMLIN

It's hard to exaggerate the extent to which relations between the Soviet Union and the United States rise and fall on readings and misreadings of the other country's domestic political scene. In the last 18 months, for instance, President Carter overloaded the Soviet political circuit, which consists of about a dozen people, with excessive public demands for major internal changes and "deep" cuts in strategic arms. Meanwhile, the Soviet leadership sent waves of distaste and alarm through the American political community by its human-rights violations, African adventures and arms-building programs. More recently, both countries have seemed aware that if they did not act more carefully toward each other, all prospect of substantive improvement in their relations would have to be put off for an indefinite time. Yet a narrowing of the gap sufficient to allow them to work effectively on their most important piece of common business, a strategic arms limitation treaty, has seemed to lie beyond their grasp.

Precisely here lies the potential importance of Senator Edward Kennedy's visit to Moscow. He went (ostensibly to a health conference) at a moment when the Kremlin was surely grateful to find a prominent American politician, one closely identified with a moderate viewpoint, ready to breach the no-visits line imposed by the administration after the Kremlin's recent human-rights trials. Presumably, the Kremlin also has heard that Mr. Kennedy may some day run for the presidency.

The senator played his part expertly. With a discretion contrasting sharply with the up-front moralistic tones of Jimmy Carter, he asked Leonid Brezhnev about Soviet Jews denied permission to emigrate. As a result, not only the families he asked about, but also a number of families he had not asked about, were assured of release. The Soviet authorities obviously were ready to show that, if their pride and sense of the proprieties are respected, they can behave more flexibly on human rights. Mr. Kennedy's tactful approach let them show it.

On the strategic arms the senator seems to have taken the most responsible course a "liberal" in such circumstances could take. Rather than merely profess his desire for détente, he tried to convey a sense of the political difficulties that have been created in Washington for both the negotiation and ratification of SALT by the Soviet Union's own policies. That let Mr. Brezhnev express his concern over the United States' new high-technology weapons programs. He also expressed his belief, shared by his guest, that a failure to consummate a mutually acceptable SALT agreement soon would have harmful results extending considerably beyond strategic arms.

The Carter-Kennedy relationship is the stuff of endless popular fascination. In this instance, the senator, by acting in his own way, was in an excellent position to make the administration's point that progress in SALT hinges in large measure on the Kremlin's readiness to "disarm" the American right by conducting a reasonable policy. That does not mean that the strategic equation itself is of no consequence. It means that the political equation is of great consequence. That is what "linkage" is all about. The evidence of the Kennedy visit is that Moscow is getting the message.●

ERA

● Mr. BAYH. Mr. President, on August 15, the House of Representatives approved House Joint Resolution 638, a resolution to extend the deadline for ratification of the ERA by a vote of 233 to 189. In the days ahead, I am confident that the Senate will approve this necessary legislation as well.

In considering the resolution to extend the deadline for the ERA, the House of Representatives relied strongly on the majority views of the House Judiciary Committee. So that my colleagues in the Senate may share these views on this important topic, I ask that the majority views as reported in House Report No. 95–1405 be printed in the RECORD at this point.

REPORT NO. 95–1405—PROPOSED EQUAL RIGHTS AMENDMENT EXTENSION

The Committee on the Judiciary, to whom was referred the joint resolution (H.J. Res. 638) extending the deadline for the ratification of the equal rights amendments, having considered the same, report favorably thereon with an amendment and recommend that the joint resolution as amended do pass.

The amendment is as follows:

On the first page, beginning in line 8, strike out "within" and all that follows through line 10, and insert in lieu thereof "not later than June 30, 1982.".

EXPLANATION OF AMENDMENT

The committee amendment to reduce from 7 years to approximately 3 years and 3 months the extension of time being granted was adopted because the committee believes the shorter time reflects a more reasonable extension than the original proposal for 7 additional years. The extended period—approximately 3 years and 3 months—is more in keeping with this Congress' view of the contemporaneous consensus required for valid ratification of a constitutional amendment.

The original ratification period designated by the 92d Congress for the equal rights amendment will end on March 22, 1979. This date coincides with the anniversary of the amendment's final passage by the Congress. The final date for ratification was changed by the amendment from March 22 to June 30

in order to coincide with State legislative sessions in the unratified States in 1982 and thereby give those States an opportunity to consider the amendment in 1982.

PURPOSE

The purpose of House Joint Resolution 638 is to extend the ratification period for the proposed equal rights amendment until June 30, 1982. The current ratification period ends on March 22, 1979.

HISTORY OF LEGISLATION

On October 26, 1977, House Joint Resolution 638 was introduced to extend the ratification period for the proposed equal rights amendment an additional 7 years beyond the 7 years previously provided for in the original resolution passed by the 92d Congress in 1972. The resolution was referred to the Subcommittee on Civil and Constitutional Rights of the House Committee on the Judiciary which conducted 6 days of hearings. The subcommittee took testimony from 19 witnesses, including the U.S. Department of Justice and three panels of constitutional experts, as well as State legislators and individuals and organizations involved in the ratification process. The subcommittee also solicited comments from a number of additional constitutional scholars and received statements from dozens of individuals and organizations.

On June 5, 1978, the subcommittee recommended House Joint Resolution 638 for favorable action by the full committee. The full committee met on July 18, 1978, to consider the joint resolution and, on that day, ordered it reported favorably to the House, with an amendment. The full committee vote on House Joint Resolution 638, as amended, was 19 yeas and 15 nays.

GENERAL STATEMENT

The equal rights amendment was first introduced in Congress in 1923. It took nearly 50 years for the amendment to win congressional approval. But when it finally came, that approval was overwhelming: On October 12, 1971, the House passed the resolution proposing the amendment to the States (H.J. Res. 208) by a vote of 354 to 23. The Senate passed the resolution on March 22, 1972, by a vote of 84 to 8. The resolution reads as follows:

"HOUSE JOINT RESOLUTION 208

"Proposing an amendment to the Constitution of the United States relative to equal rights for men and women.

"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That

"The following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"SECTION 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

"SECTION 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

"SECTION 3. This amendment shall take effect two years after the date of ratification."

Since the amendment was first proposed in 1972, 35 States have ratified it. At the present time, three more are necessary to achieve the three-fourths required by the Constitution before the amendment can become a permanent part of our fundamental law.[1]

HISTORY OF THE TIME LIMITATION ON RATIFICATION OF THE ERA

As has become customary in recent constitutional amendments, House Joint Resolution 208 contains a 7-year period for ratification in its proposing clause.[2] This period expires on March 22, 1979, 7 years to the day after final passage of the amendment by the Congress.

There is little record of the reasons for including a time limitation in the resolution. As originally introduced in 1923, the equal rights amendment contained no limitation. Indeed, during the 91st Congress, prior to passage of House Joint Resolution 208, the House adopted a resolution proposing the amendment to the States which did not contain a time limit for ratification. On August 10, 1970, during the floor debate immediately prior to passage of this earlier version of the amendment, House Joint Resolution 264, Congressman Emanuel Celler, then chairman of the House Judiciary Committee, pointed to the absence of a time limit for ratification as one of the reasons for his opposition to the amendment (116 Cong. Rec. 28012). Nevertheless, the resolution was passed by a two-thirds vote in the House without a deadline for ratification (116 Cong. Rec. 28036–37).

On October 9, 1970, as the Senate considered House Joint Resolution 264, Senator Marlow Cook, one of the Senate sponsors of the amendment, addressed himself to a number of objections to the resolution, among them the absence of a time limit (116 Cong. Rec. 35956). He included in his statement a letter from Prof. Thomas I. Emerson, of Yale Law School, which argued that such a provision was not needed.

Nevertheless, objections to the absence of a time limitation continued and later in the session amendments were proposed by Senator Sam Ervin and others adding a 7-year deadline for ratification. In proposing the deadline, Senator Ervin stated that:

"My other proposed alteration of the original purpose of the resolution would require that this resolution be ratified by three-fourths of the States within 7 years after submission by Congress to them for consideration. This is necessary because we still have floating around some unratified amendments that were submitted at the time of the original submission of the Bill of Rights. We have some other amendments that have been floating around since about 1860. There is no date for their expiration, no time limit for their ratification, and they could be ratified at any time. I do not think it is wise for Congress to submit a proposed constitutional amendment to the States without a time limit for its ratification." [116 Cong. Rec. 36302.]

However, despite the attempts to compromise, no final vote on the resolution was taken by the Senate during the 91st Congress.

In the 92d Congress, the House passed House Joint Resolution 208, containing a 7-year ratification period in the proposing clause. No discussion of the inclusion of this provision appears in the floor debates on the date of passage, October 12, 1971, 117 Congressional Record 35782–35815, but it appears that the provision was added to meet the arguments of the amendment's critics in both the House and the Senate. On March 22, 1978, the Senate passed House Joint Resolution 208 with no further discussion of the time limit. See generally 117 Congressional Record 9517–9598.

Although there was very little discussion on the addition of a deadline for ratification of the amendment on the floor of either House, apart from the few instances mentioned above, there were some references to the issue during the hearings on House Joint Resolution 208 held by the Subcommittee on Civil and Constitutional Rights of this committee in March and April of 1971. These references indicate that the amendment's sponsor, Representative Martha Griffiths, had no objection to a time limit, although she believed none was necessary.

The legislative history reveals no reason for inclusion of the deadline provision other than that such a provision had become customary and several influential Members of both Houses objected to its absence strongly enough that it was eventually added. In addition, the 7-year limitation had received a stamp of approval from the Supreme Court in *Dillon* v. *Gloss*, 256 U.S. 368 (1921). In that case the Court had held that with regard to the deadline in the 18th amendment, Congress had the authority under article V to fix a reasonable time for ratification after the proposal of an amendment. This authority was found to be incident of congressional power to designate the mode of ratification. With regard to the specific 7-year time period involved, the Court simply stated that "it is not questioned that 7 years * * * was reasonable * * *" 256 U.S., at 376.

AUTHORITY OF CONGRESS TO EXTEND

Introduction

The question whether Congress has the authority to extend the time for ratification in the manner proposed, is one of first impression and involves issues of significant constitutional magnitude. Those issues apply not only to House Joint Resolution 638 or the proposed equal rights amendment but to all constitutional amendments, to the role of the Congress in proposing them, and to the role of the States in ratifying them.

Consideration of this resolution by the committee raised an issue no less significant than the extent of the power of Congress under article V of the Constitution. In order to answer this question, the committee's inquiry focused on the existing judicial, congressional, and historical precedents. In addition, the committee consulted a number of constitutional scholars and compiled an extensive record based on the efforts of some of the country's ablest legal minds. Some of the most eminent students of American constitutional law were placed on the record regarding the issues raised by the resolution. The committee also relied heavily on the legal opinion and advice of the Office of Legal Counsel of the U.S. Department of Justice. The Department's opinion was presented to the committee in the form of a legal memorandum prepared for Robert J. Lipshutz, Counsel to the President, in response to a request from the White House for the Justice Department's views on the authority of Congress to extend a time limit for ratification of a constitutional amendment.

The committee concluded that, based on the reasoning in the two relevant Supreme Court cases[3] and the broad powers granted to Congress under artivle V, the authority of Congress to extend a time limit once established may be implied, if the time limis is reasonable and if the action of the 92d Congress in proposing the original time limit is not binding on subsequent Congresses. In favorably reporting House Joint Resolution 638 to the full House, the committee resolves both of those questions in the affirmative and endorses the principle that the Congress has the authority to extend the time period within which the proposed 27th amendment to the Constitution may be ratified.

Discussion of legal authority

Under article V of the Constitution, the Congress has broad authority over the amendment process. The Supreme Court has recognized that as an incident to its article V power to propose amendments to the Constitution, Congress has the power to set a time limit for ratification in order to assure that an amendment has been ratified "within some reasonable time after the proposal" and that the amendment reflects the reasonably contemporaneous "expression of the approbation of the people" in three-fourths of the States. *Dillon* v. *Gloss*, 256 U.S., at 375. The Court considered the question of timeliness of ratification to be one of several "subsidiary matters of detail,"

Footnotes at end of article.

matters which do not go to the substance of the proposed amendment, but which necessarily are delegated to Congress as an incident of its control over the ratification process More specifically, according to *Dillon,* it is the power of Congress under article V to designate the mode of ratification which gives rise to its authority to determine such matters of detail as a reasonable time for ratification. The Court went on to state that Congress may settle this matter of detail in such manner as "the public interests and changing conditions may require."

If it is the power of Congress to designate the mode of ratification from which the power to determine the question of timeliness, it may also be inferred that the exercise of this authority requires only a majority vote. The Constitution is quite explicit about those few instances in which the extraordinary procedure of super majority vote is required. In all other situations, the Founding Fathers clearly intended the principle of majority rule to govern. For example, article V of the Constitution provides, in pertinent part, that—

"Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution or, on the Application of the Legislatures of two thirds of the Several States, 'shall call a Convention for proposing Amendments."

The language of article V thus requires a two-thirds vote for action by Congress in proposing an amendment and in calling a Convention in response to the applications of two-thirds of the State legislatures. Article V goes on to provide that, whether an amendment is being proposed by Congress or a convention called to propose an amendment, the amendment "shall be valid to all Intents and Purposes, as Part of the Constitution, when ratified by the Legislatures of three-fourths of the several States, or by Conventions of three-fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress." Thus, article V authorizes Congress to propose a "mode of ratification," and does not specify, or even intimate, that Congress must do so by more than a simple majority vote of each House.

It follows that the period for an amendment's ratification lies exclusively within congressional control, to be disposed of by a simple majority of each House.[4] Of course, if a proposed article of amendment contains a time limitation as one of the terms in the text of the amendment itself, a decision by Congress to extend that period after the date would be an attempt retroactively to change the character of an amendment on which other states had already voted. In such cases, based on our reading of the concurring opinion in *Coleman,* some Justices of the Supreme Court might well hold that the matter is one left exclusively to Congress as a non-justiciable political question, but it is possible that a court would decide it had jurisdiction to rule a retroactive alteration in the very terms of an already submitted amendment to be beyond the power of Congress.

The critical considerartion here is that *this is not such a case.* For the proposed 27th amendment, like the 23d, 24th, 25th, and 26th amendments, contained *no* time limitation in its own terms but instead was proposed through a joint resolution whose proposing clause contained the 7-year limitation.

In *Dillon,* the Court was upholding against constitutional challenge the authority of Congress to include a time limitation in the text of a proposed amendment (the 18th amendment—the first to ever contain such a limitation). In a subsequent case, *Coleman* v. *Miller,* 307 U.S. 433 (1939), the Court reaffirmed its holding in *Dillon* and also held that, after an amendment has been proposed and sent to the States for ratification without a specific time limit, Congress has the authority to determine the reasonableness of the intervening time period in deciding the validity of the ratification of the amendment once three-fourths of the States have actually ratified. Thus, in *Coleman,* the Court confirmed the prerogative of Congress to consider and resolve the question of timeliness when "the time arrives for the promulgation of the adoption of the amendment."

In short, the Supreme Court has held that Congress may deal with timeliness as a threshold matter, as *Dillon* held, or as an ultimate question as *Coleman* stated. The question presented to the Congress by House Joint Resolution 638 is whether a middle course may also be pursued. The committee concluded that when the original time limitation was not contained in the text of the amendment itself, and the legislative history does not indicate that the 92d Congress intended the 7-year limitation to be immutable, such a middle course may be pursued. This conclusion was based upon the reasoning set forth above and an analysis of the historical understanding of the previous Congresses which have made use of the time limit device.

History of time limits in constitutional amendments generally

Article V is silent on the subject of time limitations for ratification of constitutional amendments. Congress did not provide for such limitations at any time during the first 125 years of our constitutional history.

The first amendment to contain a time limitation for ratification was the 18th (prohibition), proposed by the 65th Congress in 1917. The legislative history of that amendment indicates that a time limit was added primarily because of the concern expressed by some Members of Congress about a number of unratified amendments which had been pending for over 100 years. In first proposing that a time limitation be added to the amendment, Senator Ashurst made the following statement during the Senate debate:

"Mr. President, it is startling to investigate and then reflect for a moment as to the abuses that have come and that may in the future come by a failure or a refusal to set a time within which an amendment may be adopted. * * *

"On September 15, 1789, 12 constitutional amendments were presented by the first Congress to the various States for their adoption or their ratification. * * *

"The first two amendments were not adopted.

"The other 10, numbered from 3 to 12, inclusive, became a part of our governmental system and a part of our Constitution, and and they may be found on page 97 of the First Statute. Opposite amendments Nos. 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12 is marked by the early printers the word "Adopted"; "Adopted"; and so forth; but after the first two that were proposed to the Constitution there is a blank, indicating to us, of course, that those two amendments are still pending. They are before the American people now and have been for 128 years, and are subject to ratification or rejection by the States. And now, Mr. President, after those two proposed amendments, to wit, Nos. 1 and 2, had been in nubibus, 'in the clouds,' for 84 years, the State Senate of the State of Ohio in 1873 resurrected amendment No. 2, that was proposed in 1789, and passed a resolution of ratification through the Senate of the State of Ohio. It would seem to me that a period of 128 years or 84 years within which a State may act is altogether too long, and I am prepared to and will support an amendment limiting the time in the case of this amendment or any other amendment to 10, 12, 14, 16, 18, or even 20 years, so that we will not hand down to posterity a conglomerate mass of amendments floating around in a cloudy, nebulous, hazy way, which a State here may resurrect and ratify and a State there may galvanize and ratify. I believe that we ought to have a homogeneous, constant, united exertion and certainly a contemporaneous action with reference to these various proposed amendments." [55 Cong. Rec. 5556–57 (1917).]

Despite Senator Ashurst's initial suggestion of 10 to 20 years, the time limit eventually agreed on was 7 years. Since that time, with the exception of the 19th amendment (women's suffrage), which contained no time limit, each subsequent amendment to the Constitution has contained a 7-year ratification period.[5] The legislative history regarding time limits after the 18th amendment is quite sketchy, but 7 years appears to have been chosen largely as a matter of custom and because the original 7-year limit in the 18th amendment had received the stamp of approval of the Supreme Court in *Dillon* v. *Gloss,* referred to above.

In recent years, Congress has altered the manner in which it has handled time limitations. The 18th, 20th, 21st, and 22d amendments provided for ratification within 7 years in the text of the amendments themselves. Thus, in each of those cases, the time limit was ratified by the States when they ratified the amendments. From the 23d amendment to the present proposed equal rights amendment, the time period has appeared in the proposing clause, rather than the actual amendment. The legislative history of the 23d amendment indicates that the reason for the change was a desire on the part of Congress to avoid "cluttering up" the Constitution with language that had no bearing on the substance of the amendment itself, or on the merits of the issue the States were being asked to consider.[6]

In deciding that it was more appropriate to deal with such matters as time limits in the proposing clause of a proposed amendment, than to place them in the text of the amendment itself, where, once ratified, they would remain for all time, a permanent part of our Constitution, Congress made a decision with significant legal consequences. In so treating the time limit, Congress separates the question of appropriate time limits and the issue of what constitutes contemporaneous approval from the initial decision of Congress to propose an amendment. By separating the time limit from the body of the amendment itself, Congress retains authority to review the limit should the circumstances so warrant.

In examining the legal consequences of this separation, the committee found persuasive the testimony of the Department of Justice:

"*Dillon* and *Coleman* make clear that this determination of the time period for reasonably contemporaneous ratification is a separate and distinct question from the decision of the Congress which proposed the amendment.

"The question of timeliness of ratification is, in the words of the *Dillon* case, a question of detail that does not go to the substance of the amendment. Congress had the power to make the time period a substantive part of the amendment by including the time limit within the text of the amendment itself. However, Congress did not do so. Instead, the 92d Congress stated in the proposing resolution that the States should have at least 7 years within which to consider the equal rights amendment. * * *

"The effective operation of that clause was a determination by the 92d Congress that 7 years was a reasonable time; that the States should have at least 7 years within which to consider ratification of this amendment. That did not, under our analysis, foreclose

Footnotes at end of article.

the Congress from exercising its power and its responsibility as found by the decision in *Coleman* at a later time to reexamine the circumstances, the changed circumstances, from the time of adoption of the amendment to determine at that time whether those circumstances were such that the ratifications that had taken place during this period were in fact valid. * * *

"The question of timeliness, the period of time, is a question qualitatively different from the question of the text of the amendment itself.

"The language that * * * referred to here that setting a time period is a matter of detail to be dealt with as necessary by the Congress. That, as distinguished from the requirement of two-thirds vote, or of three-fourths ratification, or the text of the amendment itself, is a separate matter to be decided by the Congress. * * *

"[T]hat matter of detail could be in my opinion elevated to a matter of substance by the inclusion of that matter of detail in the text of the amendment itself. * * *

"[I]t is possible as did several Congresses before with respect to three amendments, to take this matter of detail and elevate it to a matter of substance by putting it in the text. However, when that is not done, then it remains in my view within the power of Congress to regulate that detail, that question of timeliness."

Thus, when the committee recently considered House Joint Resolution 554, to provide for representation for the District of Columbia in Congress, an amendment was adopted to add the time limit language into the body of the proposed amendment. The stated purpose of this amendment was to clarify that this Congress intends to set a binding 7-year limitation in which the State legislatures may ratify this proposed constitutional amendment. The basis for this change was a recognition on the part of the committee that unless the language appeared in the body of the proposed amendment it may not be controlling on subsequent Congresses or on the State legislatures.

Reasonableness of time limit

In answering the question as to how Congress is to determine the reasonableness of the time limit, the Court in *Coleman* v. *Miller* set out a number of factors for Congress to consider. Congress must determine whether the conditions giving rise to the amendment in question have so far changed since its submission to the States as to make the proposal no longer responsive to the needs which inspired it or whether conditions are such as to intensify the feeling of need and the appropriateness of the proposed remedial action. Congress must make this determination by taking into consideration all the political, social and economic conditions which have prevailed during the period since the submission of the amendment.

In order to make that determination in this instance, Congress must assess whether the proposed equal rights amendment remains a vital political issue on which public debate and state legislative consideration should be allowed to continue. More specifically, the Court in *Coleman* referred to the following factors to be considered by Congress in determining a reasonable time for ratification of an amendment and, accordingly, the validity of that ratification:

"Where are to be found the criteria for such a judicial determination? None are to be found in Constitution or statute. In their endeavor to answer this question petitioners' counsel have suggested that at least 2 years should be allowed; that 6 years would not seem to be unreasonably long; that 7 years had been used by the Congress as a reasonable period; that 1 year, 6 months and 13 days was the average time used in passing upon amendments which have been ratified since the first 10 amendments; that 3 years, 6 months and 25 days has been the longest time used in ratifying. To this list of variables, counsel add that "the nature and extent of publicity and the activity of the public and of the legislatures of the several States in relation to any particular proposal should be taken into consideration." That statement is pertinent, but there are additional matters to be examined and weighed. When a proposed amendment springs from a conception of economic needs, it would be necessary, in determining whether a reasonable time had elapsed since its submission, to consider the economic conditions prevailing in the country, whether these had so far changed since the submission as to make the proposal no longer responsive to the conception which inspired it or whether conditions were such as to intensify the feeling of need and the appropriateness of the proposed remedial action. In short, the question of a reasonable time in many cases would involve, as in this case it does involve, an appraisal of a great variety of relevant conditions, political, social and economic * * * [T]hese conditions are appropriate for the consideration of the political departments of the Government. The questions they involve are essentially political * * * [T]hey can be decided by the Congress with the full knowledge and appreciation ascribed to the National Legislature of the political, social, and economic conditions which have prevailed during the period since the submission of the amendment." [307 U.S. 433, 453–4 (1939).]

In reporting the resolution favorably, the committee finds that the standards set out in *Coleman* are met. The committee does not believe it appropriate to debate the merits of the proposed amendment in deciding whether extension is either permissible or appropriate. That debate has already taken place; the decision has already been made. At most, we need only examine the current political, legal, and economic situation and determine whether the amendment is still vital, whether the need for the amendment still exists and whether it still represents an appropriate solution to the problems it was originally designed to solve. Nothing the committee or subcommittee heard in its hearings and debates indicated other than an affirmative response to those questions.

Moreover, as Professor Tribe pointed out:

"It bears emphasis that the only issue posed here is the power of the Congress to extend the time for ratifying an amendment whose terms themselves contain no time limit. The committee need not be concerned with the initial power of Congress to impose a time limit outside an amendment's text; if no such power existed, then the 7-year limit in this case would be void even without a time extension. Further, the committee need not consider the power to amend a time limit contained in the text of a pending amendment; no such time limit was contained in the text of the proposed 27th amendment. Nor need the committee address the validity of a State's attempt to reverse a prior ratification or rejection * * * And, above all, the committee has no occasion to consider the wisdom of the proposed amendment itself. In any given case, a judgment that more time should be allowed for the States to choose between ratification and rejection ought to reflect Congress' determination of the conditions needed to permit full and fair consideration of the amendment rather than Congress' current views on whether or not the amendment should be approved. Even more clearly, one's answer to the question whether Congress has constitutional authority to determine that more time is needed in a given case should reflect an assessment about the amendment process and not an evaluation of this proposed amendment, or even of this proposed extension of time."

RESCISSION

Throughout the committee's deliberations on the resolution, the question was raised as to whether the determination that the resolution is constitutional turns in some way on whether an extension would free ratifying States to rescind their ratifications. Although the witnesses disagreed on the political wisdom of accepting or rejecting rescission, there was virtual unanimity among the constitutional scholars that extension of the time period for ratification does not automatically give rise to a constitutional right of rescission. Several believed that extension of the time period makes the argument for rescission stronger, but none felt it was dispositive.[7] Moreover, a majority of the witnesses felt that Congress should do nothing at this point to indicate to the States that they might have the power to rescind.

Prof. William Van Alstyne stated that to do so would be profoundly ill-advised constitutional policy. He went on to say:

"The ratification of constitutional amendments is not a poker game. No State ought to consider an amendment to the Constitution under the misimpression from this body that it may do it with some sort of celerity or spontaneity because it will always have this interval of additional years while other States are looking at it to reconsider.

"That, in my view, is an atrocious way to run a Constitution. The policy that the States may consider at several times, within a reasonable time reject or table or put it over, but that when done, it is done irrevocably, is terribly important, it seems to me, to the integrity of the role of Congress and the States."

The resolution as it is currently written is silent on the issue. It neither permits nor prohibits it.[8] There was general agreement among the constitutional experts that for the committee to establish mechanical rules that Congress must accept rescissions or that Congress must reject them would be inappropriate and unwise. They generally agreed that the decision as to whether rescissions are to be counted is a decision solely for the Congress sitting at the time the 38th State has ratified, as part of its decision as to whether an amendment has been validly ratified. Any action taken by a Congress prior to that time would be premature, misleading, and not binding. In the committee's view, Prof. Laurence Tribe best described the role of Congress in dealing with rescission:

"The power to rescind is the power on the part of a State to advise the Congress that, in determining whether an amendment has been validly ratified, the State is no longer in favor of the amendment; how Congress treats that action by the most recent legislature is a matter of delicate congressional judgment, depending on a wide variety of facts and circumstances in each case.

"It seems to me unwise to say, as a matter of some mechanical per se rule, either that Congress must always accept rescissions, or that Congress can never accept them. It seems to me that Congress must decide what the significance of the rescission was in light of all the circumstances. And that is a power, under *Dillon* v. *Gloss*, and *Coleman* v. *Miller*, that Congress plainly has a duty to exercise.

"I think it [the resolution before us] should be regarded as leaving that issue to the Congress which finally has to determine, perhaps 7 years after this resolution is voted, whether three-fourths of the States are in favor of the resolution.

"It seems to me that this sort of judgment can only be made finally at the time a given Congress votes to decide whether an amendment has been validly ratified. Once

Footnotes at end of article.

that action is taken, the amendment becomes a part of the Constitution, and it is no longer open to a Congress simply to retract it by majority vote. Until then, it is a matter of congressional judgment."

Although the decision most properly belongs to a subsequent Congress to determine the efficacy of any attempted withdrawals of ratifications of the proposed equal rights amendment, nevertheless the committee believes it important to point out that its own analysis of this issue revealed that past congressional and judicial precedent stand for the proposition that rescissions are to be disregarded. Over the years Congress has taken the position that a State's attempt to rescind is ineffectual, both when confronted with actual rescissions, as in the case of the 14th amendment, and when drafting legislation clarifying the amendment process.

14th amendment

The 14th amendment was submitted by Congress to the States in June 1866. By July 1868, 29 States had ratified that amendment. At that time there were 37 States: 28 constituted the three-fourths majority required by the Constitution for ratification. However, the legislatures of 2 States, Ohio and New Jersey, had passed a resolution withdrawing their prior ratification of the amendment. On July 8, 1868, the Senate adopted a resolution requesting the Secretary of State to transmit to the Senate a list of the States which had ratified the amendment. In reporting to the Senate in compliance with the resolution, the Secretary drew attention to the actions of the Ohio and New Jersey Legislatures. Subsequently, the Secretary published a document reciting ing the 29 States which had ratified, including Ohio and New Jersey. With respect to those two States, he observed:

"* * * It is deemed a matter of doubt and uncertainty whether such resolutions are not irregular, invalid, and therefore ineffectual for withdrawing the consent of the said 2 State * * * to the * * * amendment."

He then certified that:

"If the resolutions of the Legislatures of Ohio and New Jersey ratifying the aforesaid amendment are to be deemed as remaining of full force and effect, notwithstanding the subsequent resolutions of the legislatures of those States, which purport to withdraw the consent of said States from such ratification, then the aforesaid amendment has been ratified in the manner hereinbefore mentioned, and so has become valid, to all intents and purposes, as a part of the Constitution of the United States."

He thus indicated that the effectiveness of the amendment was contingent on the power of the State legislatures to withdraw their consent from the ratification.

The following day, July 21, 1868, Congress adopted a resolution declaring that the 14th amendment had been ratified.[2] The resolution stated that whereas the 14th amendment had been ratified by the legislatures of 29 States (listing Ohio and New Jersey among them), the amendment was "hereby declared to be a part of the Constitution of the United States and it shall be duly promulgated as such by the Secretary of State."

Seventy years later, in its opinion in *Coleman* v. *Miller, supra,* the Supreme Court recited the historical facts surrounding congressional treatment of Ohio and New Jersey's attempts to rescind their ratifications of the 14th amendment and observed that this "decision by the political departments of the government as to the validity of the adoption of the 14th amendment has been accepted." [307 U.S., at 450.] The Court found the 14th amendment precedent to be an example of "a political question pertaining to the political departments, with the ultimate authority in the Congress in the exercise of its control over the promulgation of the adoption of the amendment." *Id.* This view was subsequently approved by the Court in *Baker* v. *Carr,* 369 U.S. 186 (1962).

Over the years, subsequent Congresses have reaffirmed the view that State withdrawals of approval of constitutional amendments are invalid. In 1924, Senator Wadsworth of New York and Congressman Garrett of Tennessee introduced an amendment to article V which would have enabled States to rescind their ratifications of constitutional amendments. Both sponsors conceded that their proposal was contrary to existing law and was in fact designed to remedy what they considered to be a defect in the Constitution.

The issue arose again in connection with legislation drafted and introduced by Senator Ervin of North Carolina in the 90th and 93rd Congresses to establish procedures for calling Constitutional Conventions. In the report accompanying the legislation, the Senate Judiciary Committee conceded that, under existing law, a State would not rescind its ratification of a constitutional amendment, but took the position that the law should be changed. Senator Ervin's legislation passed the Senate twice but was never voted on in the House of Representatives.

There appear to be two primary arguments in the favor of permitting rescission in connection with enacting the extension. The first is that failure to provide for rescission would permit an amendment to be ratified without the "contemporaneous consensus" required by the Constitution, as interpreted by the Supreme Court in *Dillon* v. *Gloss, supra.* The second argument that article V permits rescission during an extension is based on the idea that State legislatures may have relied on the original 7-year period established in House Joint Resolution 208. In its analysis of those arguments, the committee found itself most persuaded by the response of the Department of Justice:

"[The first argument] confuses two issues that should * * * be sharply differentiated in the consideration of House Joint Resolution 638. First is the issue whether the period of 14 years proposed in House Joint Resolution 638 is "reasonable" in view of the interpretation placed on article V in *Dillon* v. *Gloss* and with which we are in agreement. If 14 years or possibly a lesser period is, in the judgment of Congress, 'reasonable,' then the question of the power of States to rescind in the last 7 years of the 14-year period is irrelevant. The second issue is, of course, whether the States may rescind a prior ratification during the extension period because the will of its people has in fact changed since initial ratification. This argument would appear to reduce to the proposition that a 7-year extension can be viewed as "reasonable" only if no substantial number of States actually attempt to rescind their ratifications during the extension period. Under this view, the power to rescind functions as a sort of escape valve permitting the States themselves to determine what is or what is not a 'reasonable' period of time by acts of rescission.

