SENATE—*Wednesday, March 22, 1978*

The Senate met at 9:30 a.m., on the expiration of the recess, in executive session, 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:

Almighty God, Father of all mercies, we, Thine unworthy servants, do give Thee most humble and hearty thanks for all Thy goodness and loving kindness to us, and to all men. We bless Thee for our creation, preservation, and all the blessings of this life; but above all, for Thine inestimable love in the redemption of the world by our Lord Jesus Christ; for the means of grace and the hope of glory. And we beseech Thee, give us that due sense of all Thy mercies, that our hearts may be unfeignedly thankful, and that we may show forth Thy praise, not only with our lips, but in our lives; by giving up our lives to Thy service, and by walking before Thee in holiness and righteousness all our days; through Jesus Christ our Lord, to whom with Thee and the Holy Spirit be all honor and glory, world without end. Amen.

Almighty God, who has given us grace at this time with one accord to make our common supplications unto Thee; and dost promise that where two or three are gathered together in Thy name Thou wilt grant their requests; fulfill now, O Lord, the desires and petitions of Thy servants as may be most expedient for them; granting us in this world knowledge of Thy truth, and in the world to come life everlasting. Amen.

—Common Prayer.

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., March 22, 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 Senator from West Virginia.

THE JOURNAL

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

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

SPECIAL ORDERS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Tennessee (Mr. BAKER) is recognized, as in legislative session, for not to exceed 15 minutes.

Mr. BAKER. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. BAKER. Mr. President, does the order provide for recognition to speak as in legislative session?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. BAKER. Mr. President, is special permission or unanimous consent required to introduce a bill during the course of this time?

The ACTING PRESIDENT pro tempore. Yes, unanimous consent is required.

Mr. BAKER. I thank the Chair.

Mr. President, I ask unanimous consent that I may be recognized at this time for the purpose of introducing a bill.

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

The Senator from Tennessee is recognized.

S. 2777—JOB OPPORTUNITIES AND FAMILY SECURITY ACT OF 1978

Mr. BAKER. Mr. President, I send to the desk for appropriate reference a bill introduced on behalf of myself, and Senators BELLMON, RIBICOFF, DANFORTH, MARK O. HATFIELD, STEVENS, and YOUNG, entitled the "Job Opportunities and Family Security Act of 1978."

Mr. President, this legislation represents a collective effort to effect necessary and meaningful reform of the present welfare system. Few, if any, problems have so perplexed the Congress and the country as how to adequately and fairly provide for the genuinely needy among us without encouraging dependence and discouraging work.

The bill which we offer today will not solve that problem once and for all, but it will move us a large step forward at a pace we should proceed and a cost we can afford. Though some of the cosponsors of this measure may differ as to what constitutes the ideal welfare system, we all share the view that welfare reform is essential and that it should be enacted this year. We are disturbed by the growing prospect that reform will not be achieved because of the cost and complexity of the administration's proposal. It is for that reason, and others, that we drafted this legislation.

The goals of our welfare reform alternative may be summarized as follows: To increase family stability; to reduce the current inconsistencies among the eligibility criteria of the respective States; to simplify and streamline the administration of welfare so as to avoid duplication and prevent fraud; to provide substantial fiscal relief to State and local governments; to provide major new incentives for the private sector to hire the hard to employ; and to make it more profitable to work than to collect welfare.

In order to achieve these objectives, our bill would begin by reducing major incentives for fathers to abandon their families. This would be done by mandating coverage of intact families in all States. We would attempt to reduce inconsistencies in eligibility criteria by establishing a national minimum benefit floor and a ceiling on benefits for which Federal matching funds would be available. Also, we would adopt uniform asset limitations and standardized deductions from earned income.

We would provide substantial fiscal relief to State and local governments by increasing the Federal matching share of AFDC costs. We would encourage private sector employment by providing job creation tax credits and wage vouchers targeted at the hard to employ. And we would make private employment more profitable than collecting welfare by expanding the earned income tax credit and returning it to the employee in his weekly or monthly paycheck.

In the process of drafting this legislation, Mr. President, I had the honor and the privilege of working with distinguished colleagues on both sides of the aisle:

Senator RIBICOFF, of Connecticut, who possesses such special knowledge and strength in this field and who not only serves as one of our colleagues in the Senate but served as this Nation's first Secretary of Health, Education, and Welfare in the administration of President Kennedy;

Senator BELLMON, of Oklahoma, the distinguished ranking Republican on the Senate Budget Committee who recognizes that few aspects of our effort to rationalize and bring coherence to the welfare system in the United States are more important than the budget impact and its effect on other governmental activities;

And Senator DANFORTH, of Missouri, who has shown such compassion and concern for the underprivileged, the underemployed, and the unemployed and who has brought such distinction to his State, to this body, and to himself in

his first full year of service in the Senate.

These and others have worked, Mr. President. in formulating this measure. I am particularly privileged, to have this opportunity to offer on behalf of all of us, this package, not because it is a perfect answer to the welfare challenge, but because I think it is the best we can do at this time and marks a significant step forward in the process of trying to improve the welfare system.

Mr. RIBICOFF. Mr. President, I am pleased to join with my colleagues Senators BAKER, BELLMON, and DANFORTH, in introducing a welfare reform proposal today. Welfare reform has been a difficult and controversial issue over many, many years. The question of how to help the Nation's poor has generated much discussion but few solutions. The bill we are introducing today is not the final answer to poverty in America, but it is a step forward.