"We are unable to agree with that analysis. In our view, the lesson of history, including prior congressional interpretation of article V with regard to the 14th amendment, is that States may not rescind a ratification. And we think *Dillon* v. *Gloss* and *Coleman* v. *Miller* and equally dispositive in rejecting any possibility that States, rather than Congress, are to have the final say concerning whether an amendment has been ratified within a 'reasonable' time.

In response to the second argument regarding reliance on the initial 7-year period, the Justice Department examined the 35 certifications of ratification submitted to the General Services Administration and were unable to conclude that any such reliance was indicated. Moreover, the Department devoted a substantial portion of its opinion to the question whether, even assuming such reliance could be shown, that reliance had any legal or constitutional significance. The Justice Department found that it did not. In a letter to the subcommittee chairman, the Assistant Attorney General for the Office of Legal Counsel explained the Justice Department's view:

"It is true * * * that everyone at the [subcommittee's] hearings assumed that 35 States had ratified the text of the proposed ERA rather than the text of the entire resolution. House Joint Resolution 208 * * * proposing that text. This assumption was then and is presently justified because article V of the Constitution provides for States to ratify amendments to the Constitution. It does not provide for ratification of language in so-called proposing clauses. The fact that no language in proposing clauses has ever been thought to be part of the substance of an amendment to the Constitution is, we think, conclusive on this point."

PRESIDENTIAL SIGNATURE

The question was raised during the committee's deliberations on House Joint Resolution 638, whether the President's signature is required, particularly in the absence of a requirement that the resolution be enacted by a two-thirds vote of both Houses. The consensus of the witnesses testifying before the subcommittee was that Presidential approval is not constitutionally mandated. The amendment process is no less than a redefinition of the basic compact of our political union. The President is merely a creature of that compact, whose only functions derive from the terms of the compact. Those functions do not include a substantive role in the compact's initial formation or its subsequent alteration. The duty, power, and accompanying obligation to alter the basic compact—to propose an amendment to the Constitution—is reserved solely to Congress under article V of the Constitution. The Supreme Court opinion in *Hollingsworth* v. *Virginia,* 3 Dall. 378 (1798), reaffirmed in subsequent decisions, e.g. *Hawks* v. *Smith,* 253 U.S. 221 (1920), supports this view of the role of the Congress vis-a-vis the Executive in the amendment process. *Hollingsworth* held that the President's signature was not needed on a constitutional amendment. The opinion is generally cited for the proposition that the Executive plays no role in the amendment process.

It seems clear that the President has no role in originally proposing the mode of ratification; under article V that responsibility belongs exclusively to Congress. For the President to be involved in that decision would be unnecessary. It is no more necessary for the President to be involved subsequently. However, history shows that the President has played a symbolic role in the amendment process, in signing a proposed amendment (in the case of President Lincoln and the 13th amendment) and in signing certifications of ratification (in the case of President Johnson and the 24th and 25th amendments). Such a role is not improper, nor does it detract from the role of Congress.

FOOTNOTES

[1] Four State legislatures have attempted to withdraw their previous approval of the amendment. The efficacy and validity of their action is in doubt. House Joint Resolution 638 takes no position on the validity of the rescissions, nor does this committee feel it is appropriate for it to take a position at this time.

[2] It should be noted that throughout the subcommittee's hearings on House Joint Resolution 638, the witnesses and members of the committee used the terms "resolving clause" and "preamble" interchangeably to describe that portion of House Joint Resolution 208 containing the time limit and the mode of ratification. Technically, the resolv-

ing clause of House Joint Resolution 208 is that portion of the resolution which states: "*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein)*, That * * *." The portion immediately following the resolving clause, but preceding the substance of the proposed amendment itself is technically referred to as the text of the resolution preceding or prior to the text of the amendment. That is the portion of House Joint Resolution 208 to which the subcommittee's witnesses and the members of the committee normally are referring when they speak of the "resolving clause" or "preamble" of House Joint Resolution 208. That language read as follows: "The following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress. * * *" For the sake of simplicity, that language will hereinafter be referred to as the "proposing language" of House Joint Resolution 208.

[3] *Dillon* v. *Gloss*, supra, and *Coleman* v. *Miller*, 307 U.S. 433 (1939).

[4] The question as to whether an extension should require a two-thirds vote or a simple majority of the House was put to the committee in the form of a question of consideration. Pursuant to rule XVI of the rules of the House, the question of consideration was demanded in the committee after the motion to recommend House Joint Resolution 638 to the House was made.

The purpose of raising the question of consideration was to focus on the issue of whether an extension of a ratification deadline requires a two-thirds vote by the Congress or whether it can be accomplished by a simple majority. The issue was presented in this matter because the resolving clause of House Joint Resolution 638 on its face appears to require only a simple majority and the resolving clause may not be amended. Thus, the only way to indicate that a two-thirds vote of the House may be required was for the committee to recommend a different resolution containing a resolving clause requiring a two-thirds vote by the House. Such a resolution could be considered and recommended by the committee only if the committee did not agree to consider recommending House Joint Resolution 638. The committee vote on the question of consideration (to continue consideration of House Joint Resolution 638 in lieu of an alternative requiring a two-thirds vote) was 28 ayes and 8 nays.

[5] When the 66th Congress came to propose the 19th amendment, the congressional fears expressed in the previous Congress with regard to the 18th amendment were apparently put aside. The issue of a time limit never arose until an attempt to include a 7-year limit was made and without debate, rejected. [58 Cong. Rec. 93 (1919).]

In addition, the proposed child labor management, submitted to the States in 1924, contained no time limit. That amendment, never ratified by three-fourths of the States, was the subject of the dispute giving rise to the Supreme Court's opinion in *Coleman* v. *Miller*, supra.

[6] The argument was made that Congress could not extend the time limit for ratification of the proposed 27th amendment because States may have relied on the time limit in ratifying the amendment, that their approval of the amendment may have been conditioned on the time limit. Thus, to extend the time period would be to alter the terms of the agreement made by the Congress in submitting the amendment to the States. The committee found that argument unpersuasive. If the time limit had been contained in the amendment itself, then to change it would be an attempt to alter the subsance of the amendment—a resubmission of a new amendment to the States. Such retroactive alteration of the very terms of an already submitted amendment may well be beyond the power of Congress, at least in the absence of a two-thirds vote of both Houses. But the critical fact here is that we are not presented wih such a case. The amendment itself, as voted on by the States, contains no time limit. Thus, in the words of Prof. Laurence Tribe: it cannot be said that a congressional vote to extend . . . the time for the 27th amendment's ratification beyond March 22, 1979, would retroactively alter the terms of an amendment upon which votes had already been taken. It follows that a decision by Congress to alter the ratification period would prejudice no State that has already voted and would not affect the validity of any prior State vote. * * * Only a time limit that is expressly included in the text of the amendment being voted on by a State can form a nonspeculative basis for that State's claim of reliance.

Thus, the committee emphasizes that House Joint Resolution 638 is not a resubmission of the amendment to the States, or an alteration of the terms of the amendment itself. It is an extension of the time period during which the States may continue to consider the proposed equal rights amendment.

[7] This was during consideration of a 7-year extension; most of the witnesses agreed that a shorter time period would substantially weaken the argument for accepting rescissions.

[8] An amendment to permit rescission was offered during the committee's consideration of House Joint Resolution 638. The amendment was rejected by a vote of 13 ayes to 21 nays, reflecting the committee's conclusion that the appropriate time in which to consider the validity of rescissions is when the time comes for Congress to determine whether in fact three-fourths of the States have ratified the amendment.

[9] The resolution adopted was a concurrent resolution not presented to the President and apparently requiring only a simple majority.●

"HEE HAW"

● Mr. SASSER. Mr. President, I would like to call to the attention of my colleagues the 10th anniversary of the nationally syndicated television show "Hee Haw." As my fellow Senators know, "Hee Haw" is produced in Nashville, and, as they say on the show, we Tennesseans are "right proud" of the show, the performers and the staff.

The 10th anniversary show of "Hee Haw" is scheduled to be aired on October 22 on the NBC television network. This appearance will mark a return to network television for "Hee Haw" which began as a CBS network television show in 1969. In that year, the show rose to the number 16 position in the national ratings. Despite that rating, the first year show was cancelled by the network.

The following year, the creators of "Hee Haw," Frank Peppiatt and John Aylesworth, along with their partner, Nick Vanoff, decided to create their own network to air the series, which after a year of network exposure had a well-earned national following. At great personal risk and expense, these gentlemen financed the entire cost of production for "Hee Haw's" second year.

The foresight of the producers of "Hee Haw" has paid off many times over. The show has consistently been, by rating and demographic standards, one of the most successful syndicated television series. It is seen 52 times a year on 220 stations in the United States and Canada.

Mr. President, the people of Nashville and Tennessee are justly proud of "Hee Haw." The show has brought recognition of Tennessee's contributions to the Nation's music industry and it has shown that quality television shows can be produced in Tennessee.

I am proud of "Hee Haw" and of its Tennessee origin, and I want to take this opportunity to commend and congratulate the producers of the series, the production staff, the stars of the show, the guest artists, and all those other people who have contributed so much to the success of this all American television show. I look forward to viewing the 10th anniversary show of "Hee Haw" on October 22.●

PROPOSED ARMS SALES

● Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask to have printed in the RECORD at this point the notification I have just received.

The notification follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C. September 12, 1978.

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 78-97, concerning the Department of the Air Force's proposed Letter of Offer to Canada for defense articles and services estimated to cost $95 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

Lt. Gen. ERNEST GRAVES,
Director, Defense Security Assistance Agency.

TRANSMITTAL NO. 78-97

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Canada.
(ii) Total Estimated Value:

	Million
Major Defense Equipment*	$0.0
Other	95.0
Total	95.0

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) Description of Articles or Services

Offered: Data processing and display equipment, software, and associated USG and contractor services for fielding two (2) Region Operations Control Centers (ROCCs).

(iv) Military Department: Air Force.

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: September 12, 1978.●

POLYGRAPHS IN EMPLOYMENT

● Mr. BAYH. Mr. President, next Tuesday and Thursday, September 19 and 21, the Subcommittee on the Constitution is reopening hearings on S. 1845, a bill to control the use of polygraphs and similar equipment in employment. In November of last year, testimony before the subcommittee indicated that, at least in some segments of our country's business community, taking a "lie detector" test has become a condition of getting or keeping a job for a great percentage of Americans. A large part of these employees, it was learned, are nonunion, and placed in lower level jobs. From representatives of the polygraph and voice analyser industries themselves the subcommittee heard that refusal to take a test almost invariably means that the employee is either not hired or is fired. An article on the personal business page of the Business Week of September 4, therefore, is of twofold interest. For one, that the article is addressed to the readers of Business Week indicates that the problems and dilemmas presented by the lie detector have now become of personal, firsthand concern to management and professional employees. Second, and more importantly, the message of the article in brief is, if you have to take a polygraph, do not. The implications of both of these factors have potentially far reaching effect on the future of "lie detection" in American business.

Mr. President, I would like to have the September 4 Business Week article printed in the RECORD.

The article follows:

LIE DETECTORS: WHAT TO DO WHEN ASKED TO TAKE THE TEST

As an employee or prospective employee, you have little to gain when a company asks you to take a lie detector test. Agree to it, and the consequences range from loss of privacy to loss of a job. Decline, and as it now stands in all but 16 states, you could get fired from a job or turned down as an applicant.

Your best course depends on the circumstances, but firm resistance to the polygraph—up to reasonable limits—may do you the least overall harm.

If a company asks you to take a lie detector test, check your legal standing. No federal law restricts polygraph use. Some states have weak laws on it. But New Mexico and Vermont, at least, limit lines of questioning. Alaska, Connecticut, Delaware, Minnesota, and New Jersey all say employers can't require it. Massachusetts and Rhode Island ban all jobs-related lie detecting.

USES AND ABUSES OF POLYGRAPHS

Check whether you can be denied state unemployment compensation when you get fired for not taking a lie detector test. Also see if your state allows your boss to tell other employees about your aversion to the polygraph.

If your state offers no protection, find out why the test is being given. "Each year in this country, hundreds of thousands of ordinary workers and job applicants are forced to submit to mass lie detector sweeps," says Senator Birch Bayh (D-Ind.), whose judiciary subcommittee on the Constitution will hold hearings on polygraph abuse on Sept. 19 and 21. Some companies test all employees, including high executives, on vague security grounds. Other employers use lie detectors only when wrongdoing has been alleged.

"I would not, as an innocent person, want my fate to rest on a lie detector test," says psychology Professor David Lykken of the University of Minnesota. "A truthful person has an especially high chance of flunking." But reputable polygraph operators differ sharply with such assessments. John E. Reid, a Chicago polygrapher, claims "90% to 95% accuracy" for his exams.

Apart from the controversy over polygraph accuracy is the question of polygraph abuse. Senator Bayh's subcommittee has evidence of companies using lie detectors to determine the political views, religion, and sexual preferences of job applicants. And while 23 states license polygraph operators, the requirements are often lax. In most states, anyone with a $1,500 polygraph machine can hang out a shingle as a professional polygraph operator.

WHAT DO RESULTS REALLY MEAN?

But your greatest polygraph risks stem from the fact that few company supervisors are qualified to evaluate the findings. Careers can be destroyed by unfair use of test results—while the fibs of favored employees go overlooked. "Lie detector tests are like Russian roulette," says Professor Edgar A. Jones Jr., an expert on labor law at the University of California at Los Angeles. "Innocent employees are found to be deceptive; guilty employees come up innocent—there is simply no reliable correlation."

If you must take a lie detector test, ask that the operator be a member of the American Polygraph Assn., a group of about 1,400 testers who maintain high standards. Also demand a written release. Make sure it expressly prevents both the examiner and your company from divulging any aspect of your test to any other parties without your consent.

Be sure you get some trial runs before your responses are recorded. The polygraph operator should review all the test questions with you and let you eliminate any that you find impertinent or offensive. Surprise questions are strictly for detective stories. Also bring up any questions you find touchy. A good examiner can sometimes rephrase them to minimize confusion.

Dr. Martin Orne, a psychiatrist at the University of Pennsylvania, warns that "highly socialized" people, individuals with a well-developed moral sense, do worse than the general populace on lie detector tests. But he holds, "If you have nothing to hide, and the examiner is competent, your odds of being determined a liar are very small."

Professor Lykken says you might beat the machine by biting your tongue or tensing a muscle during the test, but Orne says competent examiners can spot such trickery. If you do fail a polygraph exam, get a second opinion, and keep copies of both tests. You may have the makings of a malpractice suit.●

WELFARE REFORM OR WELFARE EXPANSION?

● Mr. HATCH. Mr. President, President Carter's welfare reform program is dead for this session of Congress, and it is important that we understand its defects before a similar program is introduced again next session. Martin Anderson provides a clear analysis of the program in his article in the summer issue of "Policy Review."

Anderson explains that Carter's welfare reform program was actually a welfare expansion program, since it would cost $20 billion more a year than our current system. And the bulk of these $20 billion would not go to the poor, but would be distributed mostly to people in the middle-income brackets. Nowhere in the program, however, were there any plans to add work incentives or deal with the problems concerning medicaid or public housing. And the overall complexity of the welfare bureaucracy would be compounded.

I ask that Martin Anderson's article "Why Carter's Welfare Reform Plan Failed" be printed in the RECORD.

The article follows:

WHY CARTER'S WELFARE REFORM PLAN FAILED

(By Martin Anderson)

Congressional leaders informed President Carter on June 22, 1978 that his proposed welfare reform plan was dead for this session of Congress. There was not even enough support in the House to pass a compromise bill costing less than half the $20 billion price of the original bill.

Why did this much-heralded "reform" plan fail? The core of any valid welfare reform is the number of people affected and how they are affected. One of the first items the Congressional Budget Office (CBO) tackled when it began its analysis of President Carter's Program for Better Jobs and Income (PBJI) was what it called the program's "distributive impact," namely (1) how the program would affect "the distribution of (welfare) recipients and benefits by income level," and (2) "the number and types of families that would gain or lose benefits relative to the current welfare system."

The preliminary results were astonishing. According to the estimates of the CBO, approximately 44 million people in the United States currently receive some form of welfare aid from such programs as Aid to Families with Dependent Children, Supplemental Security Income, state general assistance, the earned income tax credit, and food stamps. Carter's welfare reform proposal would have increased by almost 22 million the number of Americans receiving some form of welfare. Once President Carter's PBJI was in full operation some 66 million Americans would be receiving welfare. That is just about one-third of the nation.

This would be massive welfare expansion, not welfare reform. Some $20 billion more would be spent on welfare by the federal government every year and that raised some serious questions. The massive increase in welfare spending during the past decade has dramatically reduced poverty in the United States—so much so that there are few poor people left. Would Carter's plan have substantially increased welfare payments to the poor? The answer is no.

The welfare changes proposed by President Carter would have had an unexpected effect. The vast majority of the people who would have received welfare checks for the first time came from the middle-income group. A few came from the upper-income group. The number of people from families with pre-welfare incomes of less than $5,000 a year would have increased only slightly (5 percent) under the proposed reform. As we move up into the higher-income classes, however, Carter's welfare reform would have a greater impact. The number of people included in families earning between $5,000 and $10,000 a year would have increased by 36 percent.

But the greatest impact was to be in the income brackets between $10,000 and $25,000. Carter's plan would have given welfare benefits, including earned income tax "credits," to 11.6 million more Americans who come from families earning between $10,000 and

$15,000 a year, an increase of 322 percent in the number of families. And 4 million Americans who now receive no welfare and come from families with incomes between $15,000 and $25,000 a year would also have benefited a 154 percent increase.

The CBO's analysis of how the distribution of welfare benefits would have changed under Carter's proposed welfare reform clearly and dramatically shows that most of the new beneficiaries under PBJI would have come from America's middle-income class. There was to have been a minimal effect on people in poverty. Of the almost 22 million additional people who would have received welfare under Carter's plan 74 percent would have come from families having incomes of over $10,000 a year. And more than 94 percent of them would have been from families with incomes that exceed $5,000 a year. Carter's welfare plan, in its broad thrust, would have focused on aiding people not now receiving any welfare.

In summation, the welfare reform that President Carter originally proposed in 1977 would have probably cost somewhere in the neighborhood of $20 billion a year more than our current welfare system. Nearly 22 million more Americans would have received some form of welfare. Effective marginal tax rates would continue to remain very high and act as a serious disincentive to work. The administrative complexity of welfare would have been compounded and more welfare workers would have probably been needed to handle the increased caseload.

The problems caused by the separate existence of medicaid, day care, and housing assistance programs were ignored. An examination of the gainers and losers under PBJI shows clearly that those who need welfare the least would have gained in the greatest numbers. Those who cannot truly care for themselves and are on welfare now would have benefited little. The thrust of Carter's plan was to further the idea of a guaranteed income, expanding welfare into the heart of the middle class of America. This is not welfare reform. This is a potential social revolution of great magnitude, a revolution that, if it should come to pass, could result in social tragedy.

Those who followed past efforts at radical welfare reform were not surprised that President Carter's plan failed like the rest. From past experience, however, one can with some confidence predict that a new plan will soon spring, phoenix-like, from the intellectual ashes of the old ones.

DISTRIBUTION OF WELFARE RECIPIENTS BY PREWELFARE FAMILY INCOME CLASSES UNDER CURRENT WELFARE POLICY AND UNDER PRESIDENT CARTER'S WELFARE REFORM PLAN (PBJI)

Family income class	Number of people receiving benefits under—		Number of people added by Carter's reform plan	Percent increase
	Current welfare policy [1]	Carter's reform plan		
Less than $5,000	[2] 25,600,000	26,900,000	1,300,000	5
$5,000 to $9,999	12,000,000	16,300,000	4,300,000	36
$10,000 to $14,999	3,600,000	15,200,000	11,600,000	322
$15,000 to $24,999	2,600,000	6,600,000	4,000,000	154
More than $25,000	600,000	1,000,000	400,000	67
Total	44,400,000	66,000,000	21,600,000	49

[1] Includes aid to families with dependent children, supplemental security income, State general assistance, food stamps, and the earned income tax credit.

[2] Number of people rounded to nearest 100,000.

Source: Robert D. Reischauer, Assistant Director for Human Resources and Community Development, Congressional Budget Office, statement to task force on distributive impacts of budget and economic policy, Committee on the Budget, "Preliminary Analysis of the Distributional Impacts of the Administration's Welfare Reform Proposal," Oct. 13, 1977, p. 13, table 2(a). Preliminary estimates as of Oct. 12, 1977. Based on earlier CBO studies, an average family size of 2.824 was used to convert numbers of families to people. ●

ANOTHER RHODESIAN TRAGEDY

● Mr. DOLE. Mr. President, 1 week ago the world witnessed an event of tragic proportions, when members of a Rhodesian guerrilla unit shot down a civilian passenger aircraft, and then methodically murdered most of the survivors. The death of these 38 innocent Rhodesian citizens—all civilians—was not the first atrocity of this unfortunate conflict, but, by its nature, was perhaps one of the most chilling crimes committed by members of opposition terrorist forces.

The barbaric act took place in the wake of yet another unsuccessful effort to open some avenue of communication between the Salisbury government and opposition guerrillas, in the form of a private meeting between Prime Minister Ian Smith and "Patriotic Front" Leader Joshua Nkomo. The transition government has earnestly sought to accomplish a peaceful transition to majority rule in Rhodesia since it was established last March. But, in the face of continuing rebuff from Marxist-inspired guerrilla forces, the chances for accomplishing peaceful transition grow more slim with each passing week.

Prime Minister Smith's declaration of martial law in portions of Rhodesia indicates that there may be little alternative left but full scale conflict—conflict that will benefit no race and no political faction in the long run.

RHODESIA ALONE

One cannot help but wonder whether the support of the United States, Great Britain, and other Western powers for the Salisbury transition government might have prevented or at least discouraged the atrocities and conflicts that have become such a reality. An inescapable conclusion is that the withholding of our Government's support for peaceful transition has only played into the hands of guerrilla groups. Time is on their side, and time is running out for the present Government of Rhodesia. It is possible that by withholding support, Western nations have even encouraged guerrillas to fight on, knowing that the Government of Rhodesia lacks the economic and moral support that it needs to survive.

The more openly violent the situation in Rhodesia becomes, the more difficult it will be for the internal settlement to survive, or for responsible Rhodesian leaders to deal with guerrilla leaders as they have attempted to do with Joshua Nkomo. At the very least, our own leaders should condemn the irresponsible and barbaric acts of cruelty that so typify Rhodesian guerrilla activity, and lament its victims.

WHERE IS PROTEST?

At a memorial service last week for the victims of the airline disaster, attended by more than 2,000 mourners, the Dean of Salisbury, Rev. John Da Costa, expressed horror at the bestiality of the terrorists involved and condemned the lack of protest in the West.

Rev. De Costa stated that—

This bestiality, worse than anything in recent history, stinks in the nostrils of heaven. But are we deafened with the voice of protest from nations which call themselves civilized? We are not like men in the story of the good Samaritan, they pass on the other side. One listens for loud condemnation by Dr. David Owen, himself a medical doctor, trained to extend mercy and help to all in need. One listens and the silence is deafening. One listens for loud condemnation from the President of the United States, himself from the Bible Baptist Belt, and again the silence is deafening. One listens for loud condemnation by the Pope, by the Chief Rabbi, by the Arch Bishop of Canterbury, by all who love the name of God. Again the silence is deafening.

Finally, the dean condemned the United Nations and the World Council of Churches, saying:

Each parades a pseudo-morality which, like all half truths, is more dangerous than the lie direct. From the safety and comfort of New York and Geneva, high moral attitudes can safely be struck. For us in the sweat, the blood, the suffering, it is somewhat different.

They are thoughts for all of us to reflect upon. ●

GOVERNMENT SUPPORTS ECONOMIC STAGNATION

● Mr. HATCH. Mr. President, I would like to bring to the attention of my colleagues an article by George Gilder in Harper's magazine.

Mr. Gilder provides some insightful remarks about tax policy. He points out that by taking the side of economic stagnation instead of fostering economic growth, the U.S. Government is rigging the odds against America. If the Senate were to examine its own activities, it would find itself subsidizing problems, shoring up essentially moribund patterns of economic and social activities, and creating incentives for unemployment, inflation, family breakdown, housing decay, and municipal deficits. In short, we make problems worse by making them profitable. And, of course, it is these problems which feed the growth of Government.

I ask that Mr. Gilder's article be printed in the RECORD.

The article follows:

PROMETHEUS BOUND

(By George Gilder)

RIGGING THE ODDS AGAINST AMERICA

John Maynard Keynes, the General Theory of Employment, Interest, and Money: "Enterprise only pretends to itself to be mainly actuated by the statements in its own prospectus, however candid and sincere. Only a little more than an expedition to the South Pole is it based on an exact calculation of benefits to come. Thus, if the animal spirits are dimmed and the spontaneous optimism falters, leaving us to depend on nothing but a mathematical expectation, enterprise will falter and die."

To many people, the past seems inevitable and the future impossible. History is seen to have arisen not from unpredictable flows of genius and heroism, but more or less inevitably, from preordained patterns of natural resources and population. For those who doubt the decisive role of genius, courage, and chance in history, the future always appears impossible; they can see no way for free nations to escape a fate of decline, decay, and coercion, as their growing populations press against a closing frontier.

These attitudes lead to distortions of vision and policy. Strangely enough, the man who sees a future blighted by coercion and scarcity also tends to believe that the present can be made as free of risk and uncertainty

as the past, receding reassuringly in the reliable lenses of hindsight. He calls upon government to create an orderly and predictable economy, with known energy reserves always equaling prospective needs; with jobs always assured in current geographic and demographic patterns; with monetary demand always expanding to absorb expected output of current corporate goods; with disorderly foreign intruders banished from the marketplace or burdened by tariffs and quotas; with invention and creativity summoned by bureaucrats for forced marches of research and development; with inflation insurance in every contract and unemployment insurance in every job; with all windfall wealth briskly taxed away and unseemly poverty removed by income guarantees. In this view, risk and uncertainty are seen to be the problem and government the solution in the fail-safe quest for a managed economy of steady and predictable long-term growth.

These follies of false security and rationality are the characteristic delusion of the modern age. Abstractions everywhere are confused with things. But despite a pretense of scientific objectivity, the vision of a comfortably calculable world has been almost completely abandoned by serious thinkers in the hard sciences. While modern physicists begin to concede freedom to microscopic particles, social scientists still begrudge it to human beings. While chemists and mathematicians accept chance and uncertainty, politicians and sociologists cling to the determinist dream of an orderly, predictable, and risk-free world.

CAPITAL LOSS

Most of our ideological debates revolve around the attempt to banish danger and uncertainty from human affairs. A vivid current example is the dispute over tax policy. Early this spring, Washington underwent a small legislative upheaval on the issue of how much to tax the profits of speculative investment.

A young Republican Congressman on the House Ways and Means Committee sought to reverse the high levies imposed by the Nixon Administration, only to meet with the fierce hostility and resistance of the present Administration. Joining President Carter against the Congressman's idea were the Chairman of Ways and Means, the House Democratic leadership, the united forces of organized labor, the Business Roundtable—speaking for the executives of some 190 major corporations—and the editorial boards of both the New York Times and the Washington Post. It has been some time since the works of Richard Nixon have enjoyed so fervent and prestigious a defense.

One might assume that the fight was over before it began. Rising in support of the young Republican from Wisconsin, however, were powers nearly as impressive: a majority of the Ways and Means Committee; more than sixty U.S. Senators; and an interesting motley of others, including Rep. Ron Dellums of Berkeley, California, and other young Democrats, the editorial board of the Wall Street Journal, and virtually every American organization of small businessmen and venture capitalists.

The Wisconsin Congressman was William Steiger, and the proposal that created this strange but illuminating cleavage was reversal of Nixon's tax reform on capital gains. Capital gains are profits derived from the sales of assets or equity, such as real estate or corporate securities. In order to protect incentives for risky but possibly productive investment, many countries, like Germany and Japan, refrain from taxing capital gains at all, and even socialist Sweden taxes them at less than half the American level. As part of a tax reform signed by Nixon in 1969, however, the statutory top rate, as later impacted by minimum tax provisions, was lifted from 25 to 49 percent in the United States. Even this high nominal rate sometimes understated the effective rates. Not only are capital gains also taxed by some states, but during an inflationary period, the apparent increase in the value of an asset may well be illusory. Thus, the government may be taxing ostensible gains in companies that have declined in actual value. Partly because of this interplay of inflation and taxes, new stock issues by smaller firms plummeted in the early 1970s from several hundred annually to exactly four in 1975. Yet in 1978, President Carter proposed to raise the tax again, to a top rate of 52 percent, in order to prevent "windfalls for the rich."

The businessmen who were willing to accept such drastic taxation of rapid growth were all from mature and established companies. They preferred to cling to the Carter program of corporate and personal income tax reductions, an expanded investment tax credit, and accelerated depreciation.

This conflict appears minor: a technical choice among ways of lowering taxes and promoting enterprise. But the choice is anything but minor and technical. It embodies what Jane Jacobs has called the central conflict in every economy. This is not the split between capitalists and workers, technocrats and humanists, government and business, liberals and conservatives, rich and poor. It is the struggle between past and future, between the existing configuration of industries and the industries that someday will replace them. It is the conflict between the risk takers and the risk averters, established factories, technologies, formations of capital, and ventures that today may not even exist, that today may flicker only as ideas, or tiny companies, or obscure research projects, or fierce but penniless ambitions, that today are unidentifiable and incalculable from above, but which, in time, in a progressing economy, must rise up if growth is to occur. In fact, long-range growth may be defined as the replacement of current industries and techniques and products by better or more efficient ones.

Sir Henry Bessemer, the creator of the Bessemer method of large-scale steel production, vividly described such a nineteenth-century moment of discovery and displacement. After his first breakthrough in tests for making steel he wrote: "I could now see in my mind's eye, at a glance, the great iron industry of the world crumbling away under the irresitible forces of the facts so recently elicited." As economist Joseph Schumpter wrote in Capitalism, Socialism, and Democracy:

Creative destruction is the essential fact about capitalism . . .; it is by nature a form or method of economic change, and not only never is, but never can be stationary. . . . The fundamental impulse that sets and keeps the capitalist engine in motion comes from the new consumers' goods, the new methods of production or transportation, the new markets, the new forms of industrial organization that capitalist enterprise creates."

Progress absolutely depends on the willingness of government to allow the future to prevail.

As capitalist governments weave their tentacles ever more deeply into the economic fabric, however, their bureaus enlist more and more on the side of the established order, and thus on the side of stagnation as opposed to growth. A legislator usually supports the most powerful businesses in his district. Labor unions are deeply influential in politics, and they normally back the interests of the big companies that they have already organized. Bureaucracies often are closely allied with the industries they regulate or patronize, and in any case the regulations tend to favor the old ways of doing things. Even when governments choose to help business, they often act through investment credits, tariffs, quotas, and tax incentives that favor existing industries.

These government tendencies are reinforced by the media. While more than 300,000 small businesses involving many millions of jobs expire annually without notice, the death throes of a corporate leviathan provide a drama that captivates the press. Boeing loses the contract for a supersonic transport, and the networks descend on Seattle to depict that thriving city in images of the Great Depression because a few thousand well-paid technicians with ample unemployment insurance may be out of work for a while. The halls of Congress begin to ring with a rhetoric of emergency programs and subsidies.

Governments everywhere are torn between the clamor of troubled obsolescene and the claims of unmet opportunity; between the sufferers of aging pains and the sufferers of growing pains; between enterprises shrinking from competition or asking subsidies for their errors, and companies seeking human and capital resources to meet new demands.

The threatened industries of the past always turn to politics to protect them from change. Failure demands finance. A government preoccupied with the statistics of of crisis will often find itself subsidizing problems, shoring up essentially moribund patterns of economic and social activity, creating incentives for unemployment, inflation, family breakdown, housing decay, and municipal deficits, making problems worse by making them profitable.

Throughout Washington today, behind the inevitable rhetoric of innovation and progress, the facades of futurity, these forces of obstruction are gathering: an energy department exalting counterproductive new taxes and price controls; a department of housing promoting rent controls; even a National Center for Productivity forced to celebrate the least productive of all unions—both the steelworkers and the American Federation of State, County, and Municipal Employees.

Despite his best intentions, the government planner will tend to live in the past, for only the past is sure and calculable. In response to the inevitable crises of scarcity, he will prescribe, as progress, a series of faintly disguised anachronisms: a revival of canals and windmills, or a renaissance of consumer cooperatives, or a return to small-lot farming.