This bill represents a moderate incremental approach. As long as the choices in welfare reform are all or nothing, we will get nothing. However, I do not believe that we should sacrifice another generation of people while we wait for the perfect answer. This legislation will not solve all our problems, but it will improve the operation of a welfare system and the situation of the Nation's poor.

We can all recite what is wrong with our current system. Today we have scattered administration of overlapping and sometimes inconsistent programs. In half of our States we push a father out of the home before we aid his family. We do little to provide meaningful job training or work experience. Too often work does not pay. Benefits vary widely from State to State. And some of our localities are straining under the financial burden.

This bill solves some of the problems in our current nonsystem and lessens others. In this legislation we expand the AFDC-unemployed parents program nationwide into a family security program which provides aid to poor families with children without forcing the unemployed father to desert his family. Mandating AFDC–UP in every State does not increase the fiscal burdens on these States because our bill also provides for an increased Federal match.

Mr. President, I was Secretary of HEW when the AFDC program was first expanded to two-parent families where the father was unemployed. In 1961 we could only get that program on a short-term trial basis. In 1962 I recommended its extension for 5 more years. The program has remained in existence at State option ever since. Times change; we learn from our experiences. Now I believe the country is ready to aid all poor families without forcing them to split up.

Our proposed family security program improves AFDC in other ways. While FSP/AFDC-UP would remain a State-administered program, eligibility criteria and the earned income disregard would be standardized. A national minimum benefit reaching 65 percent of the nonfarm poverty level in 1985 is phased in. At the same time consistency would be encouraged by the establishment of a ceiling of 100 percent of the poverty level on payments for which Federal matching would be available.

Poverty is a national—not a State or local—problem and a national responsibility. This legislation recognizes that fact by increasing the Federal matching rate. This increased match would provide substantial fiscal relief to State and local governments. The design of the increase also provides an incentive for States—many of which have surpluses—to relieve hard-pressed localities of the non-Federal share of costs.

Today the earned income tax credit is our major aid and encouragement to the working poor. This credit in effect rebates to our lowest paid workers their payroll taxes. This is significant because for these workers, payroll taxes are a much greater burden than income taxes. Our bill broadens the earned income tax credit by increasing it from 10 to 15 percent and extending it to the poverty line. Since the earned income tax credit would not be available for subsidized public service jobs, work in the private sector or in regular public jobs would remain more profitable for the employee.

The legislation retains universal coverage for food stamps but allows States the option of cashing them out for the SSI population.

Our bill enlarges the emergency assistance programs of the States and increases flexibility in the use of emergency assistance funds.

The legislation also reduces the SSI age 1 year at a time until it reaches age 62 in 1982.

Today we do too little to link the poor, the inexperienced, and the poorly trained to our regular job market. Public service employment is important. However, it should not be used just to hire those who could find work anyway. Portions of CETA must be targeted to the long-term hard-core unemployed. Our bill does not deal with the countercyclical function of CETA, but it does require some targeted CETA jobs. Most jobs in our economy are in the private sector. We must look there for jobs. WIN can be improved. Those registrants without experience in basic job search and job retention skills must be given those skills. Just pointing a man who has lost hope to a want-ad does not get him a job. State employment agencies have links into the private job market which have not traditionally been used to benefit the poor and the hard to employ. We must use those services.

Many private employers are reluctant to take a chance on the long-term unemployed or recipients of public assistance. Our bill provides some incentive to employers in the form of either a $1 per hour job voucher or $1 per hour tax credit. The employer chooses. Eligible employees are AFDC recipients, those unemployed for 26 weeks, unemployed youth and former CETA public service employment job holders who have sought work unsuccessfully. Employers must pay the prevailing wage and may not displace full-cost workers. In designing these options we have tried to cut out much of the redtape and other problems which discourage employer participation without eliminating protections against abuse. The programs are designed to encourage private employer involvement without Government intervention in the workplace or labor-management contracts.

Our goal is to put people to work. It is better and cheaper to do so for $1 per hour in the private sector than for $3 per hour in a public service job.

Mr. President, this bill is not perfect. If it became law tomorrow, our problems would not be over. But our situation and the situation of our Nation's poor would be better than it is today. And this bill costs under $9 billion as compared to $20 billion for the President's proposal.

I have always believed in moving step by step and in experimenting. This legislation provides authority for statewide pilot tests of a number of different "next steps" such as: complete cash-out of food stamps; consolidated, federalized approaches similar to the administration plan; block grants to States with State flexibility in program design; and one-stop service centers. This bill also provides for a national commission to review the legislation and its effects at the end of 4 years.

Mr. President, poverty is the overhead in the operation of our society—welfare is the cost of our failures. As long as the choices in welfare reform are all or nothing, we will get nothing. Eight years ago we tried and failed to make major improvements in our welfare system. We cannot sacrifice another group of people while we wait for the perfect answer. Let us take a big step forward this year.

I want to pay special tribute to the Senator from Tennessee (Mr. BAKER) and the Senator from Oklahoma (Mr. BELLMON), and the Senator from Missouri (Mr. DANFORTH) for the work on this legislation. The major concept was that of Senator BAKER and Senator BELLMON. When they talked with me about their thoughts and ideas, I was very much intrigued. It seemed to me that, in the work that they had put together, they really approached a new concept which Presidents had worked on and failed; Secretaries of HEW had worked on and failed, and many Members of the legislative bodies had worked on and failed. I have had some discussion about the Baker bill with other Senators and members of the executive branch. Frankly, they have expressed some doubt that from the other side of the aisle could come such a welfare reform package. I have said that, from my experience as Secretary and in this body, unless we get a welfare program that cuts across different philosophical thinking and across party lines, we are not going to get welfare reform. We shall talk about it; we shall argue about it; there will be much heat about it, but no bill will see the light of day.

I do not know whether this one will or not. But for the first time, there is

the possibility of doing something about welfare. I think, having reviewed all welfare proposals, that it is the best one I have seen. It has really been a privilege to work with Senators BAKER, BELLMON, and DANFORTH and their staffs. Ms. Susan Irving of my staff, who has been deeply involved in all welfare and social programs that come across my desk, has worked very closely with the staffs of the other Senators.

I think it is important to realize that there has been complete openness to ideas and changes on the part of Senators BAKER, BELLMON, and DANFORTH. We recognize and realize that this is not the final bill. We know that when it goes through hearings, there will be refinements. I am sure that Senator BAKER, as well as I, will be more than pleased to welcome any constructive changes. Our basic objective is to try to solve the welfare mess. It is a mess; it is expensive; it is debilitating. And we must have a constructive approach. I cannot be too high in my praise of the Senator from Tennessee and the Senator from Oklahoma for what they have achieved.

Somehow, if we are going to have a welfare bill in this session or the next, my prediction is that it will be built around the Baker-Bellmon proposal. So I am proud to join with my colleagues in cosponsoring this legislation.

Mr. President, I ask unanimous consent that a summary of the bill appear at the conclusion of all introductory remarks by the sponsors of this legislation and just before the section-by-section analysis of this bill.

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

(See exhibit 1.)

Mr. BAKER. Will the Senator yield to me for just a moment?

Mr. RIBICOFF. I am pleased to yield to the Senator from Tennessee.

Mr. BAKER. Mr. President, I thank the distinguished Senator from Connecticut, not only for his report and for his comments just made, but for his extensive assistance in conceptualizing this program and designing the structure of legislative language that has now been introduced. I believe no one in the Senate, indeed, no one in the country, has a sounder knowledge of this problem than the distinguished Senator from Connecticut. I never cease to be amazed by the breadth of his vision and the depth of his knowledge, and I am pleased to be associated with him in this endeavor.

The PRESIDING OFFICER. Under the previous order, the Senator from Missouri (Mr. DANFORTH) is recognized as in legislative session for not to exceed 15 minutes.

Mr. DANFORTH. Mr. President, I am happy to join as a cosponsor of the job opportunities and family security bill. I am honored to participate in this effort with such distinguished Members of the Senate as Senators BAKER, BELLMON, and RIBICOFF.

The welfare reform bill being introduced today does not attempt to turn the welfare system upside down. Although there is some intellectual appeal in sweeping away everything from the past and starting over with a new, comprehensive program, the people who receive welfare are not intellectual concepts but very real people—the poorest in our Nation—with very real problems and needs. We must be careful that any reforms we make do not just look good on paper, but actually work. Therefore, our proposal does not throw away the old system, but makes critically needed and long called-for reforms in the context of that system.

The proposed plan removes many of the inequities in our existing welfare system. It provides for the first time a nationwide minimum benefit. This guarantees that every welfare recipient will have enough income with which to live, without regard to where he or she resides. The provision for a uniform, nationwide assets test assures that welfare is available to all those who are identically situated throughout the Nation.

The bill also corrects the anti-family bias which presently exists in our welfare system. By mandating welfare coverage for families irrespective of the presence of two parents, the bill reduces the incentive for poor families either to separate or to engage in legal deception.

Perhaps most importantly, the bill provides real job opportunities for those on welfare who are able to work. Rather than depend on a greatly expanded program of public service jobs, our proposal sets forth an ambitious set of incentives for private employers to hire welfare recipients, the long-term unemployed, and unemployed teenagers. At the same time, the bill increases the earned income tax credit so that those who are able to find work have real financial incentives for accepting that work.

And, the bill provides substantial fiscal relief to States and local governments, enabling those governments to use their scarce resources to tackle other, pressing local problems.

We are not holding the bill out as a cure-all for all problems in the welfare system. The bill provides for pilot testing of a variety of alternative approaches to the present welfare programs, including a complete cash out of food stamps, a consolidation of the Federal welfare programs, along the lines of the administration's plan, and the provision of no-strings attached block grants to States. In that way, we will have real experience to measure the value of these alternatives.

In enacting welfare legislation, I believe we must always remember that there are very real people across our Nation who need economic assistance. Our goal must be to improve the assistance that those people receive in a manner which does not disrupt their lives and which does not create new, unforeseen problems.

The bill being introduced today takes a careful, reasoned approach which builds on the current programs to create a much improved and fairer system of benefits for those truly in need.

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

Mr. BAKER. Will the Senator withhold that for just a moment?

Mr. DANFORTH. Yes.

Mr. BAKER. If the Senator will yield to me, I rise only to reiterate my statement of appreciation to the Senator from Missouri. He and his staff assistants have been extremely helpful in negotiating many of the difficult provisions of this bill in its formulation. I want very much again to pay my respects to him and express my appreciation for his valuable assistance.