Current government programs, in fact, can be seen as a far-reaching and resourceful defense of the status quo against all emerging competitors. Economic policy focuses on stimulating aggregate demand for existing products rather than on promoting the supply of new ones. Investment credits and rapid depreciation allowances favor the re-creation of current capital stock rather than the creation of new forms of capital and modes of production. Antitrust activity is directed chiefly against successful competitors (IBM) rather than against industries that refuse to compete (the steel industry). Government regulatory policy rewards the company that follows prescriptions, rather than the company that avoids them with new techniques and products. Our floating exchange rates deal with U.S. lapses in international trade by depreciating the dollar rather than by forcing a competitive response of greater productivity or new products. Our taxation and subsidy systems artfully cushion failure (of businesses, individuals, and municipalities), reward the creativity and resourcefulness chiefly of corporate lawyers and accountants, and wait hungrily in ambush for all unexpected and thus unsheltered business success.

There is a similar bias in our social and employment programs. The civil service joins with affirmative-action rules to grant jobs and promotions on the basis of nearly immutable credentials like test scores, diplomas, race, and sex, rather than on competitive performance of work. The nation's employment policies are increasingly based on new forms of tenure and entitlement rather

than on expanding opportunities and new kinds of jobs.

Most of these policies are designed to protect businesses and individuals from risk and competition, inflation and unemployment. But the effort to escape inflation by indexing the incomes of favored groups and to fight unemployment by subsidizing outmoded jobs merely makes these problems worse, and foists them onto the unorganized majority: onto small businesses, onto nonunion workers, and onto the public at large in a stagnant economy. As Burton Klein has shown in his brilliant new book, "Dynamic Economics," the effect of the government's efforts to shield itself and its clients from uncertainty and risk is to place the entire system in peril. It becomes at once too rigid and too soft to react resourcefully to the new shocks and sudden challenges that are inevitable in a dangerous world.

Supporting the future is technically easy for government to do. It can perform economic miracles merely by enforcing the laws equally, by fighting monopoly, by removing barriers to trade, and by lifting the dead hand of taxation and bureaucracy. Only slightly more difficult is imposing a sensible structure of penalties and incentives on industries that pollute or defile the environment, protecting patents and property rights, promoting educational excellence—above all in science and technology—and maintaining a reasonable balance in its own accounts (in relation to the level of economic activity and employment). That is, government best supports the future by refraining as much as possible from attempting to shape it, for in a democracy the shape of government policy nearly always conforms with the current incidence of political power, which derives from the configuration of existing capital and labor: with an overlay of rhetoric and bureaucratic expansion in its name.

This is why the current debate over tax policy is so crucial and revealing. The distinctions are relatively simple. Cuts in the tax on capital gains chiefly benefit companies that expect to grow fast, i.e., new and innovating companies. The few that succeed will indeed "hit the jackpot," win "obscene windfall riches," if that rhetoric appeals. Cuts in corporate income taxes and enlargements in the investment tax credit, on the other hand, are less likely to bring such untoward results. The chief benefits will go to companies that are established and profitable, and subject to union pressures. The money will tend to be spent for higher wages and for the repair and reduplication of current capital formations rather than for the development of new ones—for inflation rather than innovation. Expansion will come through homogenous growth or through mergers. In recent years, in fact, the stock market has been largely preoccupied not with anticipating innovations and growth but with speculating on takeover attemps, as big companies give up on generating progress and try to avoid risk by diversification. When big companies avoid risk, however, they become reactionary, because all important progress and innovation is dependent on accepting risk and entering the realms of the unknown.

THE "HIDING HAND"

The damage of fail-safe policies is most vivid in the small and struggling economies of the Third World. With a passionate devotion to the ideals of welfare and central control and an undeniable need for public works and investments, the developing countries provide continuing lessons in the perplexities of planning. Economist Albert O. Hirchman has discovered in the trials and errors—and occasional successes—of these countries, a crucial principle of economic progress.

In an article in The Public Interest (winter, 1967), Hirschman recounted the story of a hydroelectric station that was built to stimulate industrial development in rural Uganda. No boom occurred, and five years later the project seemed a complete fiasco, until transmission lines were built to deliver the power first to neighboring Kenya and later to smaller towns elsewhere in Uganda. The station thus thrived, and when Hirschman studied it enlargement was underway. The hydroelectric station was a success, despite the fact that few of its expected effects or intended purposes were fulfilled.

Another case was the Karnaphuli pulp-and-paper mill in East Pakistan (now Bangladesh). Built in 1953 to exploit the vast bamboo forests along the upper reaches of the Karnaphuli River, the mill had been in fitful operation for several years and had passed into private hands, when the bamboo unexpectedly burst into flower—as bamboo does every sixty summers or so—and became useless. It turned out that many years would elapse before the seeds would grow into usable timber. The catastrophe was apparently total. But, instead, the network of East Pakistan's rivers and canals was used to transport random pulpwood from throughout the country. Not only was this approach a success for the mill, it also provided profitable activity in towns all over East Pakistan. In his article Hirschman offered similar examples from other Third World countries—successful results that totally failed to correspond to the plans and intentions that gave them birth—and proposed as a theory "the principle of the hiding hand." Leaders in less developed countries seem able to muster in themselves and their followers the confidence and willpower to commence a major undertaking only if its dangers and difficulties are obscured. This "hiding hand" takes the form of a vast overestimation of benefits and underestimation of difficulties. There is usually a pretense of planning and expertise that suggests that all problems have been anticipated and the solutions are known.

Such a "hiding hand" seems to have been active in the industrial development of the United States during the first half of the nineteenth century. Economic historian John Sawyer has observed that "miscalculation or sheer ignorance" of costs and difficulties was important in the launching of a number of great and ultimately successful businesses, from canals and railroads to mining and manufacture. Hirschman writes in his article:

"Creativity always comes as a surprise to us, therefore we can never count on it and we dare not believe in it until it has happened. . . . Since we necessarily underestimate our creativity, it is desirable that we underestimate to a roughly similar extent the difficulties. . . ."

Then we will undertake tasks—

"Which we can, but otherwise would not dare tackle. . . . The Hiding Hand is essentially a mechanism which makes a risk averter take risks and turns him into less of a risk averter in the process."

Of course, the entrepreneurs themselves will not see it this way. They will not imagine that they may have stumbled into their greatest achievements. As Hirschman puts it, in a linguistic aperçu: "We fall into error, but do not usually speak of falling into truth."

Hirschman has fallen into some of the most vital truths of human society, but does not quite dare to extend them beyond the less developed world. Things are different, he seems to assume, in modern economies, with their panoply of computers and econometric models, their coolly Galbraithian managers and entrepreneurs, their increasingly routinized research and development techniques, their new methods of market analysis and manipulation, their populations of "risk-taking, achievement-motivated men."

Hirschman implies (though he surely knows better) that in modern societies planning is successful: costs are correctly estimated and benefits clearly foreseen. Yet it seems obvious that if Hirschman had directed his attentions to contemporary modern societies, he would have discovered the same pattern that he found in nineteenth-century America and in the Third World: Planning sometimes succeeds in manipulating markets or governments, but rarely in generating new enterprise or substantial growth. From France to the Philippines, plans are propounded, given lip service, and flouted. Countries like Taiwan and the Ivory Coast, which leave room for uncontrolled private ventures, grow faster than their more centralized neighbors.

Governments and businesses must have some concept of goals and directions. Detailed blueprints can be useful in seeking gains through imitation. Nonetheless, the developing countries are littered with projects undertaken in the false assurance that any random river valley is a site for "another TVA" and that steel and auto industries can be copied by bureaucrats mobilized in military array. Progress and creativity cannot be forced or prescribed, except at costs far beyond the reach of any Third World country or of any competitive firm anywhere. There is no way to escape for long the necessity of openness and risk.

This truth is anathema to those who seek a risk-free scheme of development and growth, whether unlettered leftist generals assuming control of small nations or smooth-talking corporate leaders in the U.S. The rule of risk applies alike to national planning and private business, to advanced technical industries and even to the movies. John Gregory Dunne's extraordinary book *The Studio* tells of the foibles of planning during a year of high expectations under new leadership at Twentieth Century Fox. In preparation—and preoccupying the executives—were several colossal "sure things," including *Doctor Doolittle* with Rex Harrison, *Star!* with Julie Andrews (coming off her *Sound of Music* bonanza), and *Hello Dolly* with Barbra Streisand. The sure-thing superhits, however, would have brought the company near bankruptcy, if it had not been for an afterthought cheapie (several times nearly canceled in the interests of economy) named *Planet of the Apes*. *Star Wars* was later to perform a similar miracle for the studio.

The unpredictability that Hirschman took to be a malady of underdevelopment is, in fact, the incalculable condition of all economic progress. To deal with uncertainty, one must have enough faith in the future to take risks. Faith moves mountains, evokes commitments, and lowers interest rates; risk propels adventure and innovation.

To a great extent, plans are the mythology of a secular rationalist world; they are designed, paradoxically, to get the planners out of the way, to appease the bureaucrats and financiers, so work and faith and ingenuity can proceed. As clothing executive Richard Salomon told the Wall Street Journal, "Everybody praises carefully tested methods and long-range planning. Yet the most successful moves are often on-the-spot responses to completely unexpected situations, taking a company to places it never before imagined." When the planning is taken too seriously, as in totalitarian states, stagnation results and most creativity has to be imported in the form of goods from abroad.

RISK, FAITH, AND THE FRONTIER

The attempt of the welfare state to deny, suppress, and plan away the dangers and uncertainties of our lives—to domesticate the inevitable unknown—affronts human nature. Even the most primitive of men tend to invent forms of gambling (dice in most societies preceded the wheel) as well as religions (faith always precedes works). The government devoted to suppressing uncer-

tainty finds itself forever having to channel or suppress the human will to risk.

In this country, the impulse to gamble and risk is often driven from the economy, from serious life, into fantasy and frivolity—games and wagers—or diverted from productive activity into courtroom assaults against the productive. One of the best remaining ways to strike it rich—the best remaining scene for gambling, with the odds against the productive stacked ever higher by government—is the civil suit: malpractice, product liability, discrimination, antitrust, libel, pollution, whatever, the government has created a vast new sweepstakes open to the man willing to play for high stakes and to the law firms that join in the new champerty. In a good many cases the victim is a man of courage and faith who dares risk his own money to bring a new product or service to the public. Caveat productor is the new rule.

For citizens without the means or litigious bent to sue for a living, the state is widely setting up simpler lotteries of its own, opening on every block a storefront for the gambling impulse, advertising on billboards the government games. And everywhere it tells the incredible lie that its lottery affords a better deal ('where no one has a better chance than you"), a fairer opportunity than the real and continuing lotteries of lower-class life; that it is more promising to place your wagers on "The New York Bets" than in the U.S. economy. The effect is to trivialize and stultify the will to risk and work that is the only real hope of the poor. It is to deprive our economy of the new businesses and activities that the poor otherwise would engender by their hard work and enterprise.

A society that immobilizes its poor by excessive welfare and trivial games—government bread and circuses—removes a major source of economic growth and change. The economic history of America is largely the sage of successive generations of the poor, toughened by hardship, who ovecame all odds to move up: launching new businesses and spurring the middle class into greater efforts and accomplishments. By pampering and demoralizing the poor, government impoverishes the whole society.

Similarly with the rich, the government makes the dubious claim that it can use wealth more productively than a free capitalist. So its tax policy raises the always adverse odds of enterprise to the point that they no longer invite the investor. While the poor man swings between welfare and the state lottery, the rich man alternates between personal gambling and municipal bonds. The stochastic margin of progress—the frontier of the economy—is being closed off by obtuse taxation and bureaucracy.

Most redistributive activity is based on serious misunderstandings of the nature and sources of wealth and innovation. Seeing the high levels of chance involved in each particular business success, many officials and intellectuals conclude that most large capital gains are in a sense both unearned and unanticipated, and no factor in either personal motivation or efficient allocation of resources. Two of the nation's leading thinkers on the Left, Lester C. Thurow and Christopher Jencks, ended their ambitious studies of inequality* with the conclusion that crucial in most fortunes, great and small, is luck. The beneficiary, like a raffle winner, was at the right place at the right time, and in a rational system should not be permitted to convert his luck into real economic power, any more than the myriad losers should suffer more limited liability for their losses.

Indeed, risk and faith do produce much more waste and inefficiency than any well-trained planner could tolerate or defend. Some 300,000 new businesses start every year in America, two-thirds fail within five years, and the median small businessman earns less than a New York City garbage collector. Of the thousands of plausible inventions, only scores are tested by business, and only a handful of these are an economic success. Perhaps 90 percent of trade hardcover books lose money for the publisher, and a still higher proportion represent a net loss for the author; an even greater number, comprising untold months or years of labor, are never published at all. But such waste and irrationality is the secret of economic growth. Because no one knows which venture will succeed, which number will win the lottery, a society rule by faith and risk rather than by ration calculus, a society open to the future rather than planning it, will call forth an endless stream of invention, enterprise, and art. The greatest irony of modern economics is that the kind of "economic man" at its center, the rational optimizer of wealth, could rarely create wealth, or dare invest in the frontier enterprises of growth.

The issue goes far beyond economics. Charles Peirce, perhaps America's greatest philosopher and leading theoretician of probability, has shown that chance not only is at the center of human reality, but also is the deepest source of reason and morality. "The idea that chance begets order is the cornerstone of modern physics," and, he might have added, of biology as well.

The movement of chance and probability toward order and truth, however, is not assured in any one lifetime. The odds are against each individual in the serial lotteries of his own life, which inevitably end, after all, in decline and death. Risk cannot be shown to work except in the long run of trial and error; in fact, a rational calculation of personal gain would impel an individual above all to avoid risk and seek security. In our world of fortunity, one would conclude, the invisible hand of self-interest would lead to an ever-enlarging welfare state—to stasis and sterility. This is the root of our crisis today.

The acceptance of risk implies a commitment to values that go beyond rational self-interest to embrace family and future. Progress springs ultimately from morality and faith, from beliefs, usually religious, that transcend the individual life and reach into the future of the race.

The narrow economic and sociological perspective engenders a despairing pessimism about our prospects as a free people. Economist Robert Heilbroner and anthropologist Marvin Harris speak for a consensus of security-minded intellectuals in arguing that the future cannot be mastered in freedom—that without authoritarian controls the race is doomed to a grim decline, as rising populations press against a wasting earth.

What they fail to comprehend is that the visibly possible achievements, the clearly available resources, are always limited. All plans based on the calculable present, on the existing statistics, necessarily presume a declining field of choice, a contraction of possibilities, an exhaustion of resources, a diminishing of returns—entropy and decay. The only unlimited resource, the one that can release us from all the others, is the imagination and creativity of free men.

The most dire and fatal hubris for any leader is to cut his people off from providence, from the miraculous prodigality of chance, by substituting a closed system of human planning. Innovation is always unpredictable, and thus an effect of faith and freedom.

In the United States today we are facing the usual calculus of impossibility, recited by the familiar aspriants to a master plan. It is said we must abandon economic freedom because our frontier is closed: because our biosphere is strained, because our resources are running out, because our technology is perverse, because our population is dense, because our horizons are closing in. We walk, it is said, in a shadow of death, depleted air, poisoned earth and water, a fallout of explosive growth showering from the clouds of our future in a quiet carcinogenic rain. In this extremity, we cannot afford the luxuries of competition and waste and freedom. We have reached the end of the open road; we are beating against the gates of an occluded frontier. We must tax and regulate and plan, redistribute our wealth and ration our consumption, because we have reached the end of openness.

But quite to the contrary, these problems and crises are in themselves the new frontier, are themselves the mandate for individual and corporate competition and creativity, are themselves the reason why we cannot afford the consolations of planning and stasis. The old frontier of the American West also appeared closed at first. Only in retrospect could the achievements of the past be seen as easy or inevitable. America became an open reservoir of wealth only in retrospect, because the pioneers dared to risk their lives and families in the quest for riches, looking for gold (of which there was relatively little in the U.S.) and eventually finding oil. Only in retrospect were the barrens of Texas and Oklahoma an energy cornucopie, the flat praries a breadbasket for the world, or Thomas Edison a catalytic genius and Henry Ford the salvation of capitalism in the grips of an earlier closing circle. The future is forever incalculable. Its challenges can be mastered only by those who are willing and permitted to enter the unknown.●

*Lester C. Thurow, *Generating Inequality*, 1975; Christopher Jencks, et al., *Inequality*, 1972.

ADDRESS BY SENATOR BELLMON ON ENERGY

● Mr. BARTLETT. Mr. President, my distinguished colleague and friend, HENRY BELLMON, recently presented an address at the fourth annual Department of Energy Symposium on Enhanced Oil and Gas Recovery at Tulsa, Okla. His remarks were well received by government and industry leaders in the technology of enhanced energy recovery. I concur wholeheartedly with what he had to say, and in order that my colleagues might benefit from reading his remarks, I ask that a copy be printed in the RECORD.

The address follows:

REMARKS OF SENATOR HENRY BELLMON

Thank you for asking me to this Fourth Annual DOE Symposium on Enhanced Oil & Gas Recovery. There seem to be a lot of you interested in Enhanced Recovery. I'm glad that there are so many of you here tonight If I were to confine my remarks to what I know about Enhanced Recovery, we would be out of here in no time.

Since you didn't ask me here to educate you about Enhanced Recovery, I conclude you're interested in knowing how the Congress feels about the work you're doing. Well, I think what you're doing is just fine. I wish you would do more of it.

It has seemed a shame to me that so much oil has been left in the ground. We know where it is and how much is there, and yet most of the oil (and a lot of the gas) we find is being left in the ground. Some of the reasons are technical. Some are economic.

In the Senate Appropriations Committee, I have been helping to get money for enhanced oil recovery research, development, and demonstration. The funny thing is, the government never wants to spend it. I don't know which is a stranger sight, old tight fisted Bellmon pushing money on a gov-

ernment agency, or a government agency that doesn't want any more money. For although the name of the agency has changed several times during the past five years, and some of the bureaucrats have changed, too, they never seem to want the enhanced recovery money. First, in 1973, it was the Bureau of Mines They didn't want the money. Then, later on, it was the Energy Research and Development Administration. They didn't want the money. Now, it's the Department of Energy. They still say they don't need any more money for Enhanced Recovery.

At first, you could understand why they didn't think Enhanced Recovery was something the government ought to get involved in. Oil was cheap. Arab oil was very cheap. In 1973, the Arabs hadn't realized that they were selling us their oil at less than our true replacement cost. When they finally did realize it, and jacked up their price to what they figured our true replacement costs were, we obliged them by slapping on our oil a price ceiling. That price ceiling was less than half the cost of any oil we might have produced by enhanced recovery. If it didn't make economic sense to enhance recovery before, it surely didn't afterwards!

Now the reason DOE says it doesn't need any more money is that they have already done all the necessary research and demonstration, and it's time for private industry to take the ball and run. (Which is exactly the same story I get from Secretary Schlesinger about oil shale.) I guess I must have dozed off and missed all that demonstration. For those of us who blinked twice, perhaps DOE will repeat a little of that demonstration with the funds we will supply in FY 1979.

This reluctance on the part of the Federal government to push enhanced oil and gas recovery has existed under three Presidents. But it is only since Jimmy Carter became President that our enhanced recovery policy . . . our energy policy . . . indeed, our economic and foreign policy, has taken on the aspects of a morality play. I want to talk about those aspects tonight, and I'll use the recently issued "DOE Additional Price Incentives for Tertiary Enhanced Recovery Techniques" to illustrate my points.

The actors in the morality play are: Producers, Consumers, and Government. Producers produce. Consumers consume. Government soars high above the stage, swooping down from time to time to correct injustice. Consumers play the part of the good guys. Producers play the part of the bad guys.

Injustice occurs, in this morality play, whenever Producer and Consumer agree on a price that Government doesn't consider "fair". What is "fair"? Let me quote from page 50 of President Carter's "The National Energy Plan", a document issued by the Executive Office of the President to accompany his Comprehensive Energy Bill.

"In 1973–74, the oil-producing countries raised the world oil prices four-fold. Deregulation of oil and gas prices would make U.S. producers the beneficiaries of those arbitrary price raises and yield windfall profits from the increased value of oil and gas in existing fields. The producers have no equitable claim to that enhanced value because it is unrelated to their activities or economic contributions."

Now that is the kind of statement that belongs front and center in our morality play. That quote is not just the view of some faceless bureaucrat concerning our existential situation. The evidence is all around that this view of the world is pervasive in this administration. It makes no difference that deregulation of oil and gas prices would probably solve the energy problem. Somebody might make a lot of money.

In the Moral Equivalent of War, oil and gas producers have become "War Profiteers". In the view of this Administration, and many supporters in Congress, all revenue becomes profit. Their eye is not on the doughnut (increased domestic production of oil and gas). Their eye is on the hole (producers' revenue).

Anyone in the Energy bureaucracy who knew anything about oil and gas (or had any reason to hope that the oil and gas industry would somehow make a profit) was run out of town on a rail. Experience became disqualifying. Anyone who knew anything about a subject was not allowed to be associated with it. But even after you decide what constitutes heresay, it is difficult to root out all the heretics. I am willing to believe that there are DOE officials (some of whom may be in this very room) who secretly hope this country can increase domestic production of oil and gas. There may even be some Closet Free-Marketers in DOE. How else to explain the reports DOE issues from time-to-time, then recalls, then re-issues full of blank pages.

The things that ought to be recalled, never are. From page 11 of Chapter II of the DOE "Price Incentives for Tertiary Recovery Techniques": "However, a tertiary enhanced recovery project does not qualify for the incentive merely because it falls within the description of one or more of the defined techniques. Such a project is eligible to receive the incentive only if it is qualified, i.e., 'is certified pursuant to (applicable certification procedures) as being uneconomic at the otherwise ceiling prices.' "

In other words, DOE will only allow you to get the free market price for the oil you produce using enhanced recovery if you would lose your shirt, otherwise. If it's a real loser, they'll even loan you some "up-front" money. But you've got to pay it back. Got to be fair about this.

Based upon what high DOE officials have testified to before the Appropriations Committee, I can only conclude that they think this "incentive" package is going to do the trick. I don't. And I don't think many people in industry or at lower levels in DOE think so, either. Suppose you want to employ an enhanced recovery technique. You better apply to DOE. It's not clear what happens if you go ahead without saying "May I?".

First, you've got to figure out how much oil you would produce if you didn't use an enhanced recovery technique.

Then, you've got to estimate how much additional oil you might produce if you used an enhanced recovery technique.

Next, you figure out how much money you'd lose if you went ahead and the government only allowed you the DOE ceiling price they would allow you if you only produced the oil you would have produced if you didn't employ an enhanced recovery technique.

Finally, you figure out how much you'll make (if anything) if you employ an approved technique and DOE allows you to get the fair market price for the additional oil you produce over what you would have produced if you didn't employ an enhanced recovery technique. That last figuring includes (1) a cost analysis, (2) a cash flow analysis, (3) a real rate-of-return analysis and (4) a risk and sensitivity analysis.

Are you all still with me?

Did you all remember to say "may I"?

Now, you have got to convince someone at the Economic Regulatory Administration (a semi-independent part of DOE) that you did all your figuring right. This is a different part of DOE from where there may yet be hiding some heretics who want, secretly, for this country to produce more oil and gas. This is the part where the Swoopers hang out.

Believe it or not, they (the ERA) do not consider themselves able to make a final judgment on so sensitive a matter, and so they turn over all your figurings to the "relevant cooperating Federal or State agency".

If everyone, including this mysterious "relevant cooperating Federal or State agency, "agrees that you would be a fool to go ahead with the project, an announcement to that effect is placed in the Federal Register. After thirty days has passed, you are authorized to take one giant stride. Unless . . . Unless someone objects (in writing) within that thirty days. (Like, for example, a frightened stockholder).

As you can imagine, not every producer is falling all over himself in the rush to sign up for this Federal program.

Since we know that this program is not going to result in much increased oil and gas production, lets go back and figure out what might. Consumers still consume. Only producers produce. But Government need not examine every transaction to see if it is "fair". If producer and consumer agree on a price, there is no injustice. No "probable violation".

(You know, when I got to Washington, I discovered that the Laws of Supply and Demand had already been enacted. That saved me a lot of trouble. Besides, President Carter might have tried to veto those laws if they came to his desk; some Congressmen have been trying to repeal them ever since they heard about them.)

But, knowing the Law of the Land, I can tell you what would happen if Government decided that the price producers and consumers agree upon is not the right price. Government could raise the price. (To do that, Government would have to get the difference between the higher price it sets and the price the consumers are willing to pay from someone. But let's not worry about that Budget problem right now. I worry enough about it when I'm in Washington.) If government were to be successful in arbitrarily raising the price producers actually get for their oil, they will produce more oil than consumers will buy. So if government raises the price for producers, a surplus results.

If, on the other hand, Government decides to lower the price consumers are allowed to pay to producers, producers will produce less oil. This Government action results in a shortage.

In the Carter morality play, the Laws of Supply and Demand don't exist. Higher prices for producers produce no new oil or gas. Only higher profits for producers. And that's Bad. Controlled prices for consumers don't result in less production. Only lower fuel bills for consumers. And that's Good.

I thought for a while that we were making some progress, educating President Carter about the real world. He has said on a number of occasions that our gas and oil has got to be priced at its true replacement cost. He is so right and I have applauded him for saying it. But it turns out that he doesn't mean the same thing by that. He means that it has to be priced at true replacement cost to the consumer. It has to hurt the consumer. He doesn't mean that it has to be priced at true replacement cost to the producer. It can't help the producer.

The critical value in the real world is what the producer winds up with. It is his net cash flow from operations that counts. Unless the amount of money the producer has in his possession after all expenses is enough to go out and find another barrel of oil, that barrel of oil has not been priced at it's true replacement cost.

In 1978, the true replacement cost for oil in this country is between $6 and $8 a barrel. That means for constant production to be maintained every barrel of oil will have to bring about $7 PLUS royalties, taxes, and production costs. A similar situation prevails for natural gas.

One point I am trying to make is that it will not be commercially economic to employ enhanced recovery techniques until the cost of finding and developing new reserves gets to be more than the production costs of

enhanced recovery. That is not usually the case today.

Another point is that increased domestic oil and gas production depends more than anything else upon the net cash flow from operations that actually gets into the hands of producers.

We already know what oil and gas producers do with the net cash flow from operations. They plough it back into the business. They go out and find more oil and gas. They will employ enhanced oil and gas recovery techniques if, and only if, the net cash flow from those operations can be reasonably expected to exceed the net cash flow from some other use of their available funds.

If we wish to increase domestic oil and gas production, we must see to it that Government does not lower the price to producers that consumers are willing to pay.

If we wish to increase the employment of enhanced oil and gas techniques in the near term, it will (in most cases) be necessary for government to subsidize producers. Producers cannot be expected to go for enhanced recovery in a big way until net cash flow from those operations equals (or exceeds) that from more conventional exploration and development. There are several possible approaches for this government action. There are three bills in the Senate for which hearings have already been held.

The Bentsen bill (S. 2623) would allow the free market price for all oil produced in an enhanced oil recovery project. The Bartlett bill (S. 3306) would allow the free market price for all oil produced in secondary and tertiary recovery projects. And you wouldn't have to say "May I?". The Hart bill (S. 2999) is more research oriented. It would supply loan guarantees for the up-front costs and price supports for production. A price of $25/barrel would be allowed for some limited production, and the world price would be allowed for subsequent production. I hope we can get at least one of these bills passed, because I don't think this DOE Incentive Package is going to do the job. It is too oriented toward making sure nobody gets away with anything. It doesn't offer enough incentive to make complying with the regulatory hassle worth while.

To you participants in this symposium, I can say that you are doing an important job. You are solving the technical problems. You are solving the economic problems. Keep up the good work. I hope that you can eventually get these known deposits of oil and gas out of the ground economically.

As far as the philosophic things I have had to say, they apply to many other fields. Because although most Americans may be consumers when it comes to oil and gas, they are producers when it comes to wheat, and steel, and furniture, and textiles . . . and widgets. The same problems, the same solutions I have talked about here, it is the same in those other fields.

There is entirely too much swooping down by Government. There are far too many bargains struck by Producer and Consumer that Government wants to change. It has gotten to the point that "profit" has become a dirty word. "Profit from" means for many "take advantage of". No wonder the stock market drifts listlessly. No wonder the dollar plummets.

Think about it. Think about the "little people" who get a royalty check once a month, or once a year, for their share of the production from the old family farm. Maybe there was a little oil or gas production from that well and the producer wants to re-work it. Maybe if the price was high enough it would pay to try to increase production. Well, those descendants are the people who "have no equitable claim to that enhanced value because it is unrelated to their activities or economic contributions."

When President Carter attacks as "war profiteers" the major oil and producers he attacks no less the little people who receive oil and gas royalty checks. They want to see that gas sold at a fair price as much as the majors do.

When he attacks those who profit from increased value of oil and gas, he is attacking no less those pensioners who hold stock in the nation's oil and gas companies. Or whose pension fund holds such stock. When Government swoops down on Producer and Consumer, who have long ago struck their bargain and gone their separate ways, it swoops down on royalty holders as well as on major oil companies. With dogged determination, Government follows these evil profiteers, follows them to the grave, and sometimes beyond. I had a cousin who got what the government thought was too much royalty. The last I heard, the Government was trying to get $48 from her heirs.

If I have seemed too harsh on President Carter, it was not my intention. We had short sighted, ill informed, and counterproductive government intervention in the market place and the affairs of all our citizens long before Jimmy Carter came to Washington. In fact, he got there in the first place by blasting that kind of government interference. But somehow, since he has been President, whenever he has had a chance to lessen government interference, he has ended up pursuing a policy that increases it. The Gas Bill he is urging us to pass in Congress right now is an example. He campaigned on a platform of deregulating natural gas. He wants a bill that regulates all gas, even that gas that was formerly unregulated.

It is my hope that we have reached the high-water mark in this flood of government intervention. I think a letter some of us Senators sent to our colleagues in the Senate about this Gas bill President Carter is pushing, reflects our having "had enough".

I'd like to close by reading a few paragraphs from that letter.

"DEAR COLLEAGUE: The Senate will soon be called upon to consider the Conference Report on the Natural Gas Bill. The Compromise which has been reported represents no coherent policy beyond a desire to say 'we have passed an energy bill.' The undersigned include both supporters and opponents of gas deregulation. But we are united in stating that this bill will lead to a situation worse than under the status quo.

"The arguments against the bill have been set forth at great length, but can be summarized as follows:

"The compromise will not produce more gas than the status quo.

"The regulatory complexities and the restrictions placed on the free intrastate market will reduce producer incentive.

"The compromise will also mean higher prices to consumers in the interstate market, without assuring additional supply.

"The incremental pricing provisions will seriously damage many industrial areas dependent on the interstate market without adequately protecting consumer interests."

It goes on. It's signed by Edward Kennedy of Massachusetts, Dewey Bartlett of Oklahoma, John Durkin of New Hampshire, John Tower of Texas, Muriel Humphrey of Minnesota, Clifford Hansen of Wyoming . . . and eighteen other Senators.

The point is that too much government intervention is viewed by a wide constituency as not being a good thing. For consumers. For Producers.

It was an honor to be asked to address you at this symposium. Thank you.●

THE ECONOMICS OF NATIONAL SURVIVAL

● Mr. HATCH. Mr. President, on July 13 the Honorable J. William Middendorf II made an important speech at the University of Virginia to the Invest-in-America National Council, Inc. Mr. Middendorf pointed out that our position in the world is directly related to the health of our economy. As goes the health of the economy, so goes our ability to provide a strong national defense.

Mr. Middendorf points out that:

U.S. companies, U.S. citizens and the world as a whole have lost confidence in the U.S. economy. Unfortunately, this lack of confidence is justified. The reputation of the U.S. economy as an engine for continually improving productivity through investment and technological development is rapidly disappearing. Our role as the world's leading innovator is being eroded. We cannot continue to trail the other industrialized nations of the world in investment, productivity and innovation and expect to survive as a world economic power. Nor can we expect our national defenses to remain strong if our economy is weak.

Mr. President, I believe that the Senate must pay more attention to this interrelationship. Although the reality is now different, we continue to assume that our economy has an inexhaustible economic strength that we can continue to abuse without suffering any adverse consequences. Thinking people no longer believe this and are becoming alarmed by our cavalier disregard of our economic base. Mr. Middendorf points out that Edward Denison of the Brookings Institution estimates that about 25 percent of the recent decline in productivity growth that our economy has suffered resulted directly from Government regulations. The Senate had to pass these productivity-destroying regulations. Did we realize the cost of these regulations in terms of lost productivity when we passed them? Who would admit that we knew this and consciously took action to reduce the living standards of the American people and the job opportunities of their children? On the other hand, if we deny that we knew, it amounts to an admission that we legislate without knowing what we are doing. Which admission do we prefer—that we consciously harm the people. or that we do not know what we are doing?