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

Mr. ROBERT C. BYRD. Mr. President, may I ask the distinguished minority leader out of whose time this will come?

I ask the question because Senator BENTSEN has 5 minutes and I do not want it to prejudice him.

Mr. BAKER. Mr. President, I might say, as I understand it, there are 45 minutes in the aggregate for these three speeches and there are about 15 minutes, I would judge, left of that.

Is that not correct?

The ACTING PRESIDENT pro tempore. The Senator from Missouri has 10 minutes remaining. There was a total of 35 minutes.

Mr. BAKER. I am sorry.

If it is suitable to the Senator from Missouri, then I suggest the absence of a quorum out of his remaining time.

Mr. DANFORTH. Yes. That is suitable to me.

The ACTING PRESIDENT pro tempore. The Senator has such time, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BELLMON. 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.

Mr. BELLMON. Mr. President, I want to begin by thanking Senators RIBICOFF, BAKER, and DANFORTH for their comments.

The ACTING PRESIDENT pro tempore. The Chair would inquire as to who yields time.

Mr. DANFORTH. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. DANFORTH. How much time do I have remaining?

The ACTING PRESIDENT pro tempore. The Senator has 8 minutes remaining.

Mr. DANFORTH. I am happy to yield all of that 8 minutes to the Senator from Oklahoma.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma.

Mr. BELLMON. Mr. President, I am not sure 8 minutes is enough. Does the Senator from Tennessee have remaining time?

Mr. ROBERT C. BYRD. Mr. President,

I suggest the Senator proceed. If he needs more time, we will try to get it.

Mr. BELLMON. I thank my friend from Missouri and my friend from West Virginia.

Mr. President, I thank Senator RIBICOFF and Senator BAKER for their comments and for the opportunity to work with them and their staffs in developing the proposed Job Opportunities and Family Security Act.

I am delighted to join my colleagues today in introducing the Job Opportunities and Family Security Act of 1978. This bill offers the Congress a carefully targeted, workable set of changes to our present welfare programs. It will make substantial improvements in the Nation's welfare system at reasonable cost.

There can be no doubt, Mr. President, that there are significant problems in the public welfare system in this country. I commend President Carter for putting welfare reform on the front burner for congressional consideration. It is my personal belief, however, that in presenting the administration's welfare proposals, President Carter and Secretary Califano have overstated the difficulty of dealing with the problems which exist. There are indeed inequities in current welfare benefits; there is poor management in some aspects of the programs; and insufficient priority is placed on work as an alternative to welfare. But in many of our States, including my State of Oklahoma, we have effective administration and humanitarian responsiveness to the problems of low-income people.

The bill we introduce today starts with the assumption that we can and should build on the strengths and correct the weaknesses in current programs. While there may be theoretical merit in the program consolidation approach President Carter recommends, the risks of unforeseen effects, as well as the high costs, make congressional approval of the President's plan in the foreseeable future highly unlikely.

Mr. President, that is the basic reason for this new approach.

We ought not to put the country through another experience of the type the family assistance program proposal produced in the early 1970's. In that instance, after 3 years of debate, the country was left with the old programs for providing assistance to families, despite a lot of rhetoric about how bad the programs were. In other words, instead of remedying defects in those programs, Congress and the administration struggled for 3 years over replacement of the programs and eventually failed to take any decisive action. That same thing could happen again if we focus our attention only on the administration's so-called comprehensive reform plan.

The bill we introduce today will make substantial improvements in the major problem areas identified by those who are trying to sell the Carter proposals: It will reduce discrepancies between States in payment of benefits. It will cover poor families where the father is present, as well as single-parent families in all States. It will provide cash benefits to people between 62 and 65 who are now ineligible for such benefits. It will enable States to choose whether to have the Federal Government replace food stamps with cash for low income elderly, blind, and disabled persons.

Our bill provides greatly increased work opportunities for welfare recipients and others who are in or on the verge of falling into welfare dependency. These opportunities are provided through a mix of wage subsidies for private jobs, strengthened work search requirements, and carefully-targeted public service jobs.

Mr. President, few issues related to our current welfare programs bother the average citizen as much as the perception that Government fails to make every reasonable effort to make sure welfare recipients who can work do in fact work. Enactment of our bill will provide work opportunities in private businesses and industries and governmental institutions for nearly a million people who would otherwise be totally dependent on public assistance.

Our bill will reduce food stamp costs by 8 percent and will help a million families who would otherwise be dependent leave welfare completely. This is indeed a "job opportunities" as well as a "family security" proposal as the title indicates. It offers real progress in breaking the cycle of welfare dependency and the constantly growing costs of welfare programs.

One of the most troublesome problems this country has encountered is in developing a responsible, workable system for providing essential food, shelter, medical care, and other necessities to the unfortunate members of our society who for one reason or another cannot care for themselves. The efforts to meet this responsibility over the years have resulted in the development of a maze of so-called welfare programs which have grown increasingly costly and which threaten to create in our society a subclass of professional welfare recipients who have little hope of, or in some cases little desire to become self-supporting.