I ask that Mr. Middendorf's speech be printed in the RECORD.

The speech follows:

THE ECONOMICS OF NATIONAL SURVIVAL

(Speech by J. William Middendorf, II)

Ladies and Gentlemen:

It is a great pleasure to be here this morning to discuss "The Economics of National Survival." The title of this session may be perhaps a bit melodramatic, but it does point out an essential theme.

When we think of national survival we normally conjure up images of battleships, tanks, ICBM's and satellites. These are, of course, essential to our national defense. But investment, productivity, innovation, technology, trade, growth, employment and stability are the keys to our national economic health and our economic health is, in turn, the key to our survival as a world power. I can safely say without the slightest chance of exaggeration that the ability of our economy to efficiently marshal resources is at the very core of an effective national defense. Our position in the world is directly related to the health of our economy.

The economic history of the United States is truly remarkable. The list of our technological achievements that have transformed our economy and the world's way of life is

nearly endless. The telephone, the telegraph, the automobile, the airplane, the computer, the transistor, the semiconductor: these are just a few of the most familiar American innovations.

Perhaps even more dramatic is our seemingly unerring ability to bring these innovations into mass production—a technique also of American invention—and to bring their benefits to bear for the good of all our citizens. We also have shown a remarkable ability to save, to invest and to channel the individual investments of millions of Americans into the productive process.

The results are unparalleled in world history. The U.S. has achieved the highest standard of living in the world. Our ability to counter wage increases with improvements in productivity has normally kept our economy relatively free of inflation. For decades the U.S. dollar was the stable world currency, the standard against which other currencies, other economies and world trade was measured.

The strength of the U.S. economy allowed us not only to win two world wars but to do so with remarkably little economic distortion while later financing the recovery of our allies and former enemies alike.

By the 1960's, the United States appeared to the world as an unstoppable economic juggernaut of such power that our very success began to arouse nationalistic fears abroad. In 1968 the French author, editor and politician Jean-Jacques Servan-Schreiber wrote an influential study called "The American Challenge" in which he expressed the fears of many Europeans over the power of the U.S. economy.

"Fifteen years from now," he said, "it is quite possible that the world's third greatest industrial power, just after the United States and Russia, will not be Europe, but American industry in Europe."

Ten years ago when he wrote these words it seemed entirely possible that Servan-Schreiber would be proven right. We now see all too clearly, however, that the U.S. economy has not even come close to justifying these nationalistic fears. In fact, the strength of our economy—and therefore our position in the world—is in serious jeopardy.

Frankly, the picture of the U.S. economy today is not a pretty one:

Inflation, which remained under control through the 1950's and early '60's is now stuck at entirely unacceptable levels of six to nine percent per year, thus seriously distorting the entire economy.

Unemployment, particularly among the young and minorities, is a national disgrace.

Our balance of payments deficit set a new record last year—nearly six times the previous record. In spite of a slight decline in May, we seem destined to set another new record this year.

As a result of massive trade deficits and constant inflation the value of the dollar continues to decline, reflecting increasing lack of confidence in the U.S. economy.

Investment in new plant and equipment is well below necessary levels.

As a direct result of reduced investment and inflation, the growth of productivity over the past decade has been at the lowest level since World War II.

Individuals increasingly shy away from savings and investment, switching instead to consumption as the best method for beating inflation.

With decreasing supplies of private capital available for equity investment, and corporate profits essentially stagnant over the past 10 years, corporations increasingly are forced into financing essential new equipment by borrowing. Today, debt finances 60 percent of corporate capital spending versus 30 percent 10 years ago.

Taxes have risen sharply over the past decade, as inflation forces individuals into higher tax brackets, creates artificial capital gains and raises the value of our homes.

Yet in spite of rapidly rising taxes, the Federal government continues to mount massive annual budget deficits.

Why is the economy in such chaos?

It has become almost a cliche to blame our economic woes on government, but this is one cliche that is true. And for good reason.

Government, at all levels, now employs one out of every four U.S. workers.

Government spends over 40 percent of our total national annual income.

The mere fact that government is so big and so monolithic assures that whatever ails our economy must—by definition—be largely the responsibility of government.

That is perhaps a strong statement. But no other sector of our economy is big enough to stand up to government. Even those who are critical of big business, big labor or big agriculture will almost always admit that the enormous diversity within these economic sectors effectively prevents their holding sway over the prevailing health of the economy.

General Motors alone cannot influence the overall rate of investment in new plant and equipment.

The oil industry cannot control inflation.

Organized labor cannot reverse our balance of payments deficit or improve the productivity of workers.

Government, particularly the Federal government, through its taxation, spending and regulatory policies, must bear the blame for our economic problems and must be viewed as responsible for developing solutions. We in the private sector can suggest ideas, but government has now grown into such an overwhelming economic force that it alone can act effectively. The trouble is the Federal government seems unable to understand the problems and unwilling to effectively deal with them.

I think it is fair to say that the Federal government at least is coming to recognize its central role in our economy. It is a long way from recognizing the problem to effectively dealing with it, however.

Over the past decade, policy makers in Washington have tended to concentrate their efforts alternately on unemployment and inflation. Clearly both are troublesome. But it is essential to understand that both are symptoms of more serious underlying economic problems. There seems to be a strong belief in Washington that if unemployment exists, we should simply set up governmental bureaucracies to hire the unemployed. On the other hand, if inflation exists, government should set up bureaucracies to hold down wages and prices—either voluntarily or through outright controls.

I am convinced—as are most people in the private sector—that such programs simply will not work. Government employment programs help politicians get through the next election, but they don't create permanent, meaningful, productive jobs. Government wage and price controls may hold down inflation over a brief period, but without attacking the underlying causes of inflation, such controls only guarantee that both wages and prices will rise even more sharply in the future while very possibly leading the country into a recession.

So what are the underlying causes of our problems and how do we deal with them? That's exactly what I would like to discuss this morning, focusing specifically on two points:

The crisis of capital formation, which has led directly to inflation through cuts in productivity, and

The diversion of productive resources to nonproductive uses.

Let's take these issues one at a time and examine what they mean and how they cause and are caused by the more visible problems of inflation, unemployment and taxation.

THE CRISIS OF CAPITAL FORMATION

In its simplist terms, capital is formed when individuals or companies forego immediate consumption in favor of saving a part of their incomes, turning those savings to productive use through investment. The process involves literally putting money to work, earning an income in the same way individuals earn wages and make companies make profits.

The amount of capital formed depends on the incentives available to individuals and companies to encourage savings and investment rather than immediate consumption. These incentives, together, must fully compensate for any risk involved in the investment and must show promise of paying a real return great enough to compensate for giving up immediate consumption.

In the past, the stability and growth of the American economy has proven a uniquely effectively incentive for capital formation. In turn, capital formation led to continuous technological advancement which increased productivity, held down inflation and increased real wages, permitting both added consumption and added saving.

In short, our economy became a gigantic machine, constantly building on itself, forming new capital to serve as the foundation for future growth and continuously upgrading our standard of living. Unfortunately, the gears of this machine became fouled in the mid-1960's and today the growth of new capital has been reduced dramatically, slowing the increase in productivity, fueling inflation and threatening the stability of the U.S. economy.

The incentive and the ability of people and companies to save and invest is directly related to their confidence in the overall economy. Numerous surveys have shown that over the last several years the individual's confidence in the health of our economy has been severely shaken. They simply are no longer willing to risk investing in U.S. business.

Some startling statistics illustrate this lack of confidence:

In the last ten years, individuals have actually withdrawn a total of $42.6 billion from the capital stock of U.S. companies. In short, they have decided the stock market is too risky.

While individuals have been net buyers of corporate bonds and government securities, these purchases of less risky investments have, together, not kept up with the rate of inflation and have been outweighed by amounts held in savings accounts or invested in insurance policies and real estate. Clearly the public is becoming more conservative, increasingly seeking hedges against inflation. Rather than looking for profits through relatively higher risk investments, the aim of most private saving and investment is simply not to incur losses.

Worse yet, annual increases in individual savings available for investment have actually declined in real terms over the past ten years. In 1967, Americans saved nearly $41 billion. But in 1977, after deducting inflation, savings dropped nearly ten percent to $37.5 billion. Obviously a lot of people have decided that consumption is the best possible hedge against inflation.

If we look at the stock market, it's easy to see that lack of confidence in risk-oriented investment is well justified. From 1950 until 1970, the New York Stock Exchange composite index showed a nearly continuous upward trend. With only minor adjustments, stock prices rose over 400 percent in the 50's and 60's or about ten times the rate of inflation.

From 1969 through 1977, however, stock prices, on average, declined slightly even in inflated terms. Discounting inflation, the

real value of all stocks today is actually less than half of what it was in 1969.

Other than personal investing, the principal sources of corporate capital formation are corporate profits, borrowing, and equity investment by institutions—insurance companies, penson funds, mutual funds, bank trust departments, etc. But even here, the picture is gloomy. After discounting inflation, profits for non-financial corporations actually declined by about ten percent between 1967 and 1977, thus seriously eroding that vital source of new capital.

Needless to say, since continued replacement of plant and equipment is essential just to keep going, corporations have in recent years had no choice but to borrow in increasingly large amounts. Today, about 60 percent of all capital investment is made with borrowed funds versus 30 percent in 1964.

The results of declining confidence, reduced private investment, lower profits and increase corporate debt have, together, greatly weakened the economy and seriously threaten the future.

Productivity, which grew at a healthy 3.2 percent average annual rate between 1945 and 1965, declined to a growth rate of 1.6 percent after 1965 and only one percent in the past two years. That's bad news for both inflation and unemployment.

But the decline in capital formation is only part of the problem. The syphoning off of productive resources for nonproductive purposes only further weakens the economy.

DIVERSION OF PRODUCTIVE RESOURCES

This syphoning-off process comes in three basic areas:

Increased corporate and personal taxes which reduce income available for investment;

Massive government budget deficits which must be financed by borrowing in the public marketplace; and

Mushrooming government regulations which cost industry billions of dollars every year.

Since 1967, the effective corporate tax rate has climbed steadily from about 41 percent to over 49 percent. Total corporate taxes have increased for more than the rate of inflation while, as I mentioned, real corporate profits have actually declined.

Personal federal income taxes have performed about the same way, rising, on average, from 13.1 percent of personal income in 1967 to 14.8 percent in 1977. That may not look very dramatic but it amounts to an increase of 13 percent. And that's nothing compared to the total tax burden imposed by state and local entities as well as the federal government.

Taken altogether, taxes in the U.S. today eat up 41 percent of our total national income. As inflation continues to artificially pump up wages and real estate values, this percentage will almost definitely increase, taking ever larger amounts of our national income away from productive private investment.

Although government at all levels is devouring nearly half our national income, that obviously is not enough to satisfy the voracious appetite of Washington. The Federal government last completed a year with a budget surplus in 1969. Since then, the total national debt has nearly doubled, rising far faster than the rate of inflation. The President's budget for fiscal year 1979 calls for a deficit of over $60 billion—that's more than the entire federal budget in 1950! More important, that is $60 billion that will be diverted from the private capital market—$60 billion that could be far more productively used as investment capital for private industry.

It has become fashionable among some economists to praise large budget deficits, claiming that they pump up the economy, increase employment and provide a relatively cheap method of financing government expenditures since debt will be repaid in inflated dollars. In times of economic recession, this line of reasoning may have some validity. Deficit spending, however, has no place in our economy on a continuing basis.

First, as I mentioned, deficits unnecessarily divert capital from more productive uses.

Second, they contribute directly to inflation, and

Third, they act as a hidden tax by borrowing dollars at present value and repaying debt in less valuable dollars.

Finally, government is eating into our limited supply of productive capital in a relatively new way by forcing industry to spend billions of dollars annually to comply with federal health, safety, environmental and other regulations.

At first blush, the cost of regulation seems relatively modest; after all, only $4.8 billion or less than one percent of next year's budget is allocated to the various regulatory agencies. But that's just the tip of a gigantic iceberg. According to a study by Professor Murray Weidenbaum of Washington University in St. Louis, industry will spend nearly $100 billion in 1979 alone just to comply with various regulations. In case there is any doubt of the inflationary impact of these costs, Professor Weidenbaum estimates that regulations add $666 to the average price of a new car in 1978 and $1,500 to $2,500 to the cost of a new house. Just filling out government paperwork costs business $25 to $32 billion a year.

Obviously, these costs must be passed on to consumers in the form of higher costs and obviously this contributes to inflation. But these compliance costs are even more insidious. By diverting huge amounts of money, management time and research and development skill away from productive uses, regulations severely restrict future productivity gains, thus virtually assuring future inflation. As a matter of fact, Edward Denison of the Brookings Institute estimates that about 25 percent of the recent decline in productivity growth resulted directly from government regulations.

So not only are we having an increasingly difficult time building an adequate supply of capital, but those limited resources that could be put to productive use are being diverted by government policy.

Fortunately, we do not have to sit back and continue to watch our economy go downhill. We can learn from history. In 1962, President Kennedy faced a similar, though less severe, problem.

"The single most effective fiscal weapon available to strengthen the national economy is the federal tax policy," the President said. "The right kind of tax cut at the right time is the most effective measure this government could take to spur our economy forward. For the facts of the matter are that our present tax system is a drag on economic recovery and economic growth."

Against substantial opposition, President Kennedy persuaded Congress to enact a major tax cut for individuals and corporations in 1963. The result was very interesting. Prior to the cut, the Treasury Department estimated that the government would lose $89 billion in revenues over the next six years. In fact, revenues increased by $54 billion in the same period. The reason is remarkably simple. By placing substantial amounts of added disposable income into the hands of corporations and individuals the tax cut stimulated both consumption and investment, increasing employment and profits, thereby increasing overall taxes to the government while cutting taxes on each dollar of wages and profits. In short, relatively unproductive government spending was turned to more productive use in the hands of the private sector.

There is absolutely no reason to believe that we cannot accomplish the same thing today.

I am convinced that an immediate and substantial tax cut for individuals and corporations is essential to end our economic stagnation. Only a tax cut will encourage capital formation great enough to improve productivity gains. And only increased research, technological development and productivity will simultaneously cut inflation and unemployment while restoring both domestic and international confidence in our economy.

The only question is what kind of a tax cut, and I would like to briefly venture some suggestions.

First, we must reverse the disastrous 1969 tax increase that doubled the maximum tax on capital gains.

Second, we must eliminate the double taxation of dividends in an effort to bring individuals back into the stock market.

Third, we must increase both the size and scope of the investment tax credit, particularly for business investments in nonproductive technology required by government for compliance with regulations.

Fourth, we need a meaningful, across-the-board reduction in individual and corporate income tax rates.

The first two suggestions—reduced capital gains taxes and elimination of double taxes on dividends—are both designed to encourage individuals to invest in American companies by reducing the risks and increasing the return on such investments.

Until 1969, the maximum rate of taxation on capital gains was 25 percent. In that year the maximum tax was substantially increased. As a result, individual investors simply decided that stock purchases weren't worth it since much of their profit would be eaten up by taxes.

With the recent onslaught of inflation, the effect of the 1969 tax law has become even more severe, since capital gains taxes fail to recognize that much of any recent gain is entirely due to inflation. In other words, the government taxes gains from inflation, even though these gains may actually turn into losses in real terms.

Let me give you an example: Assume that in 1967 you had some money to invest for your child's education. You decided to buy a share of stock in each of five corporations—AT&T, Dupont, IBM, Kodak and General Motors. Let's also assume you bought those stocks at their lowest prices in 1967. Your total investment would have been $466.

Now your child is ready for college. To pay the tuition, you sold all the stock on June 27, 1978 for a total of $542.75. In theory, you made a taxable profit or capital gain of $76.75—a 16.5 percent return on your investment. That's not an enormous amount, but at least it's a profit, right?

Wrong.

In the same period that you owned your stock, the consumer price index increased by 82.5 percent. As a result, to simply stay even with inflation, your investment would have had to be worth $850.33 when you sold it. In fact, you would have to show a so-called "profit" of $307.58 just to break even. Actually, in real dollars, your profit of $76.75 suddenly became a loss of $230.83.

Yet the government doesn't agree. The tax law ignores inflation. Come tax time next April, you will owe a capital gains tax on that nonexistent profit of $76.75, thus increasing your actual loss even more.

Reducing capital gains taxes will not, itself, cure inflation—although I do believe all of my proposals, taken together will. But at least a reduction will assure investors that their real profits will not be largely eaten up by taxes.

And there's another reason for reducing capital gains taxes. Every dollar of capital gains taxes paid reduces the capital stock available for reinvestment. Thus again, government is found siphoning off scarce capital from productive investment. If you have made an investment profit of $1000 and pay $200 in capital gains taxes, you only have $800 of that profit left to reinvest.

Treasury Secretary Michael Blumenthal told the Senate Finance Committee the other day that the government will collect $10.3 billion in capital gains taxes in 1978. That's $10.3 billion that cannot be reinvested for productive purposes, and amounts to 15 percent of total personal savings last year.

Congressman William Steiger of Wisconsin has proposed repealing the 1969 capital gains tax increase. This is a vitally important step in the right direction and should be enacted without delay.

I strongly suspect that most individual investors do not realize it, but dividends they receive on their stock are actually taxed twice. First, dividends are taxed as profits of the corporation and then again as income to the individual. This double dipping by government must be stopped. Congressman Al Ullman, Chairman of the House Ways and Means Committee, has proposed a gradual phase-out of at least part of this double taxation, and his proposal also deserves prompt enactment.

Together, cutting capital gains taxes and double taxation of dividends will undoubtedly help to restore individual confidence in investment. Again, confidence is the key to capital formation and a strong economy.

The investment tax credit is an effective incentive for business to invest in new plant and equipment. It is clear, however, that today's credit is not sufficient to encourage an adequate level of investment.

First, the basic rate should be raised from 10 to 12 percent.

Second, the credit should be made applicable to 90 percent of corporate tax liability and not simply 50 percent, as is now the case.

Third, special recognition should be given to the unproductive facilities and equipment required to comply with federal regulations by allowing companies a 20 percent tax credit on such investments and allowing them to rapidly write off such investments and recover their capital for more productive uses.

This all sounds very technical, but the purpose is simple. Since investment tax credits are only available to companies that actually purchase new facilities and equipment, the credit must be seen as an investment in the growth and stability of our economy.

Finally, it is essential that we have an overall cut in tax rates for individuals and corporations similar to the cut proposed by President Kennedy in 1963. To a great extent, such a cut would simply recognize that inflation has increased everyone's tax burden. As wages have risen to cover inflation, workers have been kicked into higher tax brackets. As a result, many people now find that inflation plus higher taxes have *reduced* their real income, forcing an ever increasing percentage to be spent on consumption, while reducing savings and investment. President Carter has proposed a small tax cut, aimed basically at compensating for past and future increases in social security taxes. Frankly, this is not enough. We need meaningful cuts that will increase savings and investment, lead to higher employment, great productivity and, therefore, reduced inflation.

The chief criticism of tax cuts generally is that they would increase the current huge budget deficit and lead to greater inflation. But history shows the exact opposite to be the case. The Kennedy tax cut was opposed for the same reasons. Yet government revenues increased substantially. Budget deficits, while they continued, were reduced as a percentage of total government spending. Inflation continued at a very modest rate until the Vietnam War overheated the economy.

We can—in fact, we must—repeat the experience of the 1960's.

U.S. companies, U.S. citizens and the world as a whole have lost confidence in the U.S. economy. Unfortunately, this lack of confidence is justified. The reputation of the U.S. economy as an engine for continually improving productivity through investment and technological development is rapidly disappearing. Our role as the world's leading innovator is being eroded. We cannot continue to trail the other industrialized nations of the world in investment, productivity and innovation and expect to survive as a world economic power. Nor can we expect our national defenses to remain strong if our economy is weak.

In conclusion, I want to explode a very common myth, used by many to explain away all our problems. It is nearly impossible to go through any discussion of our economy without recent oil price increases and oil imports being blamed for everything. Frankly, this is nonsense. Of course, our increasing reliance on expensive foreign oil should be of concern. However, the reasons for inflation, huge balance of trade deficits and reduced confidence in our economy are to be found elsewhere. Keep one fact in mind. Japan imports virtually every drop of oil it uses while we import less than half of what we use. Yet Japan invests more than twice as large a percentage of national income as we do. Japan's growth in output per man-hour—or productivity—is nearly four times ours. Japan exported nearly 10 percent more than it imported last year. Industrial production in Japan has grown twice as fast as ours over the past 10 years. And unemployment in Japan is almost nonexistent.

Clearly, we do have economic problems and Band-Aids are not the answer. Small tax cuts to compensate for other tax increases will not spur investment. Nor will massively complex energy programs reduce our dependence on foreign oil. Government spending will not increase employment and will only add to inflation. Only a return to our traditional role as innovators will result in meaningful economic improvement. But so long as taxes remain so high as to discourage investment, innovation will not take place.●

ANTI-INFLATION STATEMENT

● Mr. BAKER. Mr. President, as we in the Congress discuss various programs and policies to deal with inflation, I believe it is important to heed the concerns of businesses who inevitably bear the burdens of Federal fiscal and regulatory policy. The National Lumber and Building Material Dealers Association, under the leadership of its 1978 president, Mr. Grady R. Haynes of Murfreesboro, Tenn., has recently formulated an anti-inflation policy which deserves the full consideration of the Senate. The association, which represents 15,000 dealer members from all parts of the country, has called for governmental action to control Federal spending and the size of the Federal bureaucracy, regulatory reform, a responsible energy policy, and improved management of public lands and resources. In addition, the NLBMDA has called upon its own members to help in the fight against inflation within their own businesses and by becoming involved at the local level.

I ask that the NLBMDA's anti-inflation statement be printed in the RECORD, and I urge my colleagues to review the association's recommendations carefully.

ANTI-INFLATION STATEMENT BY NATIONAL LUMBER AND BUILDING MATERIAL DEALERS ASSOCIATION

Inflation, increasingly, is a clear and present danger to our nation's economy and to our standard of living.

Public concern over inflation has intensified as the Consumer Price Index (CPI) climbed to double-digit levels. Predictions of further increases in wages are heard as the rising CPI threatens to trigger cost of living adjustment clauses in union contracts. Labor is estimated to aggregate nearly three-quarters of the costs of U.S. production.

And so, inflationary "ratcheting" goes on.

The basic causes of the current inflationary surge include:

Socially-motivated, costly government programs resulting in increased Federal budget deficits approaching $60 billion for FY 1979, requiring new highs in government borrowings at greater interest costs.

Increased importation of oil (45% of our needs—and growing) at high prices (about $14.00 per barrel), while government policies tend to discourage production of domestic energy resources (domestic oil held to about $8.00 per barrel).

Recent laws and regulations establishing restrictive environmental and safety standards, as well as enlarged natural resource conservation programs have proved costly to business and to consumers.

As the general public comes to expect more inflation, the greater incentive it has to spend for current and anticipated needs. The cumulative effect of this is to put increased demands on supplies, creating shortages and escalating prices, thus creating more inflation.

The 15,000 retail lumber and building material companies which are members of this twenty-seven Association National Federation, recognize and are greatly concerned over the hardships and dangers inherent in this drift toward national financial ruin.

As concerned citizens and as responsible businessmen, our members are determined to resist factors contributing to inflation while seeking to enlist support for programs to restrain inflationary trends. Specifically, our Association urges:

1. A reordering of governmental expenditure priorities to the end that Federal budget balancing becomes a true national policy goal.

2. That each Federal government agency with regulatory authority be required to:

Review all its existing regulations to determine what changes would reduce their inflationary impacts, if any.

Screen all new regulations to ascertain their inflationary impacts, if any.

Hold public hearings and invite public comment on the inflationary impacts of both existing and new regulations and to issue detailed reports and conclusions on such hearings and comments.

3. Reduce government employment utilizing normal attrition and avoid increase in public employment except in situations where clear cost-benefit results can be demonstrated.

4. Develop governmental energy policies and programs providing no less emphasis on production of traditional and innovative energy resources than on energy conservation.

5. Implement policies for the improved management of public lands and resources; for example, with rising housing costs critically affected by the availability of timber from Federal lands, the President's recent call for an increase in the supply of that renewable resource as an anti-inflationary step should be implemented immediately. Of critical importance is the early completion,

preferably by the end of 1978, of the current Roadless Area Review Evaluation (RARE II) program.

Failure to take inflation-defensive actions eventually will lead some to recommend or to urge government economic controls. Such controls do not work; are counter-productive and serve only to fuel greater inflation when they are ultimately removed, as they must eventually be.

Our association urges building material dealer members and others in the private sector to:

First, resist all proposals to impose government economic controls of any nature.

Second, examine each and every cost increase for goods and services purchased to the end that only clearly justified increases may be accepted.

Third, establish methods to assure lowest possible operating costs consistent with needed public service and productivity.

Fourth, resist the assumption that inflation is inevitable.

Government efforts to enlist private sector cooperation by restraining price and/or salary adjustments are to be commended—as are reported actions by prominent companies such as AT&T and GM, in response to such government requests.

A cautionary note should be sounded. A proportion of the current inflation can be attributed to government actions or inactions in fiscal and monetary fields, as well as in the environmental and conservation areas. Private sector belt-tightening and restraint can not bail government out of its dilemma of trying to solve all of society's problems with tax devices or government subsidies.

No government budgetary slight-of-hand can obscure the inflationary effects of excessive budget deficits. As history demonstrates, no economy can indefinitely postpone the inevitable economic disaster resulting from excessive inflation.

Clearly, the time has come for government, labor, business, and all citizens to close ranks against this common threat to our national well-being.●

WASTE IN THE BUDGET: THE CASE OF HUD

● Mr. HATCH. Mr. President, during the debate on the Budget Resolution on September 6, I pointed out that there was enough waste in the Federal budget that it could be reduced 3 percent without sacrificing any worthy program. Again I was told, as I was last year, that there is no waste in the budget, that the Budget Committee had done their job and cut to the bare bone. Two days later an article appeared in the September 8 edition of the Washington Star entitled "HUD Spending Millions on Unnecessary Activities." Obviously the Budget Committee did not do its job.

The article stated that HUD's chief goal was "The elimination of substandard and other inadequate housing through the clearance of slums and blighted areas and providing a decent home and suitable living environment for every American family."

Yet, after spending $66 billion of the taxpayers' money since 1965, millions of Americans continue to live in grossly substandard housing. Realization of the goal seems to be nowhere in sight.

Since its inception, HUD and other agencies have financed construction of over a million "housing units." If the Government had simply purchased housing for the poor, it could have purchased over 1.3 million new $50,000 single-family homes.

Nonhousing overhead costs consume as much as 75 percent of the funds provided for HUD's activities, leaving as little as 25 percent to provide housing for the poor. It is apparent from these figures that the chief beneficiary of HUD programs is not the poor, but the bureaucracy and its minions.

How can Senators conscientiously argue that a budget reduction eliminating useless bureaucratic overhead is not in the national interest, as they did in the debate on the Budget Resolution?

I ask that the article from the Washington Star be printed in the RECORD, and I congratulate the Washington Star and UPI for dong the work that the Budget Committee has failed to do.

The article follows:

[From the Washington Star, Sept. 8, 1978]

HUD SPENDING MILLIONS ON UNNECESSARY ACTIVITIES

Since the department of Housing and Urban Development was established in 1965, it has spent nearly $66 billion in pursuit of the official national goal of decent housing for every American.

Thirteen years later, that goal still has not been reached. Millions of Americans continue to live in grossly substandard urban and rural housing.

Over the years, federal housing programs of HUD and other agencies have financed the construction of over a million housing units. Had the government simply spent HUD's $66 billion to purchase housing for the poor, it could have bought—at today's prices—1.3 million new $50,000 single-family homes.

HUD currently is spending $10 billion a year. A five-week examination by United Press International found that tens, perhaps hundreds of millions of dollars are being spent on activities that have done little to provide better housing or improved communities for the nation's disadvantaged.

The survey found that HUD has begun a $13 million public relations campaign to improve its image and promote its programs among the interests which benefit from them. The survey also found that:

HUD is spending more than $50 million a year on low-priority or unnecessary research which duplicates work already done or overlaps what other agencies are doing.

A significant chunk of HUD money appears to be benefiting, not the poor, but the banks, private investors, consulting firms and university researchers.

Overhead costs for community development grants, which the administration is increasing this year, in some instances are as high as 74 percent.

Although HUD already spends about $3 million a year on its public information activities, it has quietly begun work on a $13 million public relations campaign conceived by a Philadelphia consulting firm at a cost of $64,000.

The proposed "national communication program" would mount a massive public relations blitz at a time when the Carter administration is trying to curb public information programs.

The plan was drawn up after Systems Research, Inc., had interviewed 91 top HUD officials to solicit their views on the department's public image. Transcripts were turned over to HUD information officials, but Warren Dunn and Bill Wise, the assistant information chiefs overseeing the project, said they read only "two or three" of the interviews.

Rather than wade through what HUD's own top officials said about their public image, Dunn said he hired a second consultant to read the interviews conducted by the first.

"Too often," the report summarized, "the perception is that . . . the department is fragmented, scandal-ridden, inefficient and an agent of last resort whose clientele is on welfare."

The image-building campaign, which Dunn says has the full support of HUD Secretary Patricia Roberts Harris, includes a "nation-wide urban promotion encouraging community and private industry support" for the administration's expanded action grant program.

The plan further proposes a nation-wide communication effort "to disseminate basic energy conservation information," and "promotion of greater public awareness of assisted housing developments which are successes."

The campaign would run the entire gamut of public relations techniques, including fairs, expositions, conferences, symposia, exhibits, a speakers bureau, as well as broader use of the news media.

Other activities would include surveys of consumer attitudes toward HUD, plus a series of interviews with "important HUD constituency groups" to measure their attitudes toward HUD programs.

The plan also calls for development of "a new system to identify, categorize and prioritize primary audiences for messages needed to communicate HUD programs and products."

Said one HUD official who is familiar with the program, "This has got to be one of the biggest boondoggles around here."

HUD was created during the Johnson administration to pull together a number of housing and community development programs that, over many years, had been scattered throughout the government by Congress.

One of HUD's chief goals was outlined in the National Housing Policy Act of 1949: "The elimination of substandard and other inadequate housing through the clearance of slums and blighted areas, and the realization as soon as feasible of the goal of a decent home and a suitable living environment for every American family."

Toward that end, HUD is spending $522.3 million a year in public housing operating subsidies, more than $368 million a year in rental subsidies for low and moderate income people, and $850 million in housing assistance for the elderly.

But like other newly-created departments formed to coordinate scattered but related government programs, HUD's overhead costs, along with other budget items, have grown along with its programs.

Salaries now total $268 million a year for a fulltime staff of 15,052 which is authorized to rise by a full 15 percent—to 17,400—in fiscal 1979 beginning Oct. 1. At least 2,440 HUD employes currently earn more than $30,000 per year.

When rents, utilities and other overhead are added to salaries, HUD's yearly operating and administrative costs total more than $530 million.

The department is growing so fast, in fact, that it has already filled up a relatively new 10-story building which cost over $26 million—with no room to spare.

Spending $10 billion a year isn't as easy as it may sound, even with 15,000 people to help. But HUD bureaucrats constantly are coming up with new ideas.

A case in point is the $4.8 million "urban observatory program," launched by HUD to

funnel research money to local universities for work on community problems.

Much of the money was spent in public opinion surveys conducted by telephone to produce reports like "the supply and demand for small boats and associated services in northeastern New Jersey." It said a survey of local marinas and boat manufacturers showed "a large demand exists for recreational boat facilities."

Other studies under this program overlapped responsibilities given to the Law Enforcement Assistance Administration and the Interior and Labor Departments, among others.

Many of the studies undertaken by HUD are referred to privately as "turkeys" by some of HUD's own employees. They say a significant proportion of the contracts let by HUD are either "misdirected or unnecessary."

One of them, for $184,000, was to study the feasibility of undertaking "post occupancy evaluations" of HUD-financed housing projects. The final report numbered 466 pages, almost 200 pages of which were nothing more than a list of persons and organizations with expertise in related fields.

Two on the list were dead, and others were listed with no address.

HUD officials say the report was mandated by Congress. But Al Ripskis, an official with the office of evaluation and one of HUD's persistent critics, says the study ignored what Congress wanted: A study of the special housing needs of the elderly and the handicapped, among others.

"The report is a complete waste of the taxpayer's money," says Ripskis. "It is nothing more than propaganda for post occupancy evaluations which under this proposal would be undertaken by consultants like the ones who prepared this report."