In my experience in government, many attempts have been to "reform" the Nation's welfare system. In practically every case, these reforms have simply meant liberalizing the system and, in spite of their good intentions, have not succeeded in devising a system of helping our less fortunate citizens to help themselves. I sincerely believe this proposal makes major strides in the directions we should go. It puts major emphasis on putting people to work in private sector jobs. It will cause future welfare costs to drop as the cycle of dependency is broken for increasing numbers of families.

This proposal does not pretend to resolve all of the problems which surround the welfare system. But it does deal with the major problems in precise, understandable, workable, and cost-effective ways.

Mr. President, the Congressional Budget Office has analyzed the major components of this bill. I believe this is the first major welfare reform bill that has been exposed to this type of analysis as it was being developed. I ask unanimous consent that a copy of CBO's report, a memo from Robert Fulton of my staff commenting on the report, and a letter from me to Alice Rivlin requesting further analysis on the complete bill be printed in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Within objection, it is so ordered. (See exhibit 2.)

Mr. BELLMON. Mr. President, based on CBO's work, we estimate the added costs of our proposals over the costs of operating the present programs to be in the range of $8 billion in fiscal year 1982, the first year in which all of the changes would be in effect. Between now and fiscal year 1982 costs would increase gradually as different aspects of the program are phased in, starting with less than a billion added costs in fiscal year 1979.

Mr. President, CBO estimates that the Carter welfare bill would cost the Federal Government over $17 billion in fiscal year 1982 as originally introduced, and over $20 billion as amended by the special subcommittee in the House. So, the Baker-Bellmon-Ribicoff-Danforth plan can be implemented at less than half the cost of the Carter plan.

Mr. President, since I came to the Senate, in 1969, Federal costs for public welfare have risen by more than 500 percent. We have not succeeded with that added spending in making much of a dent in the cycle of dependency. I am convinced the proposal we now lay before the Senate will result in permanent improvement in a set of problems that are of great concern to our citizens.

My colleagues and I recognize that our bill can be improved. We are, therefore, anxious to work with other Members of Congress, with representatives of State and local governments, with the Carter administration, and with everyone else who is interested in welfare reform in further improving this bill. We have already had considerable contact with State and local officials and organizations representing them as we developed this bill. As an illustration of the views of some of these officials, I ask unanimous consent to have printed in the RECORD, at the conclusion of my remarks, a statement on our proposal prepared by former HEW Secretary Wilbur Cohen and endorsed by several State welfare officials who have studied our plan.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibit 3.)

Mr. BELLMON. Mr. President, I feel that this is an important bill and that those who have worked on it so hard, both the Members of the Senate and members of our staffs, have made an extremely important contribution to the effort of cleaning up the Nation's welfare system and putting in place a program that will help people to break the welfare cycle and become self-supporting and contributing citizens in our society.

I urge the proper committee of the Senate to give this bill immediate and very careful attention, because I believe they will find that it offers a solution to the many problems which have plagued our Government for many decades.

I am pleased to be associated with

those who have brought this bill to the Senate for introduction this morning.

Mr. President, I ask unanimous consent to have printed in the RECORD a section-by-section description of the bill.

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

(See exhibit 4.)

EXHIBIT I

SUMMARY OF JOB OPPORTUNITIES AND FAMILY SECURITY PROGRAM

I. FAMILY SECURITY PROGRAM

Mandate AFDC-Unemployed Parent program in all states with some changes:

(1) unemployment is defined as the equivalent of 130 hours times the federal minimum wage;

(2) initial eligibility is based on the lower of the state payment standard (see below) or definition in (1);

(3) exit from program if exceed either of:

(i) State payment standard, applied to total family income with earned income disregard; or

(ii) 130 times federal minimum wage, without earned income disregard, for 2 successive months.

Minimum need standard: 55% of the nonfarm poverty level in 1981; 60% in 1982, and 65% in 1985.

Value of food stamps added to cash payment to calculate total value of assistance.

No Federal match for payments above 100% of nonfarm poverty line.

SSI resource (assets) limits used in AFDC.

States may have up to three area differentials in payment/need standards—all must be within parameters defined above.

Earned income disregard standardized at $60 plus ⅓ plus actual child care expenses (maximum child care of $100 per child or $300 per family per month). This would increase to $65 (and $110) in FY '83 and to $70 (and $120) in FY '85. If actual work expenses exceeding $60 can be documented by recipient these (up to a maximum additional $60) may be granted instead.

Federal Match:

Gradually increased so that in FY '82 all states would receive match between 80% and 90% unless states did not take over local costs and/or did not reduce error rate.

Increases are: 120% of medicaid match in FY '80, 140% in FY '81 and 160% in FY '82. Except that for states at 75% medicaid match and above, match is increased in three equal jumps to 90%.

Third increase in match is conditional on states assuming entire non-federal share, and administrative responsibilities.

Final FY '82 match is reduced by up to one percentage point for every percent dollar error rate over 4%; maximum reduction of 5%.

Match must be passed through if localities are required to pay any part of cost.

II. FOSTER CARE/SUBSIDIZED ADOPTIONS

Revises Federal funding for foster care and creates new program of Federal support for subsidized adoptions.

Federal matching for adoption subsidies paid to adoptive parents of hard-to-place children, provided family incomes are under 115% of the state median. (Higher income limits permitted in exceptional cases.)

Medicaid coverage for conditions existing at time of adoption or, at state option, full Medicaid coverage.

Federal matching for foster care in public institutions housing less than 25 children.

III. AGE LIMIT FOR SSI

The age limit for eligibility for aid to the elderly under the Supplemental Security Income (SSI) program lowered from 65 to 64 in 1980, to 63 in 1981, and 62 in 1982.

IV. JOBS

A. Private sector:

Employers are offered the option of a tax credit or wage vouchers for one year. Value of either is $1 per hour for hiring an eligible employee for between 30 and 40 hours per week without displacing unsubsidized employees.

Eligible employees are:

(1) If they have unsuccessfully sought work for 90 days; AFDC recipients; people unemployed for 26 weeks and unemployed youth (high school graduates or at least 18 years old).

(2) If they have unsuccessfully sought work for 30 days: former CETA public service job holders who have completed CETA assignment.

The Governor designates a state agency to administer these programs. It may be the state employment agency.

Voucher program requires that employees are hired for between 30 and 40 hours per week at the prevailing wage.

Eligible persons are certified and have a document to show prospective employers. The employer reports the number of hours worked; voucher is validated by the state agency and redeemed through a bank.

Jobs tax credit requires hours of employment to be 102% of total employment in previous year. No employer may receive more than $100,000 in credits in one year.

B. Work incentive program (WIN):

The Governor's control over WIN is increased and he/she is given authority to designate the agency or agencies to administer WIN. The program is converted to an appropriated entitlement.

Job search is required but services to aid in job search and job retention are authorized.

The earned income disregard is applied to WIN public service employment. In-kind services are allowed. Penalty for failure to certify 15% of mandatory registrants is eliminated. Current 13-week limit on work experience assignments is increased to 26 weeks.

C. Public service jobs:

The bill addresses only a portion of CETA. It does not deal with the general countercyclical issue, but only with the existence of public service jobs for target recipients. Needed public service jobs to allow targeting on these participants is estimated at 375,000.

V. AID TO WORKING POOR

Earned income tax credit is expanded and changed:

Increased from 10 percent to 15 percent with coverage extended up to the poverty line (rather than current $4000); phaseout begins at income equal to non-farm poverty level and is at 20 percent;

Credit is paid on an "as earned" basis through reverse withholding;

Credit is not available for subsidized public service employment (WIN or CETA);

Eliminates requirement that worker must be at least 50 percent self-supporting to get EITC.

Emergency assistance:

Repeals current limit on emergency assistance grants which prohibits recipients from getting emergency assistance for a maximum of 30 days in any one year.

Increases authorization to $150 million. This would be in block grants to the states according to the state's share of the AFDC population.

Grants can be used for disaster, temporary and continuing assistance to individuals and families not eligible for AFDC or whose AFDC payment does not meet emergency needs.

(As currently, this will be separate from any steps taken to benefit victims of major disasters such as statewide floods, etc.)

Food stamps:

The only changes in food stamps are the state option to cash-out food stamps for the SSI population and the demonstration projects on broader cash-out.

VI. PILOT TESTS AND EXPERIMENTS

The legislation authorizes the appropriation of such sums as are necessary to conduct pilot tests or demonstrations of various future steps. Specific examples would be:

(1) Cash-out food stamps for AFDC households and/or for households not receiving public assistance.

(2) Consolidated, federalized welfare similar to program proposed by President Carter.

(3) Block grant approaches: States receive Federal block grants and have full flexibility to set eligibility, rules, and benefit levels for cash assistance, food stamps, Medicaid, and social service programs.

(4) "One-stop" service centers at which recipients fill out single application for cash assistance and related benefits and services to which they are entitled.

VII. EVALUATION OF POSSIBLE FUTURE CHANGES

The bill creates a National Commission on Public Assistance to make a three-year study of welfare programs, including the changes made by this bill. The Commission is to submit recommendations for further improvement of these programs.

EXHIBIT 2

U.S. SENATE,
Washington, D.C., March 22, 1978.

Dr. ALICE M. RIVLIN,
Director, Congressional Budget Office, Washington, D.C.

DEAR ALICE: Thank you very much for your letter of March 21 providing CBO's analysis of the preliminary specifications for the welfare reform proposal develoepd by my staff in conjunction with Senator Baker's staff and others.

Your report is a very thorough assessment of our proposal as it stood at the time we sent our specifications to you. As your letter and the report note, our bill, which is being introduced today, differs in several important respects from the specifications which CBO analyzed. The enclosed staff memo from Bob Fulton to me discusses some of the elements CBO did not address in its analytical work on our proposal.

In addition to further study of the cost implications of our bill for fiscal year 1982, the first full year most of the provisions would be in effect, I would greatly appreciate CBO's taking a longer range look at the effects on welfare costs of the various elements of our bill. In particular, I would like to know the longer-range budgetary impact of increasing numbers of welfare recipients getting private sector jobs. Specifically, what would be the budgetary impact by 1987 of removing 500,000 people per year from welfare rolls and putting them on payrolls?

Now that we have the final bill completed, I ask that CBO provide as soon as possible an updated cost-analysis on the complete bill, taking particular account of the provisions which were not addressed in your initial report.

Thank you very much.

Sincerely,

HENRY BELLMON.

Enclosure.

U.S. SENATE,
March 22, 1978.

To: Senator Bellmon.
From: Robert Fulton.
Subject: CBO estimates on Baker-Bellmon-Ribicoff-Danforth welfare reform proposal.