Such evaluations, if mandated by HUD, could cost as much as $750,000 each and "add considerable red tape and millions of dollars to housing costs," the HUD critic said.

Moreover, the proposal would violate HUD's own findings issued last May which found that "poorly conceived and cost-inducing regulation" was adding millions to housing costs.

HUD spends $8 million a year on printing, issuing a voluminous amount of reports, brochures and pamphlets, including literature about the uses of grasses and palm leaves in building huts, Europe's housing subsidy systems and "New Communities in the U.S.S.R."

The report on "Palms—Their Use In Building" reveals that among plants, "the palm family may be conceded to rank second only to the grass family from the standpoint of its usefulness to native tropical man."

Directories also are popular, such as the 175-page "Community Development Block Grant program" which lists every community in the country that got money under the program in fiscal 1977.

The book is useful in that it reveals how wealthy communities like Santa Barbara, Calif., and West Palm Beach, Fla., among others, get community development money. Community block grants—which the law says are intended "principally for persons of low and moderate income"—went to such well-to-do communities as Mount Kisco, N.Y. ($389,000) and Stamford, Conn. (more than $2 million).

It was for this reason that Sec. Harris proposed changing the program's formula so that 75 percent of the grants would be directed to the neediest communities. However, she was forced to back down when House members vigorously objected because some less deserving communities in their own districts would lose grant money.

Meanwhile, a House Appropriations subcommittee investigation into the $4 billion block grant program found that large portions of the funds often is eaten up by excessively high overhead costs.

In Houston, the panel found, nearly 47 percent of grant funds went for planning, management and administration. Nearly 75 percent of funds spent by Buffalo as of June 30, 1977 went for similar "nonprogram" costs. The District of Columbia spent over 51 percent of its funds in the same period for administrative and planning costs.

Is the community block grant program effective in improving conditions in some of America's poorest cities?

No one really knows. A two-year, 527-page study of the program by the Brookings Institution concluded that it could not answer that question because "different observers will interpret the history of a given program differently. . ."

HUD recently extended the Brookings contract for four years to continue evaluating the block grant program.

It is difficult to determine where most of HUD's resources go and who benefit most from its multi-billion dollar programs.

In terms of investment, HUD has been involved in more losing propositions than most government departments. In the last six years, HUD has had to pay out more than $7.6 billion to banks and other lenders for defaulted housing loans.

As a result of these loans alone, HUD in the past half dozen years has had to take over some 2,000 housing projects totaling more than 241,000 dwelling units.

As of June 1, HUD owned 28,658 single-family residences and 386 multi-family projects with 39,443 units.

At the beginning of this year, HUD had approximately $6 billion in outstanding loans.

Beyond that, there are numerous activities within HUD which appear either excessive or ineffectual.

The department, for example, spends more than $22 million a year on travel, an activity which one HUD officer who asked not to be identified said is "rampant with unnecessary trips."

Thirty-seven HUD employes are assigned fulltime to work on congressional liaison activities, costing nearly $1.3 million a year. HUD also operates an office of international affairs costing $600,000 which Office of Management and Budget officials say doesn't even belong in HUD.

OMB wants to either abolish the office or shift it to the State Department.●

PROPOSALS ON TAX REDUCTION AND TAX REFORM

● Mr. KENNEDY. Mr. President, this morning I had the opportunity to participate in the opening day of a 2-day Conference on Taxation sponsored by Time, Inc.

In the remarks I prepared for the conference I outlined a number of proposals with respect to the major tax reduction legislation pending in Congress, and I ask that my remarks may be printed in the RECORD.

The remarks follow:

REMARKS OF SENATOR EDWARD M. KENNEDY

(Time, Inc. Conference on Taxation, Madison Hotel, Washington, D.C., September 13, 1978)

One of the most important remaining tasks for the 95th Congress is the passage of the Revenue Act of 1978, the major tax reduction bill now pending in the Senate Finance Commitee.

As a member of the Senate with a special interest in tax policy, and particularly in tax reform, I wanted to use the opportunity this morning to outline my views on the most significant issues involved in that legislation.

Major tax bills are always major events in the life of a particular Congress, and the current tax bill is no exception. In fact, however, the pending legislation has a special additional importance, because of the precarious and beleaguered condition of the national economy. Working with the Carter Administration. Congress has an opportunity to take effective steps in fiscal policy to improve, not undermine, the health of the economy and ease the current pressure on the Federal Reserve—pressure that has been causing an ominous tightening of the screws of monetary policy.

Because the overriding economic challenge facing the United States today is inflation, the first priority of Congress in enacting responsible tax legislation is to adopt tax reductions of responsible size. And by that I mean tax reductions of the order of $15-20 billion in calendar year 1979. The reductions should be large enough to hold taxpayers harmless against both the payroll tax increase scheduled for next year and the inflation tax increase by which taxpayers with constant real incomes are pushed into higher tax brackets by inflation. But the reductions should also be small enough to prevent any significant effect of the tax cut in fueling our already unacceptable inflation.

The pending bill should also include a number of necessary tax reforms, in order to insure a fairer and simpler income tax law. In addition, it should make changes designed to improve the efficiency of our economic system in providing jobs and capital and improving productivity.

TAX SUBSIDIES TO COMBAT INFLATION

Ideally, the bill should include specific provisions as well to deal with the legitimate concerns of the American people about inflation. We now use the Internal Revenue Code to provide over one hundred twenty billion dollars a year in subsidies to encourage a vast array of economic and social activities. These provisions range from subsidies for home ownership, charitable gifts, or oil production, to incentives for taxpayers to purchase goods on credit, to subscribe to prepaid legal insurance programs, or even to contribute to the political candidates of their choice.

All of these tax subsidies—more than eighty in all—are now fertilizing the Internal Revenue Code. And they are all forms of federal spending. As I have stated on many occasions in the past, if we are concerned about federal spending, we also have to be concerned about tax spending. In fact, we should be even more concerned, because federal tax spending in recent years has grown even more rapidly than other forms of federal spending.

As chart 1 reveals, between 1971 and 1978, "direct" federal spending, as measured by annual budget outlays, grew from $211 billion to $448 billion, an increase of 112 percent. By contrast, federal tax spending rose from $51 billion to $124 billion, a gain of 141 percent.

The message of Proposition 13 is clear for federal as well as state and local spending. But so far, the cutting edge of Proposition 13 has seemed unnecessarily dull when federal tax spending is on the chopping block.

In fact, in many areas, there may well be more fat and waste—and even outright fraud—to be eliminated by cuts in tax spending than by cuts in other forms of federal spending.

Many of the existing tax subsidies are wasteful and inefficient. Some are little more than windfalls to favored constituents or well-endowed special interest groups with the muscle to persuade Congress to enact new tax loopholes at the expense of the hard-pressed average taxpayers who always have to pay the bill.

Strangely, however, one of the few areas where we have not adopted tax incentives is the area of most urgent concern today—the fight against inflation.

In recent weeks, a movement has been growing in Congress and the country to consider a tax-based incomes policy as a new weapon in the fight against inflation—that is, to use the tax code in much the same way we attempt to us it in myriad other areas, to encourage American taxpayers to engage in particular types of activity.

I believe this effort deserves serious consideration. At a time when we use the tax laws to subsidize an incredible range of different activities, it makes sense to explore the use of such subsidies in the most critical area of all—subsidies to encourage taxpayers to hold the line against inflation.

Unfortunately, in the several variations of "TIP" programs proposed so far, there are difficult substantive and political obstacles to overcome. As a result, it seems unlikely that any significant inflation-fighting tax incentive can be enacted as part of the pending legislation in the Senate. But I intend to pursue this issue closely in the future. At the very least, the Administration and the Federal Reserve should be asked to study such proposals and submit their recommendations for action by Congress early in 1979, so that possible action on TIP can become one of the top tax reform priorities of the 96th Congress that convenes next January.

DEFECTS IN THE HOUSE BILL

In July 1977, I put forward a tax reform package to deal with a large number of the other major issues in the federal income tax laws in a comprehensive fashion. In early 1978, President Carter sent to Congress an impressive and far-reaching set of tax reform and tax reduction proposals—one of the most significant such proposals ever submitted by any President to Congress.

Unfortunately, the House of Representatives did not take kindly to tax reform. Not only did the House fail to adopt many of the President's most important recommendations—but also, on some important issues, the House sought to turn back the clock and reverse the hard-won reforms achieved by Congress over the past ten years.

The bill as it came to the Senate is primarily a tax reduction bill. It is not a tax reform bill. But even the needed tax reductions are flawed. They provide inadequate tax relief against inflation for low and middle income taxpayers. As Table 1 reveals, the House bill does not even meet the basic test of holding low and middle income taxpayers harmless against inflation and the payroll tax increases—although the bill is thoroughly considerate of taxpayers earning $50,000 or more, who need the protection the least, but who are in fact completely protected against the twin tax ravages of inflation and higher payroll taxes.

Nor does the House bill provide fair and efficient measures to respond to the problems of unemployment, capital formation and inflation. Instead, particularly in the area of capital gains, it adopts an unsatisfactory approach that enjoys only threadbare support in the economics profession and that depends to an unacceptable degree on "wishful" methods of revenue estimating that do not bear serious or impartial scrutiny.

Because of the limited amount of time available to the Senate to consider the tax bill, the truly comprehensive tax reforms that I believe are essential cannot be achieved. Nonetheless, there are three important actions that can and must be taken by the Senate to insure that the Revenue Act of 1978 represents forward, not backward, motion:

First, the distribution of the income tax reductions for individuals should be modified to insure that middle and low income taxpayers do not experience a tax increase in 1979 from the combined effects of inflation and scheduled Social Security tax increases.

Second, the incentives for job creation and capital investment should be restructured to make them more efficient and to insure that they do not create new or added inequities in the tax system.

Third, at least a handful of significant tax reforms should be adopted, with emphasis on areas that have previously been considered by the Senate.

In my remarks today, I would like to outline the specific actions that the Senate should take to meet these objectives. It is my hope that, under the able leadership of Senator Long, the bill reported out by the Senate Finance Committee will include many of the measures I am recommending. And, of course, I will work with like-minded Senators when the bill reaches the Senate floor to obtain favorable action on needed additional amendments.

CORPORATE AND INVESTMENT TAXATION

The area of corporate and investment taxation requires the most extensive revision by the Senate. The House-passed bill reflects a genuine and overdue concern on important issues such as capital formation, unemployment and inflation. But the solutions adopted by the House are in too many instances ineffective, inefficient and inequitable.

To provide additional funds for business investment, the Senate should reduce the top tax rate on corporations to 44%—a major reduction of two additional percentage points in the basic corporate tax rate. This additional cut in rates should be adopted as a substitute for the capital gains tax reductions proposed in the House bill.

The corporate sector of our economy is the primary source of capital investment and is the area to which tax proposals to stimulate capital formation should be directed. As the attached chart indicates, and as has been ably demonstrated by Chairman Miller of the Federal Reserve Board, only a small portion of the benefits from reducing the capital gain tax rates actually flows into the corporate sector in the form of funds for additional capital investment. By contrast, direct corporate rate reductions will provide additional capital to corporations in an even-handed, efficient, and equitable manner.

It is a difficult, if not impossible, exercise in Congressional psychoanalysis to fathom how the well-known caterpillar of capital gains relief was transformed in this Congress into the dubious tax butterfly we know today. As Chart 2 reveals, the capital gains tax approach is a Rube Goldberg device if the goal is to promote capital formation. If the goal is to line the pockets of wealthy investors, of course—if ordinary, hard-headed business leaders have put their own portfolios and pocketbooks ahead of the interests of their corporations—then the approach is understandable, if not excusable.

In fact, according to the Random House Dictionary, the definition of "Rube Goldberg" is as follows:

". . . 2. deviously complex and impractical; a Rube Goldberg scheme for reducing taxes. . ."

Whatever the explanation of the present situation, I believe that we can adopt a better approach to the goal I share of enhancing capital formation.

The Senate should reject, therefore, the House provisions reducing the tax on capital gains and indexing capital assets for inflation. It would be a serious reversal of tax reform progress over the past decade to weaken the minimum tax.

Only after passage of the 1976 Tax Reform Act have we finally begun to see a reduction in the number of wealthy individuals who pay no federal income tax at all. Secretary Blumenthal recently reported to the Senate Finance Committee that in 1976, the number of nontaxpaying individuals with over $200,000 income fell dramatically. No case has been made that justifies going back to the "bad old days," in which hundreds of taxpayers in this country each year enjoyed incomes of $200,000 or more, yet paid not a cent in federal income taxes.

The Senate should also reject the House proposal to index capital assets for inflation. The question of the proper response of the tax system to an inflationary economy is a serious and complex one. It deserves intensive study by the Treasury and the Congress. But the piecemeal approach in the House bill simply creates new inequities. And it does so in an extraordinarily complex fashion.

There are many other elements in an income tax system that are affected by inflation. For example, individuals with savings accounts suffer annual losses from inflation. So do individuals with savings in life insurance policies.

Why aren't these ordinary taxpayers given a deduction for their inflation-produced losses? If we move down the road of tax adjustments for inflation, these taxpayers have a far greater claim for relief than the owners of capital assets, who already receive substantial tax-preferred treatment.

Other problems also exist. To index a tax system for inflation in an equitable manner requires that we adjust the basis of assets for depreciation, adjust inventory valuations, and provide deductible losses for holders of debts. Moreover, in a true indexing system, borrowers would realize taxable income as they repay debts with deflated dollars.

All this suggests that it is unwise and unfair to proceed now with piecemeal inflation adjustments in the tax laws. The matter is too complex and too wide-ranging to accept a House provision that simply provides one more tax preference for already highly tax-preferred income. The House liberalization of the rules or capital gains has little to recommend it on capital formation grounds—and nothing at all to recommend it on equity grounds.

We can provide needed capital for the corporate sector more efficiently and more fairly. And a corporate rate reduction to 44 percent will do precisely that.

One caveat should also be stated here. The present minimum and maximum tax techniques are not the only means to insure that the preferential treatment of capital gains is not abused. Perhaps other, equally effective techniques can be developed by the Finance Committee. But alternative plans should receive favorable consideration by the Senate only if two general requirements are met:

First, the top tax rate on capital gains must be approximately the rate produced by the present minimum tax.

Second, any reduction in the rate on realized capital gains must be accompanied by introduction of an effective tax on all gains on property transferred by gift or at death—the so-called capital-gains-at-death proposal that I have made on previous occasions, and that President Kennedy proposed as long ago as 1963 in insisting that such a reform must accompany any additional reduction in the tax on capital gains.

DISC AND DEFERRAL

The revenues lost by reducing corporate tax rates to 44 percent will not be fully offset by the revenue gain obtained by dropping the ill-advised capital gains changes in the House bill. The Senate, therefore, should enact two additional reforms in the corporate area:

Repeal of DISC: The time has come to end this costly, unproductive and wasteful tax experiment designed to encourage exports. We have objective Treasury studies demonstrating that DISC does little to stimulate exports. And no one even claims any

longer that DISC produces jobs. The Senate should adopt the Administration's proposal to phase out DISC over a three-year period.

Repeal of tax deferral for U.S.-controlled foreign subsidiaries. The Senate failed to adopt this proposal by a narrow margin in 1976. President Carter has strongly recommended that tax deferral be eliminated. The supposed benefits to the United States of the deferral privilege are speculative at best. But the losses in the form of jobs exported away from U.S. workers and in the form of needed capital funds held abroad are clear and tangible.

INVESTMENT TAX CREDIT

The investment tax credit has proved to be a valuable tool to encourage investment in machinery and equipment. Its benefits, however, have historically been denied to several important categories of investing firms—those businesses in the commercial sector, particularly new firms and rapidly growing firms, that are experiencing current losses, yet are obviously deserving of the benefits available under the investment credit subsidy; and charitable organizations in the non-profit sector, particularly universities and hospitals, which are often heavy investors in capital equipment.

The inequity inherent in the investment credit under current law occurs because the credit is limited to 50 percent of tax liability. Thus, newly started businesses, firms hit hard by recession, and non-profit organizations such as universities and hospitals are denied the credit, even though they need to make exactly the type of capital investment that the investment tax credit is designed to encourage and support. If the Commerce Department, for example, were managing this investment subsidy—as it ought to be—it is difficult to believe that the subsidy would be so arbitrarily denied to so many deserving firms.

To remedy this situation, I have proposed that the current investment credit be made refundable. The House bill moves in that direction, by raising the 50 percent limit and allowing the investment credit to offset 90 percent of tax liability. Senator Long has joined me in supporting this idea in the past, and the Senate should carry out the logic of the House position. After a reasonable transition period, the investment credit should be fully refundable, so that this important subsidy for investment may at last be widely available to all investing firms.

SMALL BUSINESS

The House bill contains some worthwhile changes designed to provide tax relief for small business. The most important of these changes is the increase and shift in the present $50,000 corporate surtax exemption to provide four tax brackets ranging from 17% on the first $25,000 of taxable income, to 40% on taxable income between $75,000 and $100,000.

I support the basic purpose of the House action. Small business needs a revised rate schedule and deserves it. Many of the same considerations that have long justified the progressive rate schedule for individuals also justify the application of a similar progressive taxation principle to corporations. I hope, therefore, that the Senate will approve lower corporate tax rates designed to help small business.

I am concerned, however, that the House bill contains no protective measures to insure that the benefits of the new rate schedule go only to genuinely "small" businesses and to firms who are using the corporate form for legitimate "business" purposes. With significant amounts of income to be taxed at rates of 17%, 20% and 30%, there may well be an irresistible temptation on the part of individuals in the upper tax brackets to use the corporate shell as a "tax shelter" to build up income in the corporation at low tax rates. Our experience in recent years indicates that this temptation can become a significant tax shelter problem.

It is not the purpose of those who advocate tax relief for small business to create a new tax shelter gimmick. What we seek instead is aid for the myriad small corporations that form the backbone of our economy. Therefore, the Senate should amend the House bill to insure that the new reduced tax rates are not used to convert the corporate form into tax shelters, and to insure that the benefits of the new schedule are targeted to small businesses.

EXPENSE ACCOUNT LIVING

The most visible source of tax abuse is produced by tax deductible expense account living. Some favored individuals pursue a lifestyle of luxury and elegance that is possible solely because the United States Treasury pays for 50% to 70% of the costs. The tax-subsidized high living of this privileged few is visible in many ways:

They always travel first class.

They eat in the most expensive restaurants.

They occupy the best box seats at sports events.

They enjoy front-center orchestra seats at every theatrical event.

By contrast, the average taxpayer pays for these costly enjoyments out of hard-earned after-tax dollars. He flies three-abreast in the coach section of the airplane. He sits in the bleachers at Fenway Park and in the third balcony at the theater—if he is fortunate enough to get tickets at all for major events.

There is no justification for permitting our tax laws to subsidize this type of elitist, caste system of entertainment, a system that is contrary to the basic principles of our democracy.

I have no objection to wealthy persons and corporate executives flying first class, eating at five-star restaurants, buying season tickets to professional football, or speeding to the Ali-Spinks fight in their Lear-jet luxury.

My only objection—and it is a strong one—is to the practice by which these undeserving taxpayers stick Uncle Sam for the cost of their profligate joyrides.

President Carter rightly called for an end to tax-subsidized "three martini lunch" living. The House declined to act. But it is not too late for the Senate to turn the tide, by adopting an amendment to:

Deny a tax deduction for the excess of first class air fare over coach fare.

Deny a tax deduction for meals (other than for the cost of meals of a person on business travel status).

Deny a tax deduction for entertainment facilities and the cost of tickets to sports events, theaters and other entertainment functions.

JOBS TAX CREDIT

The House bill includes a targeted jobs tax credit for hiring several categories of unemployed persons. The goal of the provision is praiseworthy and deserves support. It is based on President Carter's proposal to give Federal encouragement to hire persons who are now too often left behind in the job market.

The House-passed proposal, however, involves unnecessary duplication and excessive Federal bureaucracy. In order to obtain the tax credit, employers must obtain certificates of qualification—usually from the Secretary of Labor—specifying that the person employed in fact is a member of one of the tax groups. Then, the employer must claim the credit on his tax return, and thereby becomes subject to all the rules, regulations and audit procedures of the Internal Revenue Service.

This bureaucratic duplication is unnecessary, expensive and time-consuming for both employers and the government. The obvious question is: When the Secretary of Labor certifies that an employee is within one of the target groups, why does he not also issue the government subsidy check?

We have seen how unsatisfactory the duplication of Labor and Treasury Department efforts has been under ERISA. One department, one set of regulations, and one set of forms are all that should be involved. The House approach is simply a prescription for a new round of government paperwork that threatens to overwhelm many businesses.

The Senate should convert the targeted jobs tax credit into an identically-structured direct grant program administered only by the Labor Department. The necessary certifications, regulations, payments and audits of the program can then be carried out within one agency, the Department of Labor. Unnecessary paperwork and compliance problems can be eliminated. And the IRS can stick to its work of collecting taxes, without also being required by Congress to play Secretary of Labor and police this worthwhile jobs program.

INDIVIDUAL TAX REDUCTIONS

I fully support the recommendation of the President to provide badly needed tax cuts to individuals. But the distribution of the tax reduction benefits in the House bill is disturbing. I hope that the Senate Finance Committee will modify the House bill in two respects:

The tax cuts, primarily through rate reductions, should be aimed more heavily toward the $10,000–$50,000 income ranges than is true under the House bill.

Low income workers should be helped by expanding the earned income credit to single and married workers without dependents, other than full time students.

The earned income credit is an imaginative concept developed by Senator Long. But contrary to the direction in which Senator Long now proposes to move, I believe that the benefits of the credit should be broadened to cover all low income workers, before it is increased in amount for the greater benefit of the select few (those with dependents) who now enjoy it.

Both these actions will continue efforts of past Congresses to insure that first priority for tax reduction is given to those who need it most—the millions of low and middle income taxpayers.

OTHER AMENDMENTS

In addition, the Senate should adopt certain other amendments to improve items covered in the House bill. These include:

Investment credit for pollution control facilities. The five-year amortization deduction should be reduced by the amount of any investment credit taken. This action is necessary to prevent a double tax benefit, and is similar to techniques adopted with other credits in recent legislation.

Investment credit for rehabilitation of non-residential buildings. A five year termination date should be placed on this new provision, and the Treasury should be required to study and submit a report to Congress after four years on the actual effects of the measure.

Industrial development bonds. The "small issue" exemption should be confined to bonds issued for facilities located in economically distressed areas. The Treasury recommendations for repeal of the exemptions for pollution control bonds, private hospital bonds, and industrial park bonds should be adopted.

Accounting method for large farm corporations. Accrual accounting should be required for all farm corporations with annual gross receipts of $1 million or more. The House bill moves in the wrong direction, by making

permanent the special tax shelter benefits now temporarily granted to huge poultry farmers in the guise of tax relief for small enterprises. The change I propose would treat all large farm operations equitably, while providing a legitimate exception for small family farms.

Tax shelters. Finally, more effective techniques should be provided to enable the IRS to audit tax shelter partnership transactions.

The changes I have recommended will hardly convert the Revenue Act of 1978 into an ideal tax reform and tax reduction bill. They will, however, insure that Congress continues on the desirable course charted over the past two decades. We must carry on the endeavor to make our federal income tax system more equitable for all taxpayers and more efficient in all the areas where we use tax subsidies to achieve important national objectives.

TABLE 1.—*Effect of inflation, social security, and House tax cut on individual liability (1979).*

Total tax change (million)

Income:	
Below $5,000	+$183
$5,000–$10,000	+637
$10,000–$15,000	+343
$15,000–$20,000	+262
$20,000–$30,000	+429
$30,000–$50,000	+173
$50,000–$100,000	−226
$100,000–$200,000	−181
Over $200,000	−573

Inflation: $8.8 billion tax increase.
Social Security: $3.2 billion tax increase.
House tax cut: $10.9 billion tax decrease.

Chart 1 and chart 2 not included.●

FURTHER DESTABILIZATION OF THE PACIFIC BASIN

Mr. GOLDWATER. Mr. President, today it was my distinct honor to address the assembled members of the Army War College who are in Washington for their annual study. I took this occasion to address them on the subject of U.S. mistakes, past, present and continuing in Asia, particularly the far reaches of the Pacific. There will probably be another paper presented by me on this subject, but the one that I gave this morning is but a continuation of the argument that I started in my first presentation, namely, that if the United States wants to lose the Pacific, wants to really start problems that will lead to war, then we should continue with the administration's rather dismal, unintelligent and somewhat stupid suggestions that we abandon our relationship with our friends on Taiwan. I urge my colleagues to read this. It has been a subject of concern to me ever since World War II when I served in that general area, and it will continue to be.

I ask unanimous consent that my speech be printed in the RECORD.

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

FURTHER DESTABILIZATION OF THE PACIFIC BASIN

Recently, I made a speech on the Floor of the Senate and have repeated that speech elsewhere. The title was "The Destabilization of the Pacific Basin." My thesis on that occasion was that the abandonment of the Republic of China on Taiwan would be a disaster of immense proportions for the Pacific Basin and thus for the U.S.A. I contended that with our abandonment of the Republic of China, that country would be likely to establish a relationship with the U.S.S.R.

This relationship could bring Soviet naval power into a new and powerful posture in the Pacific Basin. It in turn could break the U.S.-Japanese alliance and especially could add to the current threat by the Soviets to the Peoples' Republic of China itself: the very nation that the Administration mistakenly assumes will be a U.S. aligned counterfoil to the Soviets. Today, I would like to continue with an extension of my first analysis. I will deal with yet further developments in the Pacific Basin which I believe will further destabilize the region.

Again, I will point out the vital role that Taiwan can play and appeal yet again to the American people to rise up in wrath at the Administration's policies as they are now unfolding and demand through Congress that the President cease and desist in his reckless jeopardization of our vital Pacific Basin interests—jeopardization which will arise should we pursue what seems to be the intended policy of the Administration to abandon the Republic of China.

We must now leave the varying locales of my first speech; that is Taiwan, the Peoples' Republic of China, Japan and Korea and travel to southeast Asia. Here, important events are unfolding. Now, I know that Americans as of today do not want to hear about southeast Asia. Most of us, each in his own way, would like to forget that sad and sorry example of twelve years of American folly, ineptitude, crass political and strategic incompetency—we would like to forget our ignorance and our strategic and political paralysis. But our shame and our guilt do not make southeast Asia go away.

They do not halt the political activity, local and international, that is unfolding in the region as of now. Neither does our shrinking away from a horrible experience obviate the potential consequences of developments now occurring in southeast Asia for the rest of the Pacific Basin.

Let us first briefly examine what has happened in Vietnam, Laos and Cambodia since the U.S. defeat. Poor little Laos! It is now a Vietnamese colony. Vietnamese Communist Party commissars, Vietnamese military officers and Vietnamese officials at all levels openly call the shots in terms of the Laotian economy, in terms of Laotian agriculture, transportation (such as it is), Laotian education, including the infamous reeducation camps, and in all political and military affairs. But the Vietnamese are no ordinary imperialists. They are much worse than that. They are surrogate imperialists. Basically, they do the job for the Russians.

One estimate claims there are 15,000 Russian "advisers" in Laos. A large Russian electronic installation can be seen from the air when one flies along the Thai side of the Mekong River. Presumably, this installation is to monitor the southern flank of China. The installation and others like it are expanding rapidly. Each night, refugees from Laos attempt to swim the Mekong River seeking refuge in Thailand.

By day, communist airplanes, American built and captured from us, can be seen strafing and napalming areas on the Laotian side of the river where refugees covertly assemble. Those refugees who make it are given refuge in Thailand and the Thai government has done a fine job with limited resources and under severe communist pressures.

Recently, a friend of mine visited one of these refugee camps. He talked with the Lao leader. "How many Lao would come across?", my friend asked. The elderly Lao looked surprised, even amused. "Why, the whole kingdom", he responded. In Laos, the domino did fall and not merely to the Vietnamese, but so it seems to the Soviet Union. But the fate of Laos is not the most important legacy of our defeat.

It is in Vietnam proper where the most interesting events are occurring. First, Vietnam's economy is in shambles. This potentially rich nation last year imported some 1.4 million tons of rice just to keep its people above starvation. The economy last year spent a billion dollars more than it took in in overseas exchange—an immense amount for such a tiny economy. Half of this shortfall was made good by the Soviets and about a quarter by the Peoples' Republic.

For reasons which I will recount shortly, the contribution from the Peoples' Republic has now been withdrawn. The situation promises to worsen. The deficit will be greater this forthcoming year and perhaps for many years to come because, in 1979, Hanoi plans to collectivize agriculture in the south. One can predict with some assurance what will happen as this occurs. First, there will be significant and chronic peasant unrest and perhaps revolt, as occurred in 1956 in the north, when collectivization was imposed. Second, production will fall. We can assume, therefore, the Soviets will be in a position to make Vietnam even more dependent and the Soviets have good reason to do this as we shall see shortly.

But events of even greater significance are unfolding in Vietnam. At the end of the war, it was confidently expected by nearly everybody, and especially by American liberals, that the north had a message for the south—that the north was uncorrupted and uncorruptible and that the north would bring righteous ways to those decadent southerners, depraved not only by their own rulers but by the example of American conspicuous consumption and other American vulgarities. Once again, the liberals are wrong. Nowadays, are they ever right?

It is the northern soldiers and officials who are being seduced by the southerners' better living standards and especially by the strong legacy and current penchant for freedom. Hanoi quickly saw that it had a serious problem on its hands. About three months ago, Hanoi began to act. They began a program of uprooting small business people, even in the north where a few still existed. They took away boats from small fishermen, transport from carriers, shops from merchants. They eliminated brokerage and middlemen. They took rice mills from rice millers.

They closed down cottage industries and attacked the black market, a cadre that had virtually, by itself, been keeping the economy going. These small business people and their families were usually shipped off to "new economic zones" which is a euphemism for a form of slavery in which, by hand power, humans develop jungle or mountain grasslands for agriculture.

The significant fact of this program, however, was not merely its economic upset. The significant fact was that the people most affected were, in the main, Chinese. As throughout all of southeast Asia, Chinese are the small businessmen and the entrepreneurs. In Vietnam, there are more than two million Chinese in the south alone and systematically, they are being uprooted and persecuted. Thus, over these past months, we have seen an exodus of Chinese from Vietnam. As usual, the media did not grasp what was happening.

They blamed the exodus on ancient Chinese and Vietnamese racial hostilities. These exist but they had nothing whatsoever to do with the present situation. The real reason was communist ideology reacting to a threat to that ideology: that is, the threat of freedom of persons to act in terms of a free economic system. The Soviets react in the same way in Russia. The communist ideology knows that it cannot survive where freedom exists. In all these ventures, we have circumstantial evidence that the Russians in Viet-

nam encouraged the oppression of the small business folk, who as I said were mainly Chinese. This in turn made the Vietnamese even more dependent on the Russians.

Before we put the various elements together, we must look at an even more interesting situation, that which currently exists in Cambodia. Once again, as regards Cambodia, I have to make a note in passing of the American liberals' incredible ability to practice selective moral indignation. Proportionately, we have witnessed in Cambodia genocide on a scale that surpassed Hitler, surpassed Stalin, and even Mao Tse Tung. Perhaps fifteen to twenty percent of the entire population of Cambodia has either been slaughtered or has died from disease and starvation induced by the new regime. Proportionately, that means the killing by their government of about forty million American citizens.

In the first twenty-four hours of the existence of the new communist regime in Cambodia, they killed more of their own people than the U.S.A. lost in the entire Vietnam war; and it still goes on. It is chilling, but no more so than the silence of the American liberals—those who marched, wrote and rhetoricized against America's actions in the Vietnam war. Admittedly, one of my Senate colleagues has come out against the Cambodian bloodbath and in a most hawkish way. But I should remind him that it was his past dovishness (and that of others like him), that condemned the Cambodian people to their present condition.

In terms of the future of the Pacific Basin, however, Cambodia is playing a particular and important role. It has a de facto alliance with the Peoples' Republic of China. Remember, it is the Soviet Union—the peoples' Republic enemy—that sets the pace in neighboring Vietnam. The Chinese are in Cambodia in strength and have been a key factor in the internecine war Cambodia is fighting with Vietnam. Thus, Vietnam and Cambodia have become surrogates for the Russo-Chinese conflict.

To amplify the paradox, it is virtually certain that former South Vietnamese troops and former Vietcong have joined hands, and in turn, are fighting alongside the Cambodians in the latter's conflict with the new Vietnam. And it is the People's Republic of China that is providing the aid, the weapons and the advisers to the Cambodian forces, because the Chinese are worried. When they view the Soviet intrusion in Vietnam, they have good reason to be worried. I wish we were.

There is evidence that the Soviets are pressuring the Vietnamese for the long term use of Camrahn Bay—that late great U.S. naval and logistics base. There is evidence that the Soviet Union is eyeing other Vietnamese ports and is 'ooking for missile sites in Vietnam, presu ably to deploy missiles aimed at China. Thus, if the U.S. persists in its various follies in Asia, we shall not have the Soviets in Taiwan but in Camrahn Bay and in other parts of Vietnam as well. The People's Republic of China will, of course, be noticeably disturbed by both the extension of Soviet naval power into Vietnam and particularly as regards the possibility of Soviet missiles in Vietnam. And beyond Vietnam, all that is needed is for the Soviet Union to obtain a base in Singapore. This would give the Soviets complete domination of the entire eastern littoral of Asia.

What the British Empire took more than a century to do, the USSR will have accomplished in a few years, and it will have been handed to them for nothing. It will have been handed to them simply as a result of this Administration's incompetence, perversity, and ignorance of the area and, above all, by this Administration's lack of will in foreign policy. And in passing, we should remember that the USSR hardly possesses the benignity of the late British Empire.

I believe there is little we can do about Camrahn Bay. The Vietnamese are certainly not going to give it back to the U.S., no matter how kind we may be to them, diplomatically or economically. The rot, however, that I foresee in southeast Asia will really begin with the abandonment of Taiwan. With the abandonment of Taiwan by the United States, we virtually invite Soviet expansion down the entire littoral of east Asia. A strong independent Republic of China allied to the United States, can, however, be the checkmate. Not only that but, as I said in my previous speech, in the end, the Peoples' Republic of China itself will be the greatest loser should this not occur. Again, let me repeat that it need not happen. It is the U.S.A. that has the leverage as long as we maintain our alliance with the Republic of China.

We must realize and always remember we do not have to abandon Taiwan. Rather, we must tell the people on the mainland that we will stay in Taiwan and that it is in their interests that we do so stay. It is in South Korea's interests, also. It is in Japan's interests, in Thailand's interests, and in the interests of the Philippines. It is in the interests of the stability of the entire Pacific Basin that the United States maintain its position on the east coast of Asia. But Taiwan is the key—the linchpin in our whole east Asia strategy. The Peoples' Republic is not stupid: they will listen and they will adjust to our posture of maintaining the alliance.

May I repeat—there is not much we can do about Vietnam. We cannot stop them from destroying their small business base and still less, their agriculture in the south in their pursuit of an ideology. I seriously doubt if we can counter the position of the Soviets in Vietnam, even in small degree. I said in the past that the defeat in Vietnam would bring a terrible consequence. That consequence is now beginning to unfold. If we persist in our folly, five or ten years from now I can see the U.S. as a beleaguered Pacific nation defending on its west coast.

Our real role, the role for which we are intended, is quite different. Our real role is to be a forward Pacific power, actively engaged with all other Pacific powers, in expanding trade and commerce and in the pursuit of peace in the region, a peace based upon American strength. Instead, we are charting another course. We are switching to the Peoples' Republic of China and seem to be willing to pay their price, that is the abandonment of Taiwan. There are people in this Administration who really believe that the Peoples' Republic of China is a substitute for all of our present Pacific Basin alliances and that the Peoples' Republic of China is a counter to the Soviet threat and will remain so.

The Peoples' Republic, however, is not a counter to the Soviet threat. It simply does not have the strength. More importantly, under communist ideology, the necessity to switch alliances, as self-interest demands, is paramount. The Peoples' Republic of China is rather playing the U.S. off against the Soviets in the traditional Chinese manner. They will do this while we retain some global strategic power. As this wanes, as it will if we abandon our position in east Asia, they will turn and rend us, to say nothing of our smaller ex-allies.

Thus, it is with this issue in mind that I suggest to you that in the present equation, Taiwan is not only the strategic linchpin but is also a symbol—a symbol of what America's position in the Pacific will be ten, twenty years from now. But we have a strange Administration. I do not understand the ebb and flow of its foreign policy. I even ask, "Does this Administration have a foreign policy?"

The Administration is hard to talk to because they know so little of foreign policy, least of all in Asia. As might be expected, they have all the stubbornness of insecure and ignorant persons. Before it is too late, I beg them to pause and reflect on the future of their country in the Pacific Basin. As of now, the portent for that future is a massive destabilization of that region as a result of the policies being formulated. As this results, the region will be fought over by China and Russia with the U.S. as either a beleaguered witness or dragged into a war we cannot control. Such an outcome endangers U.S. vital interests, if not survival.

The Administration will, I promise, if it asks for it, get the full cooperation of all Americans of all parties in doing whatever has to be done to prevent the scenario I have outlined from happening. We simply have to remain engaged in Asia—all of Asia.

The American continent is a world island with Europe on one side and Asia on the other. Neither side, Europe nor Asia, should command more attention, one as opposed to the other. We cannot afford to fix our gaze only one way. I demand that the Administration reassess its entire position in the world and, above all, develop a Pacific Basin policy which offers American power and American political example and American human rights examples to all who resist tyranny in the region. We should be a witness to all those who are not ideologically bound that American trade and commerce is for everyone's good, theirs and ours, and that America, with its power used properly, can maintain stability and peace in the Pacific Basin. Again, I assert, the Republic of China on the island of Taiwan, in alliance with the U.S.A., is the key factor in developing a policy such as I have outlined. Rhetoric to the contrary, the mainland in their hearts will also agree.

Thus, again, I urge all Americans to look to our country's future and demand retention of our alliance with our trusty, brave, dependable and progressive ally, the Republic of China.

"And, in particular, I ask the Administration not to take any action affecting the Defense Treaty with the Republic of China during the interval between the November elections and the convening of the new Congress. As I have attempted to show, the consequences of such a major policy change are so grave that this is a decision which the President should make only after the fullest consultation with and approval of Congress, and should not take on his own.

INTERNATIONAL SPORT AVIATION AND POLITICS DO NOT MIX

Mr. GOLDWATER. Mr. President, as everyone interested in aviation is aware, the United States for years has been sending teams of pilots qualified in different types of aircraft and different types of maneuvers to international competition all over the world. These teams and trips have not cost the American taxpayer $1. Once again, now, we see President Carter injecting his hand in what he considers to be the bettering of understanding between countries by removing three members of the helicopter team that was to compete this past month in Vitebsk, Russia. This is something that is beyond my ability to understand because the fact that three of the team members, the three who were not allowed to compete were military men, could not have carried any message to the Russians except that we have better military pilots than they have. When is our President and his administration going to learn that there are ways of capturing the hearts and minds of people around this world other than the constant prattling of human

rights which we do not even observe a hundred percent ourselves?

I ask unanimous consent that a statement made on this unfortunate incident by Vic Powell, executive director of the National Aeronautic Association, be printed in the RECORD.

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

INTERNATIONAL SPORT AVIATION AND POLITICS DON'T MIX

(By Vic Powell)

The National Aeronautic Association sponsored and sanctioned the United States Team in the III World Helicopter Championships, held in Vitebsk, USSR, July 31 to August 4, 1978. Team members were selected earlier this year and underwent extensive training at the Bell Helicopter manufacturing plant in Fort Worth, Texas. The team was constituted of six male and four female members

It is important to point out that the United States government bore no expense in preparing for U.S. participation in the event, nor in transporting the team or its attendance at the championships. It was entirely supported by U.S. citizens and the team members themselves. The National Aeronautic Association takes pride in the fact that members of all official U.S. sport aviation teams are unpaid volunteers. They compete against teams of foreign nations whose members are heavily subsidized by their governments. This fact often makes the competition tough for teams from the United States, but U.S. teams perform very well in international competition. The United States is the one to beat.

The amount of volunteer time by persons across this country in support of the teams is heartening. People from all walks of life come together to offer their help and do what they can to ensure the team has the necessary equipment and funds to attend. This is often accomplished at considerable personal sacrifice for the team members, sponsors, and supporters. They believe, however, that it is necessary and worthwhile. The effort is enormous. The results satisfying.

All of this is done totally outside the U.S. government. No tax dollars are expended in behalf of U.S. teams, no government personnel assigned to the effort. The members of the National Aeronautic Association believe this is the way it should be. It can provide a considerable psychological boost to our team members. They know they are backed by the people of this nation, not some government agency.

Winning an official international aviation championship has both a direct and indirect impact on U.S. industry. Equipment used by those who capture winning positions in competition will usually become a demanded item, and the manufacturer can enjoy a worldwide market for the product. But the international psychological impact of the winning team can also be profound. A win can help create a mind-set regarding how the winning nation's aviation industry as a whole is perceived. In this regard a win by a team not directly associated with a particularly aviation industry can have an impact on how that industry's products are regarded abroad. In this sense sport aviation can be very helpful to the entire aviation industry.

One would think therefore that the government would be cognizant of this situation and provide any help possible. Indeed, this is the basis of the substantial support many foreign sport aviation teams receive.

We were especially disappointed and disheartened recently when the Carter administration injected politics into the NAA sanctioned United States team attending the III World Helicopter Championships. Three of the eleven-member team were military pilots. The three had proven themselves to be leading pilots on the team. Their experience, ability and expertise were a decided asset, and we looked forward to providing stiff competition to the country that we regarded as a tough competitor, the Soviet Union.

The U.S. Team was equipped with the most up to date helicopter for the competition, a Bell Jet Ranger. It trained extensively at the Bell plant in Fort Worth flying the competition course. Under the leadership of coach Henry Gilliland, team manager Frank Cantwell, senior delegate Joseph Mashman, and support personnel, the team developed great spirit with a positive attitude and a desire to win.

The Carter administration reportedly desired to send a message to the Soviet Union regarding administration displeasure with a variety of developments with the USSR. It canceled some export sales to the Russians, eliminated funding for travel to conferences held in the USSR, made oil equipment sales subject to the U.S. Export Control Act, expressed itself in the media regarding its views toward the Soviet Union, and even went so far as to keep three individual military members of the U.S. Helicopter Team from attending a sport aviation championship, removing them from the team. The military members obeyed orders and did not attend. They received word that they were not to attend while the U.S. team was undergoing last minute training in West Germany.

The Carter administration knew who the team members were because the NAA had chosen to advise the State Department of the team members and the date and location of the world championships, as we attempt to do with all the U.S. teams. This is the first U.S. government interference with an American team in recent memory. We do not dispute the government's right to control its employees, but we regard it as heavy handed action by the Federal government against a private organization attempting to meet the lawful purposes to which it subscribes, and from which the country benefits.

The first goal of the Federation Aeronautique Internationale, the world body for sport aviation and which the NAA serves as the United States' exclusive representative, is "making evident the essentially international spirit of aeronautics as a powerful instrument for bringing all people closer, regardless of any political or racial consideration."

This is a goal to which the Carter administration, with its emphasis on human rights and morality, ought to find agreement. Regretably they chose to insert politics in an activity and organization that is working to keep political interference out. Politics and international championship aviation do not mix. It was true in 1905 when the FAI was formed, it is just as true today. The United States was one of five nations that originally joined to form the FAI. For the Carter administration to have taken its action against the U.S. Helicopter Team is an international embarrassment of this nation.

As individuals the members of NAA are sympathetic to the cause of human rights throughout the world, but I wonder if the message, as interpreted by the Russians, was the one the administration sought. The administration's action has led to providing the Soviet Union with an international propaganda tool that will undoubtedly be used all over the world.

The U.S. team members worked hard and invested their own and donated money to field the finest helicopter team the U.S. has ever had. The evidence of the excellence of the team is shown by the relative closeness of the score. If the entire U.S. team had been allowed to participate the U.S. would have been considerably stronger.

The eyes of the world will not know that the Carter administration prevented our most promising pilots from participating, they will only see that the Soviet * * * lowered U.S. prospects of winning the World Championship by forcing the withdrawal of the team's most effective competitors.

The Soviet Union's pilots captured top individual pilot awards and won first place in team, ahead of the United States by 313 points out of a total of 3,298—only 10%.

NAA, speaking for our members, those who donated to the team and the citizens who support the team extends thanks to the dedicated team members and the entire U.S. delegation who attended the championships and fought hard to win this event. They faced formidable odds attempting to abide by the Goals of the FAI, competing against the Soviet and other national teams, and their own government's interference.

NAA is proud to stand by our team, they battled well. And we are very proud of all those people who made it possible for the U.S. team to attend the World Championships.

OSHA VEXES BUSINESS

Mr. THURMOND. Mr. President, the Federal Government has experienced tremendous growth in recent years. Unfortunately, this growth of Government has not resulted in better service to American taxpayers. On the contrary, it has resulted in an increase in harassment of American citizens and American business.

The principal offender in governmental harassment has to be the Occupational Safety and Health Administration—OSHA. This agency, although only in existence for 6 years, has managed to issue thousands of regulations that have become an almost intolerable burden to American business.

Members of this body, as well as the House, have spoken out repeatedly about the bureaucratic domination of OSHA. Efforts have been made in the Senate to relieve small businesses from OSHA regulation. On August 2, 1978, the Senate adopted an amendment offered by Senator BARTLETT of Oklahoma to exempt businesses with 10 or less employees from OSHA regulation. Although this was a major step forward in trying to get OSHA off the backs of American businessmen, it does not appear to be adequate to ease this regulatory burden.

Mr. President, in the September 13, 1978, edition of the Greenville News there appeared an article by Mr. John Chamberlain pointing out the efforts of OSHA to carry out its regulatory enforcement policies against not only small business, but large industries as well.

OSHA agents, stung by the Supreme Court's decision in Marshall against Barlow—1978—have apparently stepped up efforts to assert their enforcement powers against large American corporations. Mr. Chamberlain's article points out just one example of this abuse of regulatory authority. He also notes that although the Supreme Court has stepped in to protect small businesses, it will be up to the Congress to prevent further OSHA abuses against American industry. I urge my colleagues to take heed of his warning.

Mr. President, I ask unanimous consent that the article referred to in my remarks be printed at this point in the RECORD.

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

OSHA VEXES BUSINESS

(By John Chamberlain)

NEW YORK.—The Occupational Safety and Health Administration (OSHA), which has not notably changed the safety statistics in its six years of existence as the scourge of American business, has had more than 4,000 regulations on its books. It has been a particular annoyance to small businessmen, who have lacked the resources to comply with its often niggling and absurd demands. Fortunately the "little man" got a break from the Supreme Court in the case of Marshall vs. Barlow. The case had been fought to the highest tribunal by Bill Barlow, a Pocatello, Idaho electrical and plumbing contractor who had refused entry to OSHA inspectors who had come unannounced to the door of his shop without a search warrant. When the Court decided that employers could stand on their Fourth Amendment right against "unreasonable" searches. OSHA, trying to repair its image, rescinded more than a thousand so-called Mickey Mouse regulations that had only the remotest connection with health and safety.

Respite from OSHA's bureaucratic tyrannies, however, seems to have been limited to the nation's smaller business establishments. Companies big enough to make the list of the Fortune 500 have tried to "go along" with OSHA just to protect their public images as good guys. But what do they have to show for their pains?

The experience of the United States Steel Corporation with OSHA inspectors is hardly reassuring. Questioned by an Iron Age reporter, Edgar Speer, the U.S. Steel chairman, told a sad tale of what, to his way of thinking, amounted to bully-ragging persecution. It was just a year ago that an OSHA team turned up at U.S. Steel's South Chicago works. The OSHA agents had come, they said, to look into three small complaints. Once inside the tent, however, the OSHA camel went berserk. It took three months for the OSHA team to complete its investigation.

The U.S. Steel plant management asked on a daily basis to be informed of violations so they could be corrected. But the OSHA inspectors waited for six months to file their bill of complaints, imposing a fine of $200,000. According to Speer, the agency was less interested in the safety of Big Steel's employees than it was in slapping a punitive fine on the company.

According to R. K. Scott, the editor of a fortnightly review called America's Future, the persecution of Big Steel has not been limited to the South Chicago area. U.S. Steel spends more than a billion dollars a year to comply with clean air standards. Its pollution control adds $265 million a year to operating costs. The company's captive coal mines are among the safest in the country. Yet these coal mines undergo some 5,000 government safety inspections a year. The effort to accommodate the inspectors in their frequently redundant interruptions has decreased the productivity of the coal mines by 22 percent over a 4-year stretch.

Instead of cutting down on the Mickey Mouse stuff when it comes to the bigger corporations, OSHA, along with other federal compliance agencies, is planning many additional regulations. The cost of the additions to the businessman and the consumer could come to a few more billions.

What the White House may intend to do about calling OSHA to account for adding billions to the general inflation is a question. Secretary of Labor Ray Marshall has pledged a "common sense" approach to protecting workers. And Charles Schultze, chairman of Jimmy Carter's Council of Economic Advisers, has said that OSHA has failed to touch the most important cause of industrial accidents, which come from employee turnover and inexperience. Workers' carelessness is the prime culprit when it comes to accidents—and OSHA's 1,400 compliance officers can have little effect in changing that.

In the Barlow decision the Supreme Court has done what it can to help the small manufacturer protect himself against OSHA. But it will take Congress to do something to curb OSHA's vindictiveness against the biggies.

TESTIMONY OF JOHN M. CAREY, NATIONAL COMMANDER, THE AMERICAN LEGION

Mr. THURMOND. Mr. President, on September 12, 1978, the national commander of the American Legion, Mr. John Carey, appeared before the Senate Committee on Veterans' Affairs and presented the Legion's legislative goals and initiatives for the 96th Congress.

The American Legion is the largest veterans' organization in the United States. There are 2.7 million legionnaires and nearly 1 million members of the American Legion Auxiliary. These men and women are the backbone of our society and reflect the views of a vast number of Americans. The policies, programs, and goals of the American Legion promote a better understanding of the principles of democracy and inculcate among all people an appreciation of the benefits of American citizenship.

Mr. President, attending this committee meeting were legionnaires from throughout the United States. South Carolina was well represented by Bill Weatherly, State commander; Jim Hamilton, State adjutant, his wife Dorothy; Jim Haynes, membership chairman; Bill Plowden, veterans' employment representative for South Carolina; and Abe Fennell, who is known as "Mr. Veteran of South Carolina" to thousands of my constituents.

Mr. President, I ask unanimous consent that the testimony of Commander Carey be printed in the RECORD for the benefit of my colleagues. I also urge my colleagues to consider carefully these recommendations for action during the 96th Congress.

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

STATEMENT OF JOHN M. CAREY

Mr. Chairman and Members of the Committee: It is an honor and a great personal pleasure for me to have this opportunity to appear before this distinguished Committee of the Congress on what is virtually my first official appearance as National Commander of The American Legion.

Before I discuss with the Committee the legislative program of my organization in the field of veterans affairs, I consider it most important that I express to you Mr. Chairman, and to the Members of the Committee, the appreciation of 2,700,000 Legionnaires, and the nearly 1 million members of the American Legion Auxiliary for the consideration that is consistently given by the Committee to the problems of our nation's 26.5 million war veterans and their dependents and survivors.

Historically, it is to Congress that veterans have looked, for support, and for the concern that has expressed itself in beneficial legislation. We of The American Legion know that it is because of the Congress of the United States that our country today has the most comprehensive program of veterans benefits of any nation in the world.

Four times in the Twentieth Century, the American Government had led the nation into war. Four times the youth of the nation has responded. And following each of those conflicts, Congress has taken the lead in providing readjustment programs for the returning servicemen and women, and supportive programs for the service disabled, and for the survivors of those who have made the supreme sacrifice. The American Legion knows what Congress has done in these matters, and we are grateful.

In addition to these words of gratitude to the Committee, I believe it is appropriate and necessary for me to express a special word of thanks to the Chairman of this distinguished Committee. In all of the matters of serious import, relating to veterans affairs, that have required action this year, Senator Cranston has been stalwart in defending the best interests of the nation's veterans, with their dependents and survivors. I will be frank in saying that I do not like to think of what might have happened to the veterans benefits programs this year had it not been for the active role Senator Cranston has played in speaking out for veterans in the high councils of the government. For this support and assistance, I want everyone to know that The American Legion is grateful.

May I now proceed to present the views of The American Legion on certain matters affecting veterans legislation in this Congress, and looking ahead to the first session of the 96th Congress.

By reason of the work of this Committee, the Senate has adopted a number of significant measures affecting veterans. Many of these continue to await final action by both Houses before they can be sent to the President. We consider all the measures the Committee has reported to be important. We are most anxious that the bill to provide a needed increase in compensation and DIC rates be signed into law, to become effective with the beginning of the new Fiscal Year. Of all the entitlements of veterans, none has priority over the obligation of the nation to those who were disabled by reason of their service, and to the survivors of those who died by reason of service to their country. We know the Committee shares our concern in this regard, and we look forward to final action, leading to enactment of this important legislation.

PENSION REFORM

I would now like to discuss the matter of pension reform. As I appear here today, Congress has not taken final action on the pension reform legislation that has been under consideration throughout the current session.

The American Legion has long been committed to the need for reform of the death and disability pension program for veterans. The inadequacies of the present program are so well known that it is not necessary for me to repeat them in this statement.

Representatives of the Legion have worked closely with the Committee and its staff in developing remedial legislation. The present status of that legislation is that it awaits action by a Conference Committee of the House and Senate. We have prepared a document that will be presented to the members of the Conference Committee, detailing our appraisal of the matters that have to be resolved, and offering our recommendations.

We are most anxious that the legislation that is finally sent to the President shall resolve the major problems that have beset the pension program, and that the rates established will be sufficiently generous that they are meaningful in the degree of financial assistance they provide to the intended beneficiaries.

We know the Committee shares this desire with us, and we hope it will guide the action of the Conference Committee, and of the full Senate when the final bill is presented for approval.

We are aware that the pension reform legislation, in whatever form it is finally approved, will add a substantial amount to the Administration's Budget for Fiscal Year 1979. We do not believe the added cost is prohibitive, given the goal that will be achieved—long term alleviation of the serious economic problems that are affecting the increasingly large number of the aging veteran population.

We are aware that there are those who are increasingly vocal in begrudging this added measure of security for older veterans and their widows. Those to whom I refer are more openly expressing the opinion that veterans should be lumped in with other segments of society who have need for public support.

Those of us who represent the veteran constituency do not fail to recognize that these open attacks on veterans benefits always begin to manifest themselves in a time of peace. These outcries for economy in veterans programs are never heard in time of war. They are indeed a phenomenon of peacetime. We hope the Committee agrees with us that they are without merit.

With reference to final disposition of the legislation, I will say that we are most anxious that it become law, and we will appreciate the support of all those who share our concern for the problems of older veterans and their widows.

VETERANS ADMINISTRATION BUDGET

Thoughout this session of the Congress, those of us who are on the side of veterans have been engaged in the Battle of the Budget. It was immediately apparent, last January, that the Administration's proposed budget for veterans programs was substantially short of what is needed to fully fund those programs. Shortfalls in amounts provided for the medical care program were most notable, and engaged the immediate attention of The American Legion. With the support of the Chairman, and Members of this Committee, Congress has increased allocations, especially for medical care, and it is now our expectation that funding will be essentially adequate, to at least maintain what we now have.

I must say to this Committee, however, that in our judgment, the battle is not over. We have every expectation that the Administration's proposed budget for the Veterans Administration for Fiscal Year 1980 will be a tight one. And everything that spokesmen for the Administration are saying leads us to believe that the shortfalls in the FY 1979 Budget will be repeated in Fiscal Year 1980.

The President is talking economy. He has publicly stated that economy will be achieved in a variety of categories of government spending, including, and he used these words, in the field of veterans programs.

May I say that all of the members of The American Legion are taxpayers, and we are as anxious for economy in government as is the President, or anyone else. Our concern, however is that economy must not be achieved at the expense of the nation's veterans.

In our judgment, the President has his priorities wrong. The 26.5 million men and women who comprise the war veteran population responded to the call to arms when the nation went to war. This includes the 8.5 million who saw service during the Vietnam Era. And 2.8 million of those actually served in Southeast Asia.

While the wars of the Twentieth Century were being conducted, there was absolutely no call for economy at the expense of veterans programs. It's the same old story. When the guns begin to shoot, nothing is too good for the soldier. It is when peace returns that the cries for economy begin to rise.

We note, for example, that despite repeated protestations of concern for the needs and problems of Vietnam Era veterans, the President proposed absolutely nothing in his FY 1979 Budget in the way of increases in education and training allowances.

With all this in mind, the American Legion is not going to be silent when cutbacks are proposed in veterans programs, in the name of economy. In our judgment, there are plenty of places in the Federal Budget where economy can be practiced, before an effort is made to cut back on veterans programs.

We very much appreciate the support the Members of this Committee gave in seeking adequate funding for benefits and services to veterans during Fiscal Year 1979.

When the Administrative Budget for FY 1980 is released, we intend to do a careful analysis, and we shall then approach our friends in Congress with our evaluation and suggestions.

Our objective at all times is adequate funding for veterans programs. We hope for your continued support in that direction.

VETERANS ADMINISTRATION MEDICAL CARE PROGRAM

Discussion of the VA Budget inevitably leads me to remarks relating to the VA medical care program. There is no question in our minds that the VA Department of Medicine and Surgery is the heart and soul of the operations of the Veterans Administration. Remove the medical care program from the VA, and you really have no further need of the VA as a single agency for the administration of veterans programs. The development through the years of the VA system as the largest and finest medical system in the world today, is the cherished achievement of The American Legion, because we have made a significant contribution to that accomplishment. We prize the VA medical care program for veterans, and we are determined to defend it.

I use these terms because we know that the VA system is presently under attack from a variety of sources. It is not my purpose here to identify those sources, nor to present a detailed defense of the system. I believe this Committee joins with us in support of the VA program of medical care for veterans.

But I do want to make clear that we of the Legion believe that a successful defense of the VA system is absolutely essential to a successful defense of all other veterans benefit programs.

And we are apprehensive that we do not have an ally on this matter in the Administration. To justify that statement, I need only point to the serious shortfalls in the recommended Budget for VA medical programs in the Administration's FY 1979 Budget.

I refer to the proposed reduction of 3,200 beds, with a resulting loss of 1,500 staff personnel; the curtailing of VA research programs, at a time when the achievements of that program have been recognized by all the world; elimination of the only new hospital planned for the system, at Camden, New Jersey; and a variety of economy measures having the effect of slowing the pace of renovation and renewal that is constantly necessary in a system as large as the VA system is. All of these actions, which are included or not included, in the Administration's proposed Budget for FY 1979, do not engender a feeling of confidence in the Administration's commitment to the VA medical care program.

The American Legion, through the work of a special committee established for that purpose, continues to monitor the progress of the national debate on national health insurance. When legislation to provide some form of national health insurance takes shape, the Legion will come forward with recommendations for protective clauses to insure the continuation of the VA system as one maintained exclusively for the nation's veterans.

We must say, however, that we perceive a visible danger to health care for veterans, in the concept of national health insurance. Which is why the possible lack of commitment by the Administration to the VA program is a matter of concern to us. And, in the face of this concern, we turn, as we always have, to Congress, for the assistance needed to assure the maintenance of the VA system, not only as a viable one, but in such a condition that it will continue to be in the forefront of health care delivery in this nation.

EDUCATION AND TRAINING PROGRAMS FOR VIETNAM VETERANS

The proposed Budget for Fiscal Year 1979, included nothing in the way of increases in the education and training allowances for those Vietnam Era veterans who are still completing their readjustment. We believe this younger generation of veterans is well justified in asking of the Administration, where is the commitment of dollars to back up the protestations of concern?

It is our earnest request that an early priority of this Committee next year shall be the development of legislation to provide needed increases in the education and training allowances for all programs, generally referred to as GI Bill programs.

GI Bill allowances were last adjusted by Public Law 95-202, and were effective on October 1, 1977. Of course, inflationary pressures have continued unabated since that time, and are continuing today. It is not fair to the young men and women who are in training under these programs, to cause them to try to continue their education and training with the use of 1977 dollars.

The American Legion will strongly support legislation to improve the education and training allowances, at the earliest possible date in the 96th Congress.

We would further suggest, for early consideration in the forthcoming session, a needed revision to improve Vocational Rehabilitation programs under chapter 31 of title 38. It has been observed by many that these programs are much in need of updating, to insure their responsiveness to the problems of the service disabled. We will support legislation that may be developed in this direction.

PENSION PROGRAM FOR VETERANS OF WORLD WAR I

I shall now address a subject on which a National Commander of The American Legion has not previously spoken to this Committee. I refer to a special pension program for the surviving veterans of World War I.

At our recently concluded National Convention in New Orleans, the Delegates expressed overwhelming support for a pension program especially for these older veterans. This support took its form in Resolution No. 220 (Ohio), a copy of which is apepnded to this statement.

Presently, there are 685,000 veterans of World War I, surviving from the 4,750,000 who served during that conflict. They are at an average age of 83, and their mortality rate is high.

This generation of veterans not only served gallantly in the first World War; they also founded The American Legion; they survived the Great Depression; they lent their strength and support to the three wars of this century that followed theirs; it was they who developed the concept of readjustment programs for returning servicemen—a concept entirely new in the field of veterans benefits. The men and women of the first World War have not had an easy life. They

have come into their later years, in many cases without the level of economic security that most of the rest of us can expect to have when we retire from active work.

Many of these veterans are presently living in strictly reduced circumstances; and many of them feel they do not have either the attention or concern of the American people. For these reasons, The American Legion, speaking through the Delegates to its National Convention, believes it is time for a measure of special recognition for these veterans.

We will submit draft legislation in January, to implement Resolution No. 220. It is our earnest hope and request that this Committee will consider that legislation. The program we propose will be modest. We believe it will be within the bounds of fiscal possibility. The main point is, however, that we believe this strong and affluent nation can afford this modest gesture in the direction of these, our oldest veterans, to assure all of them a measure of economic security.

VETERANS PREFERENCE

There is a matter that is not directly within the jurisdiction of this Committee, but which calls for mention in this, my first appearance before a Congressional body. I refer to the proposals to modify veterans preference in Civil Service employment.

It is not my purpose or intent in this statement to recite again all the reasons The American Legion continues to defend veterans preference as it is presently codified in law. The views of The American Legion on this matter are well known. We believe our position has withstood the test of debate, and nothing that has been said by those who advocate change in this veterans benefit has persuaded us to change our views.

We consider ourselves to be reasonable people. If what our opposition is saying could be proved to be true, we would indeed consider a change in position. If the modifications proposed would, in fact, enhance the employment situation of the Vietnam generation of veterans—that would weigh heavily with us. But we are convinced the arguments advanced to this effect are faulty. The Vietnam veterans will receive the best chance to establish careers within the Civil Service by application of the law as it is now written, if the Executive Branch will just abide by it in spirit as well as in lip service.

We believe the application of veterans preference through the years since it was established in law by Congress in 1944, has worked to the great advantage both of veterns, and of the public service. Veterans make good government employees. And veterans include minorities and women. Their military service merely adds to their desire and to their ability to serve the government in a civilian capacity.

We appreciate the support veterans preference has received in Congress during the current debate, from the distinguished Chairman of this Committee and from many Members.

VETERANS EMPLOYMENT

It is an obvious fact that no veteran is readjusted or rehabilitated until he is economically self-sufficient. This means he must have stable employment in a job that pays a living wage. Veterans employment has always been a high priority among the programs of The American Legion. We have worked very hard, in seeking legislation that would strengthen veterans employment programs, and through the activities of the 16,000 American Legion posts in helping individual veterans with job placement in the community.

Statistics indicate the situation in veterans employment has improved with the strengthening of the nation's economy. However, there remains a substantial core of unemployed veterans, mostly young, under-educated and under-skilled, and many of them from minority groups. The plight of these veterans poses a challenge to both the Congress and the Executive Branch, and we of The American Legion accept is as a challenge as well.

There are, as a result of Congressional action, a number of employment programs for veterans, mostly administered by the Department of Labor and codified in title 38 of the United States Code. We applaud the attention of Congress to this problem as represented by these programs.

Our complaint is directed at the Department of Labor, and I include mention of it in this statement so that it will be a matter of record.

There is, in our judgment, a singular lack of sensitivity by the Department of Labor to veterans employment programs. A number of things that have occurred this year illustrate this point. Among them are the appointment, confirmation and resignation of the first Deputy Assistant Secretary of Labor for Veterans Employment and the abolition by the Department of Labor of the position of Director, Veterans Employment Service.

To remedy these errors, and to attempt to instill into the Department of Labor an appropriate sensitivity to the problems of unemployed veterans, The American Legion continues to advocate the establishment of the position of an Assistant Secretary of Labor for Veterans Employment, with the Veterans Employment Service as a separate agency. We do not believe the Department of Labor will proceed to fulfill its responsibilities in the area of veterans employment until and unless these things are done. Legislation to this end has been introduced in the Senate Committee on Veterans Affairs, and we are grateful to Senator Strom Thurmond and his colleagues for this bill. In view of the action of the Department of Labor in abolishing the position of Director, Veterans Employment Service, in spite of assurances to the contrary made to Congress, we are asking for legislation to require this position by statute.