The attached letter and report from the Congressional Budget Office have been prepared in response to your request of last November for a cost analysis of major components of the welfare reform proposal on

which Senators Baker, Ribicoff and Danforth are now co-authors and which several other Senators are now co-sponsoring.

You will note that the "bottom line" in the CBO report is that the features of our plan analyzed by CBO would add $9.33 billion to Federal welfare costs in FY 1982 (over the cost of existing programs) and would reduce state/local costs by $3.05 billion, with a net increase in cost to all levels of governments of $6.28 billion. The following table compares the CBO cost estimates for the Carter plan, the Corman Subcommittee revisions of the Carter plan and the Baker-Bellmon-Ribicoff-Danforth plan:

	Federal cost	State/local cost	Total cost
Baker-Bellmon-Ribicoff-Danforth	$9.33	($3.03)	$6.28
Carter plan	17.36	(3.42)	13.94
Corman subcommittee	20.22	(2.21)	18.02

No CBO cost estimates have as yet been prepared for the Ullman plan, which has been introduced in the House and which has many features similar to those in our bill.

As you will recall, the "Dear Colleague" letter seeking co-sponsors for our bill included an estimate of $8 billion as the projected cost of our program to the Federal Government. That estimate was based on preliminary and incomplete data received from CBO. It is important to recognize however, that the attached CBO letter and report still do not price out our complete bill. The last two pages of the CBO report list a number of features of our plan that have not been analyzed. Several of these features would reduce costs considerably. There are also features which would increase cost which are also not dealt with in the CBO letter, but I am confident that the decreases will outweigh the increases by a considerable amount.

In addition to features not priced out by CBO, there are some aspects of the CBO estimates which raise questions about the computer model used by CBO in estimating some of the elements of our proposal.

For instance, CBO estimates that nearly $900 million of the $3.2 billion in benefits under our earned income tax credit (EITC) would go to families earning more than $15,000 a year. That is highly unlikely, since the earned income tax credit phases out, beginning at the poverty line, at a 20% rate, and we do not increase the credit on the basis of family size beyond a family of seven. This means that the credit will end completely for the largest size family units at about $20,500. A very small portion of the benefits should go to family units, units with incomes above $15,000.

Likewise, the CBO estimate does not take into account one of our key eligibility limitations for families eligible for AFDC benefits on the basis of the unemployment of a parent. This limitation was not in the specifications we originally supplied to CBO. Under our proposal, such families will stay on the rolls only until their earned incomes pass the lower of ¾ times the minimum wage or the state benefit level, whichever is lower. Therefore, it is clear that the $500 million in benefits CBO shows for families with incomes of over $10,000 would not actually be paid out as our bill is actually drafted (approximate Federal share $400 million).

Also CBO notes in its report that it does not take into account revenue increases from added taxes paid by people who have higher incomes as a result of the jobs aspects of our plan. Based on estimates prepared by CBO on the Carter plan, there should be at least 500 million of such offsets.

Finally, CBO's estimates assume that AFDC benefits will average 17% higher under our plan in FY 1982 than they woud be if existing programs remained in effect. CBO does not provide a clear explanation of why this occurs. It is reasonable to conclude that this produces an over-estimate of at least $500 million in our costs.

We can still realistically estimate our plan to cost the Federal government in the neighborhood of $8 billion in FY 1982, calculated as follows:

	Billion
CBO estimate	$9.33
Plus (features not priced by CBO):	
Reduced age limit for SSI	.3
Added WIN funding	.2
Total	9.83
Less:	
Revenue offsets	.5
Reduced EITC	.6
Reduced AFDC-U	.4
Lower increase in AFDC	.5
Net Federal costs	7.83

I recommend we continue to use the "approximately $8 billion cost" in discussing our bill, pending a further analysis by CBO of the complete bill as introduced. We should ask CBO to give particular attention to the cost factors discussed above.

ROBERT FULTON.

U.S. CONGRESS,
Washington, D.C., March 21, 1978.

Hon. HENRY BELLMON,
U.S. Senate, Washington, D.C.

DEAR SENATOR BELLMON: The enclosed document contains an analysis of the welfare reform specifications you sent to the Congressional Budget Office (CBO). These specifications were outlined in your letters of November 18 and December 12, and in a staff memorandum of March 6. As indicated in the document, these specifications for an incremental welfare reform proposal are not identical to the latest draft legislation you and Senator Baker are developing.

The specifications analyzed by CBO would result in increased welfare costs of $6.28 billion over current policy spending levels in fiscal year 1982. This increased expenditure would consist of an additional $9.33 billion of federal spending and a reduction in state and local welfare expenditures of $3.05 billion.

The specifications CBO analyzed would reduce the number of families in poverty in fiscal year 1982 by 975,000. This would represent a reduction in the incidence of poverty over that resulting from a continuation of current programs from 8.1 percent to 7.0 percent. The specifications CBO examined would result in about 1.8 percent of all families losing more thas $100 in income in fiscal year 1982, while 7.9 percent would gain more than $100. The vast majority of families would be unaffected by the reform specifications.

Finally, the specifications would result in a reduction in the poverty gap or the amount of money required to bring every low-income family up to its poverty threshold income. Compared to current welfare programs, the poverty gap would be reduced by $2.3 billion.

I hope this material is useful to you in your planning. CBO will be happy to provide you additional assistance in your work in this important area.