The Department of Labor has also been lax in enforcing, in the case of Federal contractors, the requirement that they, as well as the Federal Government, must take affirmative action to hire and promote eligible disabled and Vietnam Era veterans. To broaden eligibility under this program, we are supporting legislation to delete the 30 percent disability requirement and to require only a 10 percent service-connected disability or more, and to delete a stipulation that Vietnam Era veterans must have been discharged within 48 months preceding application.

A recent reorganization of the Department of Labor's machinery for monitoring and enforcing compliance of Federal contractors will further weaken these provisions for affirmative action for veterans. An Office of Federal Contract Compliance, headed by an Assistant Secretary is needed to bring Federal contractors into full compliance with the law.

Mr. Chairman, and Members of the Committee, I have tried in this statement to provide the Committee with an appraisal of the condition of veterans affairs as we of The American Legion see them, as the 95th Congress completes its work, and all of us look forward to the 96th Congress which will convene in January.

In this Congress we have found, as we always have in the past that there resides here a concern for and interest in the problems of America's veterans that is not found anywhere else. We are grateful for that concern and interest.

And we are confident that as long as we have friends in this place, the nation, as it enters into a era of peace, will not forget those who served it in time of war.

Before I conclude, I wish to extend again, an invitation to all Members to join us at our Reception, at 5:30 this evening in Rooms B-338-339 & 340 of the Rayburn Bldg. There you will be able to greet Legionnaires from your own areas, who look forward to the opportunity to be with you, however briefly, on a social basis.

Thank you very much for your time and attention.

SENATE RESOLUTION 562—SUBMISSION OF A RESOLUTION TO INSTRUCT THE CONFEREE ON THE PART OF THE SENATE ON HOUSE CONCURRENT RESOLUTION 683

Mr. MUSKIE submitted the following resolution, which was placed on the calendar:

S. Res. 562

Whereas, H. Con. Res. 683, as adopted by the House of Representatives, contains funding of $2 billion for new public works spending in Function 450, and

Whereas, the Senate amendment to H. Con. Res. 683, as adopted by the Senate, contains no funds for this two billion dollars in new spending,

Resolved, that the conferees on the part of the Senate on H. Con. Res. 683 are instructed to insist on the Senate position.

Mr. MUSKIE. Mr. President, I send a resolution to the desk and ask unanimous consent that it go to the calendar.

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, I rise only to say that this matter and this procedure accords with the desires of the ranking member of the Budget Committee, and we have no objection to that.

Mr. MUSKIE. Mr. President, I further ask unanimous consent that if and when the resolution is called up, it be subject to a time agreement in the usual form of 3 hours, to be equally divided between myself and Senator BELLMON.

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

Mr. ROBERT C. BYRD. Mr. President, I wonder if I can add this unanimous-consent request. Let me ask the Chair, would any motion to proceed to the consideration of this resolution be debatable?

The PRESIDING OFFICER. The answer is, it would be.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, under the circumstances, that the majority leader, after consultation with the chairman of the Budget Committee, Mr. BELLMON and Mr. BAKER, be authorized to call that resolution up without debate. The time agreement is on the resolution itself already.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The text of the agreement follows:

Ordered, That when the Majority Leader calls up S. Res. 562, a resolution instructing the Senate conferees on H. Con. Res. 683, which can be done by the Majority Leader without debate, debate on the resolution shall be limited to three hours to be equally divided and controlled by the Majority and Minority leaders or their designees; that time on the resolution may be yielded for the consideration of any amendment; and that no amendment not germane to the provisions of the resolution be in order.

● Mr. MUSKIE. Mr. President, I have good news and bad news from the conference now meeting on the second budget resolution for 1979.

The good news is that House and Senate conferees have resolved most differences in the conference.

The bad news is that one major policy difference—whether to agree to a new $2 billion-per-year public works program—has deadlocked the conference.

The House budget resolution would provide $2 billion in new spending next year alone for so-called "local public works."

A part of this massive new spending would be to pay for a pale shadow of the administration's "soft public works" program, which is intended to employ disadvantaged workers.

In fact, versions of this new spending program in both Houses could finance projects with money devoted to hiring the long-term unemployed. The bulk would go to regular construction workers at a time when construction employment has already reached record levels. The House position would finance public works programs costing nearly as much during the next 2 years as has been spent for antirecessionary public works since the depth of the recession 3 years ago.

The Senate resolution contains $1.9 billion in outlays for the existing public works program. But it contains no funding for this massive new program.

Mr. President, the budget resolution, reported by the Senate Budget Committee, contained no funding for this program because we considered it inappropriate in the current economic recovery, too expensive, and inflationary.

No amendment was offered to provide funding for such a program when our budget resolution was debated on the Senate floor.

The House conferees continue to insist that such a program must be financed in this budget resolution and the Senate conferees continue to resist that additional spending.

Agreement in the conference—which is so near on so many other issues—is frustrated by this single question of whether to have a massive new public works program.

I am making this statement to the Senate today to alert all Senators to the likelihood of a vote on instructions to the conferees in the next day or so. Your Senate conferees will be communicating with you further as to our detailed objections to the House version.●

● Mr. BELLMON. Mr. President, as our distinguished chairman, Mr. MUSKIE, has indicated, the conferees on the second budget resolution for fiscal year 1979 are unable to reach agreement with respect to the issue of public works funding. The House-passed budget resolution provides in function 450, community and regional development, $1 billion in budget authority and $100 million in outlays for a third round of local public works projects and $1 billion in budget authority and $100 million in outlays for the "soft" or "labor intensive" public works program proposed by the President as part of his urban initiatives. The second budget resolution passed by this body less than a week ago contains no funds for either of these programs. The House is, therefore, $2 billion in budget authority and $200 million in outlays above the Senate.

What is at issue between the two Houses is additional public works spending in an inflationary environment. With regard to a third round of local public works projects, the question before the Senate is whether to continue to spend money for a program we initiated on a temporary basis in 1976. It is the position of the majority of Senate conferees that countercyclical measures such as this program should be terminated as the economy improves. If this is not done, countercyclical programs become procylical in nature and inflationary in effect.

We will already be spending in fiscal year 1979 roughly $2 billion from prior year authority under this program, and we feel a new round of funding would be inflationary. The construction materials industry is operating at capacity. Employment in the construction industry is at an alltime high.

A new round of funding would only put upward pressure on prices in this industry, and these price hikes would ripple throughout other sectors of the economy.

With respect to the "soft" public works program, Mr. President, we consider this to be an extremely high-cost option for providing jobs for structurally unemployed. As now proposed by the administration, only 25 percent of the total 25,000 person-years of employment created under the program in the first year would go to the long-term unemployed. This would create jobs at an annual cost of $160,000 for each long-term unemployed worker affected by the program.

The Senate has shown its sensitivity to the problems of the structurally unemployed. The budget resolution assumes a $5 billion-a-year program to serve the structurally unemployed. When we passed the CETA reauthorization bill 3 weeks ago, we indicated that this group was to be one of our high-priority concerns. Clearly, we have the CETA mechanism available to assist these disadvantaged workers; the program under consideration for funding here would only add a duplicative, less effective, and less efficient program to the books.

The decision before the Senate today affects not only fiscal year 1979 but also the years which follow. In the report accompanying the second budget resolution, the Senate Budget Committee indicates a cumulative budget margin of $54 billion in the next 5 years for tax reductions or spending increases. Is the Senate willing at this time to commit $4 billion of these limited future resources to programs such as these? Or, alternatively, does the Senate wish to adopt a more cautious attitude with respect to mortgaging its future resources in funding today's programs whose economic impacts and consequences will first be felt in an economic environment which is unknown at this time. It appears to me, Mr. President, that countercyclical programs of this type are better held in reserve and brought forth when they are necessary.●

CROSS-FLORIDA BARGE CANAL PROJECT TERMINATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order 1090.

Mr. BAKER. Mr. President, reserving the right to object, I will not object. Once again, I reserve only for the purpose of advising the majority leader that this item is cleared on our Calendar. We have no objection to proceeding to its consideration.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 3337) to terminate, in the year 1979, further construction of the Cross-Florida Barge Canal project, to adjust the boundary of the Ocala National Forest, Florida, and for other purposes.

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

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Environment and Public Works and the Committee on Agriculture, Nutrition, and Forestry, jointly, with an amendment on page 2, beginning with line 7, strike through and including page 3, line 15, and insert in lieu thereof the following:

SEC. 2. (a) The boundary of the Ocala National Forest, Florida, is hereby extended to include the lands north and west of the Oklawaha River as shown on the map dated July 1978, on file with the Chief of the Forest Service, Department of Agriculture, Washington, District of Columbia, and available to the public in the office of the appropriate regional forester, forest supervisor, and forest ranger.

(b) Within the boundary of the Ocala National Forest as extended by subsection (a) of this section, lands or interests in lands and improvements owned by the United States and administered by the Corps of Engineers, Department of the Army, shall be transferred to the Secretary of Agriculture to be administered and made a part of the Ocala National Forest, Florida, when the Secretary of the Army deems such action to be appropriate, but not later than the end of the fiscal year ending September 30, 1980: *Provided*, That the Secretary of the Army, acting through the Chief of Engineers, may operate and maintain the existing facilities of the Cross-Florida Barge Canal project within the extended boundaries of the Ocala National Forest pending further disposition.

(c)(1) The Secretary of Agriculture shall acquire lands and interests in lands held on the date of enactment of this Act by the Canal Authority of the State of Florida within the boundary of the Ocala National Forest, as extended, with donated or appropriated funds, by purchase, gift, or exchange. For acquisition of lands or interests in lands held by the Canal Authority of the State of Florida, the Secretary of Agriculture shall pay not less than the purchase price paid by the Canal Authority plus interest compounded annually at the average rate at which the Authority borrowed funds for project acquisition purposes over the total period of financial commitment by the Authority.

(2) There are authorized to be appropriated beginning with the fiscal year ending September 30, 1980, such sums as may be

necessary to carry out the provisions of this subsection.

So as to make the bill read:

S. 3337

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a), effective July 1, 1979, authority for further construction of a high-level lock barge canal from the Saint Johns River across Florida to the Gulf of Mexico in accordance with Public Law 675, Seventy-seventh Congress (56 Stat. 703), is terminated.

(b) The Secretary of the Army, acting through the Chief of Engineers, is authorized to operate and maintain the existing facilities and their appurtenant lands of the Cross-Florida Barge Canal project as he determines to be necessary, pending further disposition by law of the project and its facilities and lands.

SEC. 2. (a) The boundary of the Ocala National Forest, Florida, is hereby extended to include the lands north and west of the Oklawaha River as shown on the map dated July 1978, on file with the Chief of the Forest Service, Department of Agriculture, Washington, District of Columbia, and available to the public in the office of the appropriate regional forester, forest supervisor, and forest ranger.

(b) Within the boundary of the Ocala National Forest as extended by subsection (a) of this section, lands or interests in lands and improvements owned by the United States and administered by the Corps of Engineers, Department of the Army, shall be transferred to the Secretary of Agriculture to be administered and made a part of the Ocala National Forest, Florida, when the Secretary of the Army deems such action to be appropriate, but not later than the end of the fiscal year ending September 30, 1980: Provided, That the Secretary of the Army, acting through the Chief of Engineers, may operate and maintain the existing facilities of the Cross-Florida Barge Canal project within the extended boundaries of the Ocala Forest pending further disposition.

(c)(1) The Secretary of Agriculture shall acquire lands and interests in lands held on the date of enactment of this Act by the Canal Authority of the State of Florida within the boundary of the Ocala National Forest, as extended, with donated or appropriated funds, by purchase, gift, or exchange. For acquisition of lands or interests in lands held by the Canal Authority of the State of Florida, the Secretary of Agriculture shall pay not less than the purchase price paid by the Canal Authority plus interest compounded annually at the average rate at which the Authority borrowed funds for project acquisition purposes over the total period of financial commitment by the Authority.

(2) There are authorized to be appropriated beginning with the fiscal year ending September 30, 1980, such sums as may be necessary to carry out the provisions of this subsection.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1167), explaining the purposes of the measure.

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

SHORT EXPLANATION

S. 3337—which was referred jointly to the Committee on Agriculture, Nutrition, and Forestry and the Committee on Environment and Public Works—would (1) terminate, effective July 1, 1979, authority for further construction of a high-level lock barge canal from the Saint Johns River across Florida to the Gulf of Mexico, and (2) extend the boundaries of the Ocala National Forest in Florida.

BACKGROUND AND NEED

VIEWS OF THE COMMITTEE ON AGRICULTURE, NUTRITION AND FORESTRY

I.

Construction of the Cross-Florida Barge Canal began in 1964 and was halted by President Nixon in 1971 for environmental reasons. A restudy in 1977 by the Army Corps of Engineers concluded that further investment in the project was not warranted, pending review of the restudy results by Congress. Subsequently, President Carter, in his May 1977 environmental message to Congress, directed the Secretaries of Agriculture and the Army to make recommendations on alternatives for disposal of canal lands and structures and restoration of the Oklawaha River portion of the project. In February 1978, the Secretaries sent their report of alternatives to the President and recommended what was identified as the intermediate-level of restoration. The State of Florida was a participant in the studies and took part in formulating the recommendations that were made to the President.

The aspects of the intermediate level of restoration of major importance to the Department of Agriculture are: the extension of the Ocala National Forest boundary; the authority to acquire project related lands; and the study of the Oklawaha River as a potential wild and scenic river.

Currently, the western and northern boundaries of the Ocala National Forest follow the Oklawaha River. Extension of this boundary along these sides, along readily identified manmade or natural features, would encompass project lands or interests in lands acquired for canal purposes by the canal authority of the State of Florida and the Corps of Engineers. Some 29,000 acres of the total 32,800 acres recommended for acquisition are within the extended boundary. The remaining land is within the existing national forest boundary.

II.

The acquisition of the canal authority and Corps of Engineer lands on both sides of the Oklawaha River for national forest purposes is in the public interest for the following reasons:

It would place lands that are essential to the protection of the Oklawaha River area under single agency management and administration.

An essential part of the restoration of the Oklawaha River portion of the canal project is retention of the related lands in public ownership. Inclusion of these lands in the Ocala National Forest would avoid possible conflicts in management goals and policies and the duplication of organizations, if multiagency management prevailed.

The major objective in halting construction of the project is the protection and restoration to a near natural condition of the Oklawaha River area. If Federal acquisition of the river related lands is not undertaken, the lands would likely revert to private ownership and possibly to uses incompatible with the natural environment.

Acquisition of the lands by the Federal Government also would provide funds to the State of Florida for distribution on a prorata basis to the counties whose tax revenues financed the original acquisition of the canal authority lands.

VIEWS OF THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

The Cross-Florida Barge Canal was authorized by Congress in 1942 in order to promote the efficient flow of materials for military purposes between the Atlantic Intercoastal Waterway and the coast of Mexico. Implementation of the project, however, was not immediate. In 1958, the Army Corps of Engineers reevaluated the project and found it still economically feasible. Initial appropriations were made in 1963 and construction started in 1964. By 1971, nearly one-third of the project was completed and over $70 million was spent.

In January of that year President Nixon, by Executive order, halted further construction of the project. Congress, following this action, directed the Chief of Engineers to restudy the environmental, economic, and engineering factors associated with the construction of the barge canal.

A report by the Chief was submitted in February of 1977. The report concluded that while construction was feasible, the economic justification was marginal and adverse environmental problems would be severe. The report also recommended a study to determine how best to dispose of the lands associated with the project if in fact the project was deauthorized by Congress.

The Committee on Environment and Public Works, following introduction of S. 1592 by the Senators from Florida, held hearings on the proposed deauthorization in July of 1978. Following those hearings and the introduction of S. 3337, the committee by voice vote recommended the termination of all future construction on the Cross-Florida Barge Canal. This recommendation was made on the basis of the overwhelming evidence of the severe, adverse environmental problems associated with future construction. The committee also questioned the economic need for the project at this time with the cost-benefit ratio for the project equal to unity. The committee concurs with the recommendation of the Committee on Agriculture, Nutrition, and Forestry on the disposition of the lands associated with the project.

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.

DISTRICT OF COLUMBIA PRETRIAL SERVICES AGENCY

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2556.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2556) entitled "An Act to change the name of the District of Columbia Bail Agency", do pass with the following amendments:

Strike out all after the enacting clause, and insert:

That (a) the text of section 23–1301 of title 23, District of Columbia Code, is amended by striking out "District of Columbia Bail Agency" and inserting in lieu thereof "District of Columbia Pretrial Services Agency".

(b) The heading of such section is amended to read as follows:

"§ 23–1301. District of Columbia Pretrial Services Agency".

SEC. 2. (a) The heading of subchapter I of chapter 13 of title 23, District of Columbia Code, is amended to read as follows:

"SUBCHAPTER I.—DISTRICT OF COLUMBIA PRETRIAL SERVICES AGENCY"

(b) The item relating to subchapter I in the table of sections at the beginning of such chapter is amended to read as follows:

"Subchapter I—District of Columbia Pretrial Services Agency".

(d) The heading of such chapter is in such table is amended to read as follows: "23–1301. District of Columbia Pretrial Services Agency.".

(d) The heading of such chapter is amended to read as follows:

"CHAPTER 13.—PRETRIAL SERVICES AGENCY AND PRETRIAL DETENTION".

(e) The item relating to chapter 13 in the table of chapters at the beginning of such title is amended to read as follows:

"13. Pretrial Services Agency and Pretrial Detention---------- 23–1301".

SEC. 3. Any reference in any law, rule, regulation, document, or record of the United States or the District of Columbia to the District of Columbia Bail Agency shall be deemed to be a reference to the District of Columbia Pretrial Services Agency.

Amend the title so as to read: "An Act to change the name of the District of Columbia Bail Agency to the District of Columbia Pretrial Services Agency.".

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate agree to the House amendments en bloc.

The motion was agreed to.

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

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

The motion to lay on the table was agreed to.

DISTRICT OF COLUMBIA RECIPROCAL TAX COLLECTION 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. 1103.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1103) entitled "An Act to permit States the reciprocal right to sue in the Superior Court of the District of Columbia to recover taxes due the State", do pass with the following amendments:

Strike out all after the enacting clause, and insert:

That this Act may be cited as the "District of Columbia Reciprocal Tax Collection Act".

SEC. 2. (a) Any State, acting through its lawfully authorized officials, shall have the right to sue in the Superior Court of the District of Columbia to recover any tax lawfully due and owing to it in any case in which such reciprocal right is accorded to the District of Columbia by such State, whether such right is granted by statutory authority or as a matter of comity.

(b) The certificate of the secretary of state, or of any other authorized official, of such State, or any subdivision thereof, to the effect that the official instituting a suit authorized under subsection (a) for collection of taxes in the Superior Court of the District of Columbia has the authority to institute such suit and collect such taxes shall be conclusive proof of such authority.

SEC. 3. (a) In any State, or any subdivision thereof, in which the District of Columbia is authorized under the laws of such State to bring suit for the purpose of recovering taxes lawfully due and owing the District of Columbia, the Corporation Council is authorized to bring such suit in the name of the District of Columbia in the courts of such State, or any subdivision thereof.

(b) In connection with any such suit, the Mayor of the District of Columbia is authorized to secure professional and other services at such rates as may be usual and customary for such services in the jurisdiction involved.

SEC. 4. For purposes of this Act:

(1) The term "taxes" means—

(A) any tax assessment lawfully made, whether based upon a return or any other disclosure of the taxpayer or upon the information and belief of the taxing authority involved;

(B) any penalty lawfully imposed pursuant to any law, ordinance, or regulation which imposes a tax; or

(C) any interest charge lawfully added to the tax liability which constitutes the subject of any suit brought under section 2 or 3.

(2) The term "State" means any of the several States, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

Amend the title so as to read: "An Act to permit any State the reciprocal right to sue in the Superior Court of the District of Columbia to recover taxes due such State.".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent the Senate agree to the House amendments en bloc.

The PRESIDING OFFICER (Mr. NUNN). Is there objection?

Without objection, it is so ordered.

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

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

The motion to lay on the table was agreed to.

ORDER TO EXTEND ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the period for the transaction of routine morning business be extended for not to exceed 1 hour, and that Senators may speak up to 30 minutes therein, if they wish.

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

Mr. MOYNIHAN. I am most appreciative, Mr. President.

The PRESIDING OFFICER. The Senator from New York.

U.N. COMMITTEE ON DECOLONIZATION CONDEMNS UNITED STATES-PUERTO RICO RELATIONS

Mr. MOYNIHAN. Mr. President, I rise to report to the Senate the somber and disagreeable news that the Committee on Decolonization, as it is known, of the General Assembly of the United Nations voted last evening 10 votes to 0, with 12 abstentions and 2 absentees voted—to condemn, in effect, the relationships between the United States and the Commonwealth of Puerto Rico. The committee, in effect, called for the immediate transfer of power, as it is put in the third article of the resolution, to the people of the territory by the Government of the United States; that is, it called for the separation of our two peoples.

This is a blow to the American feeling that our relations with the totalitarian world, and what is commonly known as the Third World, have somehow changed and been bettered in the course of recent years, in consequence of the very serious efforts of the President, the Secretary of State, and Permanent Representatives of the United Nations to bring about such a betterment.

It scarcely could be questioned that the United States has made such a good faith effort, and at times has gone to embarrassing lengths to do so. We now have been summarily informed of this decision. What little success we have had in changing any attitudes, save to worsen them, save to make our enemies more arrogant and those in between more concerned and perplexed. Our adversaries have no fear of insulting the fact of our democracy, of misrepresenting the most open and public of truths about our relations with the peoples of Puerto Rico, and to do so in the face of the solemn statement by the President of the United States that what the United Nations Committee has now said is not so.

The most recent event of this kind came when the Soviet Union chose to prosecute and to condemn and to imprison as a U.S. spy—as a spy of a foreign nation—a Soviet citizen whom the President of the United States specifically had said was not a spy. It was an act calculated with great effort. This most recent act was not less calculated. Only, I am sorry to say, it was not as well reported.

Mr. President, I am obliged by the traditions of the Senate to declare what is, in a sense, my own interest in this matter. I was the U.S. Permanent Representative to the United Nations in 1975, at a time the totalitarian Government of Cuba proceeded to attack the democratic Government of the United States for maintaining a colonial relationship with the peoples of Puerto Rico.

The Cuban resolution was brought up by its Stalinist ambassador between bouts of denying that there were any political prisoners in Cuba and releasing them for the delectation of visiting congressional delegations. (Why are there never any political prisoners in Cuba until a U.S. congressional delegation shows up to have some released? This is an amazing phenomenon to me.)

At that time, at my request, the Secretary of State sent a diplomatic note to the ambassador of the Decolonization Committee, as it is called, saying that we would consider it an unfriendly act to vote for the Cuban resolution. An unfriendly act in the language of diplomatic exchange is a very serious term. It is only to be exceeded by a hostile act.

In the aftermath of that note, the resolution was defeated by a vote of 11 noes, 9 yeas, and 2 abstentions.

The Government of Tanzania made a great stir about it in subsequent years; it published our note in its press, and expressed indignation that we could presume to ask it not to interfere in our internal affairs. One can imagine how the Government of Tanzania would feel if we suddenly revived an interest in the independence of Zanzibar—but we leave that aside.

The fact is that the United States said, "This is an internal matter, and we will not have an internal matter of our democracy kicked about by the dictatorships which dominate this committee, at the behest of one of the most brutal of all those dictatorships, the so-called Republic of Cuba."

Well, a number of years have passed; and this time, after long debate, the committee has acted once again. Last night, Mr. President, the Cuban dictator achieved his objective. The United States has been condemned by the Committee on Decolonization of the United Nations. And who chose to stand with us? What nation in the world chose to stand with us? Remember, just 3 years ago, 11 stood up and said, "No." What nation chose to stand with us? Not one. Not one nation chose to associate itself with the United States and thus to incur the displeasure of Cuba.

Listen to the names of the nations that voted to condemn us: Afghanistan, Bulgaria, China, Cuba, Czechoslovakia, Ethiopia, Iraq, Syria, Tanzania, and the Soviet Union.

In the Freedom House listing on the condition of freedom of the world, of those 10 countries, not one is listed as free; 9 are listed as absolutely not free; and only Syria, by some curious arrangement, is listed as partly free.

Nine dictatorships have condemned the free and democratic relationship of the United States with Puerto Rico. And where was Tanzania, whose President, Mr. Nyerere—that smiling dictator—came to this country last year, and who was feted at the White House and was told what a gentleman he is? It is said that the prisoners whom Mr. Nyerere keeps for Swapo are in perhaps more agreeable prisons than those in which they might otherwise find themselves.

But what have we now to confirm Mr. Nyerere's professions of friendship for us, and understanding? He sides with the dictatorship, as indeed he might; such is the political condition of his own country.

And what of those who abstained? Afghanistan evidently is now openly in the Soviet camp. China, which is forever telling us of the alarm we should feel about the aggressive intentions of the Soviet Union, sides with the Soviet Union.

Where are the countries that will not even stand up and tell them, "No"? Australia? It is heartbreaking. Three years ago, the Australians led the fight on our behalf in this committee, and a brilliant Australian representative carried the day.

India? How disappointing that our fellow democracy should not see this in the terms in which we present it and not make any effort to speak for us.

Yugoslavia? Let them come crawling for military aid, economic help, and God knows what to save their skins, the next time the Soviets start leering at them.

I recall very distinctly, one day in 1975—after the vote was taken and Yugoslavia had abstained—saying to the Yugoslavian Ambassador, on a social occasion, a luncheon, "We regard this as an internal matter. The Puerto Ricans are American citizens, just as New Yorkers and Vermonters and Hawaiians and Californians are."

I said to him, "How would you feel if we were suddenly to introduce in the United Nations a resolution about the right to separate and immediate independence for the people of Croatia?"

Well, he would not like it one bit. He turned several shades of purple. The next day, the U.S. Ambassador in Belgrade was called in and was asked what the U.S. Permanent Representative had meant by this statement. It was not a formal statement at all, just an informal statement at a social occasion.

Mr. HAYAKAWA. Mr. President, will the Senator yield for a question?

Mr. MOYNIHAN. I yield.

Mr. HAYAKAWA. I am very grateful to my learned friend, the distinguished Senator from New York, for informing us of this action of the Decolonization Committee of the United Nations. It is a piece of news that I had not heard. It distresses me enormously to learn of it.

However, since the Senator from New York has been Ambassador to the United Nations, I wonder if he would be kind enough to explain to me what an abstention means. I understand that there were 10 votes for the liberation of Puerto Rico.

Mr. MOYNIHAN. Exactly.

Mr. HAYAKAWA. And 12 abstentions. Why do not these 12 countries have the nerve to say "No," instead of abstaining? I have wondered about this in United Nations votes. There are abstentions, a refusal to take a position, which becomes, in effect, an invitation to totalitarian nations to drop over all the rest of us. I would like that explained.

Mr. MOYNIHAN. May I respond?

Mr. HAYAKAWA. Please. I wish that explained.

Mr. MOYNIHAN. I shall tell the Senator what abstention means in a moment.

A representative of a Communist dictatorship stands up before a committee and says that the people of Puerto Rico have been conquered and are ruled by the imperialist power of the United States, and then the Governor of Puerto Rico, the Honorable Carlos Romero Barcelo, comes before that Committee and says the following:

> The Puerto Rico of today is still not especially wealthy We are not mighty. Our people do not live in total internal harmony. Nevertheless, ladies and gentlemen, we do enjoy individually and collectively the basic human rights which define a free society. And believe me, the people of Puerto Rico appreciate with every fiber of their being how rare and how precious a blessing freedom is.
>
> Moreover, we know why we are free. We know we are free precisely because we are natural born citizens of the freest and most open and most culturally diverse nation in the history of mankind, the United States of America.

We are free because we are part of the freest and most culturally diverse Nation in the history of mankind, the United States of America.

And to the dictators of Russia, China, Yugoslavia, and Cuba who say this is not so, and to the freely elected Governor of Puerto Rico who says it is, to abstain means not to decide one way or the other, not to have the courage to face the clear fact of the democratic condition in Puerto Rico and the Orwellian lies of the totalitarians. It recalls that great speech of John L. Lewis about President Roosevelt:

> It ill behooves one who has supped at labor's table and slept in labor's house to damn with fine impartiality both labor and its adversaries when they are locked in mortal embrace.

It is heartbreaking. It means that Sweden, faced with a Communist ambassador, says one thing about our democracy, and a Governor from our democracy says quite another. And the others say, "I will not choose."

Mr. HAYAKAWA. I thank the Senator from New York.

The Senator from California is still puzzled as to why they should put this much power in the hands of Communist dictatorships. Those nations which do abstain are not themselves Communist dictatorships, are they?

Mr. MOYNIHAN. I will tell the Senator the answer. If you cross the Soviet Union on something like this, you might have trouble and if you cross the United States you will not.

I hope that the American Ambassadors in all 22 of these nations would report to their Foreign Offices tomorrow morning to say, "We are offended. You can say what you want about our foreign policy, you can say all you want about our culture. You can be supportive or dismissive of our intellectual contributions and the attractions of our landscape, but you must not assault the honor of the American democracy and expect to do so with impunity."

They must understand there are things which we care deeply about.

"And you disparage at your peril."

They must be made to understand that there is a cost in saying certain irresponsible things about us—to say we lie when we say we have tried to maintain a democracy. It is not a perfect democracy. Our relationship with Puerto Rico was not ideal as it was settled. I know. The Puerto Ricans themselves are torn between statehood and the commonwealth status. The President of the United States has said they can have either. Puerto Rico arose from imperial times—that brief fling we had in the 1890's. Now it is past. We are not perfect. But we try to be democratic.

Mr. HAYAKAWA. I hate to see, Mr. President, these attacks by Communist dictatorships on the United States being supported, in effect, by the abstentions of many nations which are not Communist dictatorships. They give aid and comfort to those extremists of the right in my own State of California who have such a slogan as "U.S. of the U.N.," and since we do contribute heavily to the expense of that U.N., if the slogan were ever to carry weight because that slogan is so well justified by the actions of those very Communist dictatorships and the abstaining nations, the world itself would be in trouble, would it not?

Mr. MOYNIHAN. Exactly. Let me read the Senator another paragraph.

Mr. HAYAKAWA. Why do we stay in the U.N.?

Mr. MOYNIHAN. We have a responsibility to be there. But that responsibility

is fulfilled only when we take it seriously enough to respond properly.

There are people in the Department of State whose whole approach to this subject is what is called damage limitation, whose understanding of the modern age and the symbols of progress is so weak as to suppose these things do not matter. I do not know what cure there is for that. There are people who come into the administration who feel that we have not been understanding enough of the other dictatorships, who feel that if we showed ourselves to be more friendly to them, they would be more friendly to us.

What have they to show for this? We beat the Cubans 3 years ago. Last night we were beaten by them. We beat them 3 years ago when we said, "This matters to us," and we held. We had our way.

This time we did not.

Listen to this passage; listen to Romero Barcello. He said:

> Should the day come when the people of Puerto Rico were to find themselves oppressed by the United States it would not be necessary for a totalitarian adversary of the United States to bring the matter to the attention of this committee. I can assure you that the freedom-loving people of Puerto Rico would virtually lay siege to this building in their clamor for redress of grievances. I should emphatically add that I myself would not hesitate to stand at the forefront of such a movement.

That is an honest voice. It admits the possibility of such an eventuality, and there is truth in that language. There is nothing but lies in the accusations against us. In the face of those lies, Iran—which God in Heaven knows will be after us in a hurry if they have another 5 days of riots—India, Sweden, and—God what a shame—Australia, say they are impartial. This in the face of lies about us, about democracy, about freedom in the world and its possibilities.

Mr. President, I do not wish to detain the Senate any further except to say I believe it might be useful for the Senate to adopt a resolution on this matter. I would hope, without in any way wishing to harass the Secretary of State, who has many things on his mind, to ask him if it is not the fact that a decent, manly concern for the good opinion of the rest of the world does not require that we protest this action, and in the absence of some acceptable response, that we respond in an appropriate way?

Mr. HAYAKAWA. Mr. President, I would be glad to support the Senator from New York in such a resolution whenever it is appropriate to be brought up.

Mr. MOYNIHAN. I thank my good friend, because he knows how much it matters to me. I thank the Chair and I appreciate the courtesy of the Chamber.

The PRESIDING OFFICER. Is there further morning business?

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

The PRESIDING OFFICER. The clerk will call the roll.

Mr. MOYNIHAN. It is my understanding that the Senator from Montana may wish the floor and, if that is the case, I am happy to yield to the Senator from Montana.

The PRESIDING OFFICER. Will the Senator from California withhold his request?

Mr. HAYAKAWA. By all means.

The PRESIDING OFFICER. Does the Senator from Montana desire to be recognized?

Mr. MELCHER. I do, Mr. President.

The PRESIDING OFFICER. The Senator from Montana.

EFFECTS OF ALASKAN NORTH SLOPE CRUDE OIL AND PRODUCTION AT ELK HILLS NAVAL PETROLEUM RESERVE

Mr. MELCHER. Mr. President, I will be very brief.

The General Accounting Office has finally released the report "Effects of Alaskan North Slope Crude Oil and Production at Elk Hills Naval Petroleum Reserve." The environmental requirements on the west coast as well as refinery configuration requires the importation of the sweet Indonesian crude oil or use of Elk Hills Stevens Zone oil in California refineries. Because of this, North Slope crude oil—which is sour and heavy gravity—will continue to be in surplus supply on the west coast.

The General Accounting Office has reaffirmed their position on the need to move this North Slope crude oil into the northern tier States through a west-east pipeline system. They said:

> We continue to support the position taken in our recent report ("Potential For Deepwater Port Development in the United States," EMD–78–9, April 5, 1978) that assuming the surplus will be long term, the west-east pipeline system is the preferred transportation alternative for surplus North Slope crude oil. In that report, we recommended that the Congress enact legislation to expedite the issuance of required Federal approvals of transportation systems to move surplus crude oil to Northern Tier and other inland states.

The report referred to in that GAO document said last April:

> It is highly unlikely that any of the proposed deepwater port and pipeline systems could be constructed by 1978 and used to move surplus Alaskan crude oil from the West Coast to domestic markets. Assuming the surplus will be long term, the construction of a west-to-east deepwater port and pipeline system would serve the national interest for distributing oil to midwestern and eastern markets.

Northern Tier Pipeline Co. has proposed just such construction from the State of Washington across the Northern Tier States to Minnesota. Their applications for Federal and State permits have been pending for 18 months. Expediting the necessary Federal permits for this 40-inch pipeline is required by one of the energy bills still in conference. Prompt action and passage is necessary on this provision to start to unravel this paradox of too much crude oil on the west coast and the shortage of crude supplies in the northern inland States. Construction of the Northern Tier pipeline will correct the situation by providing movement of up to 900,000 barrels per day of crude oil.

There are, of course, other methods of dealing with this crude surplus situation. We can shut in the production. This would increase our balance-of-payments problem by causing additional imports to replace the shut-in production. We could move the surplus to the east coast by tanker through the canal, or we could exchange the North Slope crude with foreign countries on a barrel-for-barrel basis. The GAO spoke to these alternatives and said:

> Although some believe it is desirable for refiners to install additional desulfurization equipment or to retrofit present equipment, other constraints exist that discourage refiners from making these transitions, i.e., (1) high capital cost and (2) the lack of a market for residual fuel oil on the West Coast.
>
> Short of shutting-in some production, there are alternatives for disposing of North Slope crude oil which is surplus to West Coast refinery requirements. The alternatives include (1) movement by overland pipeline to refineries in the midwest and southwest, (2) movement by tanker through the Panama Canal to refineries in the Gulf and East Coasts, and (3) exchange with foreign countries on a barrel-for-barrel basis. Because the overland pipelines have not been constructed, only options 2 and 3 can be exercised at this time. The administration decided against exchange with foreign countries, and North Slope crude oil surplus to West Coast needs is presently being shipped through the Panama Canal.
>
> Although an exchange with Japan would result in transportation cost savings to the North Slope crude oil owners, these transportation savings may have to be shared with Japanese refiners to induce them into an exchange. DOE estimates the net gain from an exchange, considering transportation costs, crude oil quality adjustments, and import charges, would range from $0.54 to $1.34 per barrel. (See table in app. I on p. 9.)
>
> According to DOE, in July 1977 the administration rejected the option to exchange surplus North Slope crude oil with Japan, despite the estimated transportation savings, for the following reasons:
>
> It was not certain that refiners would pass to consumers much of the transportation cost savings from an exchange.
>
> Temporary approval of exchanges might tend to lessen the incentives of oil companies and various State permitting authorities to proceed expeditiously with the approval and construction of needed west-to-east pipelines.
>
> The belief that allowing exchanges would undermine the administration's efforts to make the public aware of the Nation's domestic energy supply shortage, and the need for conservation of those resources.
>
> We believe that another important consideration is the effect an exchange agreement would have on our security of crude oil supplies. The United States would be giving up domestic supplies for an equalizing share of Japan's imported crude oil supplies. Although it is uncertain which country, or mix of countries, would provide the equalizing share, it is likely that the crude oil would come from either Saudi Arabia or Iran. These countries have contributed over 50 percent of Japan's crude oil imports each year over the last 4 years.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

BENJAMIN SONNENBERG

Mr. MOYNIHAN. Mr. President, if ever there was a life well lived and that might only be regarded as having been fully concluded by a warm, affectionate, and lengthy obituary in the New York Times it was the life of Benjamin Sonnenberg, that rare and incomparable citizen of the city of New York and, by

extension, the world, which he made his own so uniquely and individually.

The New York Times being in recess, I take the liberty, as I know he would wish me to have done, to find some sufficiently ingenious device of getting it into print.

I ask unanimous consent that the fine obituary of that incomparable man, an obituary by John L. Hess of the New York Times, be printed in the RECORD.

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

BENJAMIN SONNENBERG

(By John L. Hess)

NEW YORK.—Benjamin Sonnenberg, a Russian immigrant who became a legendary press agent and a friend of the rich and famous, died of a heart attack here Wednesday. He was 77 years old.

Following the lead of Ivy Lee, Sonnenberg was one of the great American press agents who imposed their own personalities on the public mind along with those of their clients.

He liked to call himself "a cabinetmaker who fashioned large pedestals for small statues." He was a small figure, round and bald, who made himself conspicuous in any company by his walrus mustache. His dark four-button tailored suits and a rich conversational stream reinforced by the names of famous people and by efigrams he had collected on well-thumbed index cards.

His pedestal has a mansion that Brendan Gill, the drama critic of the New Yorker and the chairman of the Municipal Art Society, has called "surely the greatest private house in New York." The five-story Georgian town house, at 19 Gramercy Park South, and a six-story house adjoining it, are filled with antique silver, brass and furniture, the walls lined with master drawings and paintings, nearly all of museum quality.

Here, several times a week for decades, Sonnenberg entertained a careful mix of industrialists, celebrities and useful media contacts. An elegant dinner would usually be followed by the showing of a new motion picture in the screening room on the top floor.

The decor and the entertainment were central to his public relations, and public relations was his life. He observed that articles about him stressing his way of life did not adequately treat the poverty of his beginnings.

Born in Brest-Litoven, Russia, on July 12, 1901, he immigrated with his family to New York in 1910. He grew up on the lower East Side, where his father sold cheap clothing from a stand in Grant Street. He graduated from DeWitt Clinton High School, worked and for a time lived at the Henry Street Settlement, spent a year at Columbia College on a scholarship, peddled door to door in the Middle West and worked briefly as a reporter on The Flint (Mich.) Daily Journal.

After returning to New York in 1921, Sonnenberg got a job at the Joint Distribution Committee, which led to an assignment with an American relief mission in Turkey and the Ukraine. Paradoxically, the contrast of his own relatively affluent situation there with the mass poverty around him appears to have determined his course from then on.

He came home in 1923 with little money but an elegant Continental wardrobe. He dabbled in writing and in acting, then drifted into freelance press agentry for nightclubs and theaters. In 1924, he married a Henry Street Settlement worker, Hilda Caplan. Their honeymoon, he said, was a 50-cent Chinese lunch, after which both returned to work.

Sonnenberg entered the big time with an engagement to publicize the new Fifth Avenue Hotel in 1926. He and his clients, who soon included other major hotels, found that the key to prominent play in the press was to promote the presence of newsworthy guests, paying or otherwise.

A great early coup was his mounting of a sort of parade up Broadway for Trader Horn, a peddler in Africa whose ghost-written memoirs became a best seller.

Ely Culbertson was another early client. Sonnenberg asserted that he had "sold" contract bridge as newsworthy to an editor of the New York Times, who first objected that "he play poker here" but who finally arranged for a telegraph line to the Waldorf-Astoria Hotel to report on a Culbertson match.

Adding the Hotel George V in Paris to his string, Sonnenberg became a friend and promoter of Prince Georges Matchabelli, the perfume seller, and through him Bergdorf Goodman and the Grand Duchess Marie of Russia, who came to work for the store.

In 1950, a New Yorker profile of Sonnenberg by his friend Geoffrey T. Hellman recounted that he soon found that he could make far more money representing a few big corporations and their chiefs than by promoting many smaller clients. He winnowed out his clientele accordingly.

Among the companies he enlisted were Lever Brothers, Lipton Tea, Squibb, Pan American World Airways, Sperry, Beech-Nut, CBS, Federated Department Stores and Philip Morris. Among the tycoons were Robert Lehman, Wild Bill Donovan, Samuel Goldwyn, David O. Selznick, Thomas Corcoran, William S. Paley and Albert Lasher.

A former employee of Sonnenberg's described his technique with admiration.

"Ben was capable of leading people to the mountaintop," he said, "Like getting an advance copy of a cover story in Time magazine that he hadn't had anything to do with. He'd send copies around with those big cards of his and a note, 'I thought you might be interested in this.' He wouldn't claim credit for it.

"A client of ours was the late John I. Snider of United States Industries. I remember arranging a dinner at Ben's for a few top editors. The point was to introduce John Snider. He did a hell of a job for him. He made him the principal spokesman for industrial responsibility toward workers displaced by automation. He was invited to address the AFL–CIO.

"I got up some great ads for United States Industries, but Ben just dropped them on the floor. He thought up the ad about 'the billion-dollar boards' listing the clout of the directors. It flattered the ego of every member of the board. That's the lesson I learned from Ben: The biggest factor is corporate ego."

Sonnenberg himself liked to recall that Samuel Goldwyn came to him with the reputation of "Mr. Malaprop," the butt of many a joke about Hollywood illiteracy. "I spent half a dozen years with Sam Goldwyn," Sonnenberg said. "When I got through, he lectured at Oxford."

A client who became a long and close friend was Robert Lerman. Together, they collected art, the banker buying works of great price, the press agent acquiring fine, fine master drawings and prints and antiques. Sonnenberg was fascinated by personalities of talent or high birth, and most of the pictures he collected are portraits of them. A brilliant selection was shown in 1971 at the Pierpont Morgan Library. Sonnenberg was an active benefactor of that institution, the New York Public Library and the Institute of Fine Arts.

His closest friends were writers and art collectors. Often, they urged him to write his memoirs. "I don't know how to write," he replied. "There's a differing between a gag and an essay."

Sonnenberg saw himself as the last of an old school of press agents. "It's a skill that has now been vulgarized and standardized," he said. "It's now done by machine. There's not a literate man in the business." One of his former assistants agreed. "We're all the poorer for it," he said. Mrs. Sonnenberg, who helped her husband in a self-effacing manner for more than half a century, survives, with their daughter, Helen, their son, Benjamin 2d, and six grandchildren.

COSMOPOLITANS FROM INDIA

Mr. MOYNIHAN. Mr. President, in the past decade, significant numbers of people from India have come to the United States. They have become an increasingly important element in our national life, for our country continues to benefit from their contributions to the arts, the sciences, business, and other professions. This is a significant development in American history, and not merely because immigrants from India are repeating a pattern of earlier settlers here. In fact, each national group brings to America its own heritage, its own particular ways of thinking and feeling, such that its encounter with American life produces new and interesting consequences.

This presents a challenge to sociologists, political scientists, and historians. It is a subject worthy of scholarly investigation. Accordingly, I wish to call attention to an article by Parmatma Saran, a promising assistant professor of sociology at Baruch College of the City University of New York. Professor Saran's examination of the Indian community of the Greater New York area is especially insightful. I ask unanimous consent that the article be printed in the RECORD.

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

THE NEW IMMIGRANT WAVE: COSMOPOLITANS FROM INDIA

(By Parmatma Saran)

Some of the most moving documents in American history are those based upon immigrants' descriptions of their experiences after arriving in the United States. These documents were derived from an earlier wave of migration, primarily from Europe.

However, migration is not an historical process no longer relevant to the United States. With recent changes in the immigration laws and political and economic difficulties in many parts of the world, the flow of migrants to the United States, and in particular to the New York metropolitan area, has reemerged as a major social process. To allow this process to go unnoticed is to disregard a major event in contemporary American society.

There is an established body of theoretical and substantive writing about older immigrant groups (Italians, Jews, Irish, and so on), but there is also a concomitant lack of ethnographic data available about newer immigrants—especially East Indians. While some work is done on Indian immigrants in Great Britain, the West Indies, and Africa, there is none so far in the United States.

EMERGING NEW COMMUNITY

New York City has always had a small population of Indians (graduate students at various universities, people working for the Indian consulate and other official agencies, Air India, the United Nations, and similar organizations). However, this population has been transitory. Now, for the first time, there is evidence suggesting that a permanent In-

dian residential community is developing in the city.

As indicated above, the small Indian population in the city was transitory, scattered, and did not constitute a community in the functional sense. Starting in 1969 or 1970, because of the change in the immigration laws, scores of Indians came with their families to live and earn a living in this country. A large number of these immigrants live in and around New York City. They generally live in certain localities; this proximity allows close contact and constant interaction. The largest number of Indians are concentrated in Queens. Many of these newer immigrants live in Queens and the Bronx. It is estimated that close to 30,000 Indians are living in the tristate area.

In the last two years a clear trend has been evidenced among Indian immigrants. A good proportion of these immigrants are buying houses and moving to different places generally within fifty miles of New York City. The largest portion of them have moved to New Jersey, some to Westchester, and some to Long Island. However, the majority of this population still remains in Queens.

The Literary Guild of India (a local cultural and literary organization) recently published *India Guide* which gives a good deal of information about Indians and their varied activities in the city of New York. All these enterprises flourish because of the large Indian community—which is still growing. Another important indication of the growing Indian community is a directory of Indian immigrants published in 1975 in New York. Even though this directory includes Indians from all over the United States and Canada, it shows clearly that the heaviest concentration of Indians is in the New York metropolitan area. The directory also includes lists of Indian stores and businesses and generally gives the same figures as those of *India Guide*.

OCCUPATIONAL STRUCTURE AND ASSIMILATION

The East Indians who have come to the United States as immigrants starting in 1968–69 tend to be between the ages of 30 and 40. Those who come as students and then change their status to permanent residents are in most cases below 30 years of age. The majority of them come from middle-class backgrounds and lived in urban sectors. At least 90 percent of them have college degrees or professional diplomas. Wives, however, do not have the same educational background. In most cases they have some college education.

It must be pointed out that because of the immigration laws, Indians who come here are professionals or at least skilled people. The largest number of these immigrants are engineers and physicians; among other professionals are professors, accountants, and businessmen. In many cases wives and adult children also work. Some Indians are in skilled or semiskilled jobs. By these occupational indices the Indian community can be distinguished from many other ethnic groups in New York City. The average family income is above $15,000 per annum.

The profile of Indian immigrants provides an interesting phenomenon in the context of their structural assimilation. Perhaps because of their educational background, it is much easier for them to fit into the structural part of American society. For example, their earnings are high and they own property and live well. Gradually, through their organizational strength, they are also trying to exert themselves politically.

Their cultural assimilation, however, is minimal. A look at the Indian community clearly suggests that there is a strong desire to maintain its cultural heritage. The notion of ethnicity remains strong and is perceived as desirable.

Patterns of Indians' adaptations to their new environment encompass two arenas, social and psychobiological. The former includes family, religion, economics, education, and politics; the latter includes mental health, health-related issues, child-rearing practices, and food habits. We can look at each of these points in turn.

SOCIAL ADAPTATION: FAMILY

A large number of the Indians who migrate to the United States do not belong to joint-families. Even those who belong to a joint-family in most cases lived independently in India. Therefore, coming to the United States and living in a nuclear family does not pose any serious problems for Indians. However, a lack of primary group relationship and community support does create a sense of alienation for them. In order to examine patterns of adaptation of Indians in the context of the family, we should focus on patterns of relationship between spouses and patterns of relationship between children and parents.

In a traditional society like India—where family structure is essentially patriarchal, marriages are arranged, and the husband is the breadwinner—the supremacy of husbands generally prevailed. The wife remained contented with supervising household activities, maintaining close ties with the husband's family and relatives as well as her own relatives, and also found herself busy with neighbors and friends within the community. This in most cases contributed to a loving and stable relationship between husbands and wives.

After coming to the United States, both husbands and wives, especially wives, find themselves in a different environment. Many things which had kept wives busy and contented in India are simply not present in the new environment. This leads to a search for jobs on the part of wives, most of whom find some sort of employment. As a result of change in the status of wives, their roles also change. They simply are not able to keep up with the household work and care for husbands as they had done in India.

Husbands on their part find that their jobs are more taxing and demanding, coupled with long hours of commuting. At the same time, there is no community and social support for them. Their wives' economic independence also poses some concern and threat. These are some factors responsible for creating strain in the relationship pattern of husbands and wives. However, their early socialization, very strong commitment to marriage and the family, and greater tolerance helps them deal with the new realities of life. With some exceptions (almost negligible) the relationship between husbands and wives remains amicable, and they are reasonably successful in maintaining stable relationships.

As we look into the patterns of relationships between children and parents, we find that these are not so smooth and often create serious confrontations. This is more apparent in those families where children have attained the age of 14 or 15. Parents want to maintain the traditional authority structure in their families and often ignore the fact that the child's socialization is highly influenced by the environment outside the family. Children also fail to understand why they should act as their parents want them to rather than as their peers do. In this case peer group influence is more dominant than the family influence.

Children also face a major identity crisis and find it very difficult to preserve their Indianness. As a result, the relationship between parents and children deteriorates. Because of the excessive love and affection for their children and perhaps better understanding on the part of mothers, and also the fact that in most of the families children are much younger (that is, below 10), the situation remains under control. However, there are some incidents which result in a complete breakdown of relationships and remain explosive.

RELIGION

One of the questions raised in the study of Indian immigrants is what happens to Hinduism and the religiosity of Hindus as they migrate to this country. There are many ways of looking at this phenomenon; one is to focus on both the formal and informal religious behavior of Hindu migrants.

There are at least five or six temples in the Queens, New York area alone. One of them, Hindu Temple, has a large membership and has been able to raise over $1 million for the construction of a new temple. People go to these temples in large numbers on weekends (especially Sundays) to join in services and offer their prayers.

Many social and cultural organizations are very particular about observing religious festivals, and see this as a good strategy to attract more people and increase their membership. There is a committee based in New York which draws more than 10,000 people to celebrate Durga-puja (the festival of the goddess Durga). The Sikh Gurudwara also draws large numbers of people during their annual feast.

On an individual level Indians also remain religious. Their religiosity does not decline in any way because of Western influences. To the contrary: there are more religious activities in many families than in India. In certain communities organizing private services at homes by inviting a priest and friends to participate is more frequent than in India. Priests are at a premium. It seems that religion and religious activity are perceived as very important aspects of life for Indian immigrants, and it is likely that they will grow even stronger.

ECONOMICS

We have already seen that the majority of Indians are professionals, or at least skilled. Consequently, they are able to find reasonably good jobs in their respective professions and have good incomes.

In terms of their economic behavior, they retain their traditional values and greatly emphasize saving. Their patterns of leisure activities center around family and friends; their standard of living is good but relatively low (compared to their American counterparts), which helps them a great deal in accumulating money over a short period of time. They are also property oriented, which has resulted in the purchase of property.

It is very clear that economically the Indian immigrants are successful. However, because of their value system, in many ways they are in an advantageous position which places them in a unique economic status. This population in terms of economic behavior and its economic strength is comparable to Jewish immigrants.

EDUCATION

In the sphere of education, too, Indians find themselves in an advantageous position. Even though the majority of them come with college degrees or professional qualifications, as soon as they settle down they go to American schools to enhance their qualifications. Since they have no language problem they do not face any serious handicap in the educational system here. They do face some difficulties, though because of their British educational background and their cultural values—which are quite distinct from those of the American system.

Children of these immigrants are also doing well in schools. Some of them have received New York Regents awards and various other scholarships. However, in some quarters there is doubt about their continued success because of the influence of

external factors. As they assimilate in the new society, they become more independent and act more in terms of their own values rather than the family tradition which is very strong in India. However, there are not sufficient data to give a clear picture at this time.

POLITICS

Considering the total Indian population in the United States, the number of Indian organizations is overwhelming. In the New York City area itself there are more than one hundred organizations. The majority are regional organizations, but a few represent the larger community—that is, they are based neither on language, region, or religion. All of them claim to be nonpolitical. However, a close look at these organizations indicates that there is a clear recognition on the part of the leadership that these organizations are vital in order to have some influence in politics in this country.

The Association of Indians in America, which is considered to be broad based and professionally oriented, is trying to obtain a reclassification of Indians as "Asian-Indians" for the 1980 census. Presently Indians are classified as "Caucasians." The implication of this reclassification is that Indians will be eligible for "minority status" and also qualify for equal opportunity employment.

While many Indians privately concede that they would feel somewhat uncomfortable with the new "minority status," they also agree that the practical advantages outweigh this disadvantage. It is clear then that Indians are quite aware of the politics of a pluralistic society, are quite eager to exert strength as a pressure group, and increasingly are proving it by their deeds. However, it should be noted that only about 10 or 15 percent of Indian immigrants have become American citizens. In many informal interviews respondents have revealed that they are faced with the dilemma of changing citizenship. However, since barely 50 percent of them qualify to become citizens, it would be premature to make any judgment on this issue at this time.

PSYCHOBIOLOGICAL ADAPTATIONS: MENTAL HEALTH

Various studies have shown that there is some relationship between migration and mental disorder. Compared to the previous immigrant groups studied—such as Norwegians in Minnesota, Puerto Ricans in New York, West Indians in the United Kingdom, and various other European groups—the case of the East Indians is very different because of their distinct sociocultural background, coupled with their educational and economic status. However, it is clear that Indians too feel the strain of a highly competitive and impersonal way of life, even though they have close contacts within the Indian community. There are a few cases of divorce, mental illness, suicide, and similar pathologies.

Even though the Indian community is recent and small, it is very well organized and has developed organizations, institutional mechanisms, and a social network which provides tremendous social support and helps its members meet the crises that they confront in a new cultural setting. However, it should be pointed out that the level of tolerance is also very high, and the Indian community attaches a strong stigma to those who have psychological problems. As a result, the incidence of psychological problems reported by Indians is very small or nonexistent. The time factor involved, however, is short and does not really provide substantial data at this stage to suggest any future trends.

HEALTH-RELATED ISSUES

In an earlier study A.V.N. Sarma and I investigated the change of ecology and social environment and its effect on a small population of Indian students and physicians working in the New York City area. One of the most significant findings from an ecological point of view was an increase in the number of episodes of upper respiratory tract diseases associated with urban as well as congested neighborhoods.

A large number of Indian immigrants today are satisfied with the medical care they receive in the United States. However, they are divided insofar as preference for a doctor is concerned. Some feel that they have cultural and communication problems with American doctors; even more consult Indian medical friends before seeking professional help in case of illness. An overwhelming majority are more health conscious here than they were in India. They also go for periodic medical checkups.

CHILD-REARING PRACTICES

As we look at the profile of Indian immigrants, we find that there is some variation in terms of their patterns of adaptation and assimilation into American society.

Observation of Indian families reveals that to a great extent parents translated their own values in raising their children. The most prevalent assumption among Indian immigrants is that the first six or seven years of a human being's life are the most important in the making of the personality. Therefore, if the child-rearing practices center around traditional Indian values, the child is more likely to identify with those elements and maintain his Indian identity. However, while early experience does have a great impact on the child's personality and self-image, environmental factors outside the family have an equally important influence.

I have already indicated that children are often faced with this dilemma and sometimes respect those values which are transmitted by their parents. This area warrants closer observation to test certain hypotheses in the area of child-rearing practices of Indian immigrants. One thing, however, is clear: it is not easy for the parents to find a middle ground which is satisfactory to them and acceptable or desirable from the point of view of their children.

FOOD HABITS

Like their American counterparts, Indians also basically eat three meals a day. However, they do not eat as much for breakfast and lunch, but generally eat an elaborate, large dinner. A good number of the immigrants still have their evening tea with snacks, and therefore eat dinner usually after 8:00 P.M.

The majority of these Indians are nonvegetarians, but some—especially among the women—do not eat beef. Even those who are not vegetarians do not eat large portions of meat, and in some cases do not eat meat on a daily basis. For the most part they eat little for breakfast, and lunch is generally eaten out. Dinner is the most important meal of all and includes rice, bread, vegetables, meat, and salad. There is some variation because of regional backgrounds, but the main difference is that those who are vegetarians have additional items such as some yogurt preparation, tensils, and so on. Tea remains the most popular beverage, but some prefer coffee. Most of the Indians drink alcohol socially, but their consumption of alcoholic beverages, even on social occasions, is very small.

On the whole, the food habits of Indian immigrants have not changed much. Those who have come since 1969 have not found any difficulty in buying Indian groceries, spices, and the like, and they have therefore maintained their eating patterns. Children, however, are more exposed to American food and often prefer it.

LEISURE-TIME ACTIVITIES

Patterns of leisure-time activities for the Indian community center around friends and family. The pattern of visiting friends on weekends, without prior engagement, was common during the earlier phase of immigration (1969–72); however, it no longer is. People now generally make plans for the weekend and invite friends specifically for dinner or lunch. Meeting friends along with family for dinner or lunch remains the most important leisure activity.

Shopping on weekends also takes a good portion of leisure time. Even if they do not have much necessary shopping to do, wives often look for bargains. In recent times going to Indian movies on weekends is perhaps the most popular thing to do. Many Indian singers, dancers, and comedians are frequently visiting cities in the United States, and this seems to be catching the fancy of the Indian immigrants.

Eating out and going to Broadway plays or concerts is prevalent only among a very small proportion of the Indian immigrants. Participation in the activities of various organizations seems to be growing and is prevalent among most Indians irrespective of level of assimilation in American society.

INDIAN SUBCOMMUNITIES

It is interesting to note that religious, regional, linguistic, and caste factors still play an important role in the lives of the Indians living here. Indeed, subcommunities are built along these very lines.

As the community grows in size and complexity, Indians associate more and more with people of their own region, caste, and language. Thus the larger social network, also to a great extent, evolves along these lines. The emergence of regional associations strongly suggests that the regional associations serve the purpose of maintaining a separate Indian identity, plus providing a setting for meeting people coming from the same region who also speak the same language.

SOCIAL NETWORK AND IDENTITY MAINTENANCE

In most cases studies of ethnic groups clearly involve the study of networks. This approach is particularly applicable in the case of Indian immigrants living in New York City. The emergence of a large number of organizations, grocery stores, restaurants, movie showings, centers of cultural activities, temples, and similar activities and its relationship and meaning to the Indian community provide an interesting example of how these networks operate and serve as a means of identity maintenance.

Members of a given organization very often become personal friends and develop social contacts with one another. As a result, they establish a pattern of relationships with each other and develop a network system. Upon examination of many activities, both formal and informal, within the Indian community, we find that there exists a social network. Not all members would necessarily be part of a network, but most of them are. In regional associations especially networks are stronger and more prevalent.

These networks also develop informally. The owner of a grocery store or a travel agent or an insurance agent has direct contact with many members of the community and often serves as a link between those who themselves lack direct contact, and hence can support and maintain their identities through such networks.

FORMAL ORGANIZATION, INFORMAL ACTIVITIES

Beyond the problem of finding jobs and settling down, members of any immigrant group face a psychological crisis as a consequence of migrating, and that is the identity crisis. On the surface, it appears that various organizations within the Indian community have come into being for the purpose of organizing social, cultural, and religious functions. In fact, this is quite true. However, it goes beyond this and results in the maintenance of boundaries and identities.

There is a large number of organizations within the Indian community. When members of these organizations meet formally they are, of course, very conscious of their heritage and take a sense of pride in being part of these groups, which perhaps gives them great psychological satisfaction. Even when they meet informally, conversations very often center around these organizations. They have become very important in the lives of their members.

Many young Indians now attending college, whose parents emigrated much earlier than the new immigrants, have always identified with blacks and Spanish groups; that has been their identity. Since there were no Indian organizations when they were growing up, they never participated in any. As a result, they do not necessarily identify with Indians.

POLICYMAKING GUIDELINES

An examination of the Indian community in New York City gives many insights and provides a new direction in the study of ethnics, their patterns of adaptation, and processes of assimilation. Unlike older immigrant groups, structural assimilation for Indians is relatively smooth. Their behavior patterns and attitudes also suggest a strong sense of ethnicity and its desirability, and a growing support for cultural pluralism. A comparative study of the new immigrants—that is, East Indians, West Indians, Pakistanis, Filipinos, Vietnamese—is warranted to help scholars and administrators understand the implications of the new immigration and provide guidelines for policymaking.

SPECIAL ORDERS FOR TOMORROW

Mr. ROBERT C. BYRD. Mr. President, are there any orders for the recognition of Senators on tomorrow?

The PRESIDING OFFICER. There are two special orders for 15 minutes each for Senator KENNEDY and Senator CHURCH.

ORDER FOR RECESS TO 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 9:30 tomorrow morning.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

ORDER TO RESUME CONSIDERATION OF THE CONFERENCE REPORT ON NATURAL GAS PRICING ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of the orders for the recognition of Senators tomorrow morning, the Senate resume its consideration of the conference report on natural gas pricing.

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

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. MOYNIHAN. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until the hour of 9:30 o'clock tomorrow morning.

The motion was agreed to; and at 6:35 p.m., the Senate recessed until tomorrow, Thursday, September 14, 1978, at 9:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 13, 1978:

CIVIL AERONAUTICS BOARD

Gloria Schaffer, of Connecticut, to be a member of the Civil Aeronautics Board for the remainder of the term expiring December 31, 1978.

Gloria Schaffer, of Connecticut, to be a member of the Civil Aeronautics Board for the term of 6 years expiring December 31, 1984.

AMBASSADOR

Edith Huntington Jones Dobelle, of Massachusetts, for the rank of Ambassador during her tenure of service as Chief of Protocol for the White House.

DEPARTMENT OF STATE

William H. Luers, of Illinois, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Venezuela.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

HOUSE OF REPRESENTATIVES—*Wednesday, September 13, 1978*

The House met at 10 o'clock a.m.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

In him who strengthens me I am able for anything.—Philippians 4: 13 (Moffatt).

Eternal Father, as we enter a new day and face the tasks ahead of us we come to Thee seeking the assurance of Thy presence and the guidance of Thy Spirit. We humbly acknowledge that we are concerned about the work that needs to be done. We are tempted to feel that we are not strong enough for the difficulties that trouble us, the differences that concern us, and the disagreements that worry us.

Grant unto us a faith great enough to lift the heavy burden of anxiety from our hearts, great enough to make us adequate for our tasks, and great enough to be truehearted and wholehearted, faithful and loyal in all our endeavors. With Thee may we walk worthily with firm faith and steady spirit, unashamed and unafraid. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 13087. An act to authorize the issuance of substitute Treasury checks without undertakings of indemnity, except as the Secretary of the Treasury may require.

The message also announced that the Senate disagrees to the amendments of the House to a bill of the Senate of the following title:

S. 1566. An act to amend title 18, United States Code, to authorize applications for a court order approving the use of electronic surveillance to obtain foreign intelligence information.

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 7010. An act to provide for grants to States for the payment of compensation to persons injured by certain criminal acts and omissions, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 7010) entitled "An act to provide for grants to States for the payment of compensation to persons injured by certain criminal acts and omissions, and for other purposes," request a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. KENNEDY, Mr. BAYH, Mr. BIDEN, Mr. METZENBAUM, Mrs. HUMPHREY, Mr. THURMOND, Mr. HATCH, and Mr. WALLOP to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 2376. An act to authorize withholding from salaries disbursed by the Secretary of the Senate and certain employees under the jurisdiction of the Architect of the Capitol for contribution to certain charitable organizations; and

S. 3002. An act to modify a portion of the south boundary of the Salt River Pima-Maricopa Indian Reservation in Arizona, and for other purposes.

The message also announced that Mr. Clement J. Sobotka, Jr., was appointed to the Board of Trustees of the American Folklife Center, effective January 3, 1979, for the remainder of the term which expires March 1982.