Best wishes,
Sincerely,

ALICE M. RIVLIN,
Director.

Enclosure.

U.S. CONGRESSIONAL BUDGET OFFICE

ANALYSIS OF SPECIFICATIONS FOR AN INCREMENTAL WELFARE REFORM PROPOSAL

(Developed By Senators Bellmon and Baker, March 17, 1978)

This paper provides the Congressional Budget Office's (CBO) analysis of a set of specifications for an incremental welfare reform proposal developed by the staffs of Senators Bellmon and Baker.[1] The components of this welfare reform proposal are those specified in letters sent from Senator Bellmon to CBO on November 18, and December 12, 1977 and in a staff memorandum dated March 6, 1978. These specifications do not conform exactly to the latest draft legislation entitled "Job Opportunities and Family Security Act of 1978" being developed by Senators Bellmon and Baker. This paper outlines the specific components of the incremental reform proposal, and presents preliminary costs and distributional effects of the reform proposal.

SPECIFICATIONS OF BELLMON-BAKER REFORM PROPOSAL

AFDC and Food Stamps.—The major specifications of the reform proposal consist of changes to a number of existing programs. The proposal would modify earned income disregards in the current AFDC program. The proposal would also establish a national minimum AFDC payment standard.

The AFDC disregard work expense formula would be adjusted to be in agreement with modifications adopted by the Senate Committee on Finance under its Public Assistance Amendments of 1977 (H.R. 7200). Based on H.R. 7200, the monthly earnings disregard would be raised to $60 (currently $30) for families whose earned income—less child care expenses—is less than $360. For families with up to $360 monthly earnings, an additional one-third of earnings would be disregarded. For families whose monthly earnings—less child care expenses—exceeded $360, 20 percent of net earnings would be disregarded.[2] All unearned income would be subtracted from the payment standard.

The minimum AFDC payment standard would be equivalent to an amount which, in combination with food stamps, would result in a basic guarantee equivalent to 60 percent of a family's poverty threshold.[3] For a family of four with zero income in fiscal year 1982, the minimum AFDC standard would be $2,028. At this level of assistance, the family would be eligible for $2,484 of food stamps, bringing its total assistance to $4,512.[4]

In developing the estimates presented in this paper for fiscal year 1982, CBO assumed that the maximum AFDC payment standard for each state in July 1976 would be adjusted annually by changes in the overall Consumer Price Index (CPI). This assumption is subject to some question. If states do not increase payment standards to keep pace with inflation, the estimated AFDC costs presented in this paper may be biased upward. Food stamp benefits, however, would be biased downward.

Between July 1976 and fiscal year 1982, CBO assumed prices would increase by 36.2 percent. Given this rate of increase, only one state (Mississippi) would have an AFDC payment which, in combination with food stamps, would be less than 60 percent of a family's poverty threshold. If a state's AFDC payment standard exceeded the national minimum requirement, CBO's estimates assumed the higher AFDC payment standard.

The proposal would mandate the current AFDC unemployed fathers (AFDC–UF) program nationwide and make all two parent families with children eligible for the program if: (1) their earnings were less than the equivalent of a full-time minimum wage job (estimated to be approximately $6,970 in fiscal year 1982), or (2) their earnings were less than the state's payment standard.

The proposal modifies federal matching rates for AFDC and AFDC–UF costs with the maximum federal match being raised to 90 percent in some states in fiscal year 1982. In states where the current federal matching rate is 50 percent, the maximum would be 80 percent. The federal matching rates would be reduced depending on: (1) the state's

Footnotes at end of article.

AFDC payment error rates, and (2) whether the state continued to maintain local cost sharing and administration of the AFDC program.

Public Service Employment—Job Search.—The proposal would authorize 375,000 full-time public service employment job slots paying $3.85 per hour (approximately 15 percent higher than the minimum wage in fiscal year 1982). Priority for the slots would be given first to AFDC units with unemployed fathers, second to single-parent AFDC units and finally to any family in which the primary earner had been unemployed longer than 26 weeks.

The proposal would require those AFDC recipients defined as employable to engage in job search activities. This provision (the same as that adopted by the Senate Committee on Finance under H.R. 7200) would essentially extend the current Work Incentive Program (WIN) requirements to include a continuing job search. In order to facilitate the new job search requirement, the proposal would require states to provide supportive services such as child care and transportation under a program of federal matching payments.

Private Employment Programs.—The proposal would attempt to encourage private and non-profit employment of welfare recipients through the creation of a new job voucher program. The voucher would provide a $1.00 an hour earnings subsidy to employers for new employees who are: the principle wage earner of an AFDC family, an unemployed youth, a CETA public service employment "graduate" or other persons unemployed longer than 26 weeks. Redemption of the voucher would be through the banking system. The proposal would also create a categorical job tax credit program providing a $1.00 an hour tax credit to a private employer for each hour of employment of an eligible person. A private employer could receive the credit for the same types of persons as those who would be eligible for the job voucher program. An employer could participate in either the tax credit or job voucher program but not both. New employees could qualify the employer for these wage subsidies for no more than one year.

Earned Income Tax Credit and Other.—The proposal would modify the earned income tax credit so that the credit would be equivalent to 15 percent of earnings up to a family's poverty threshold and phased-out at 20 percent thereafter. The proposal calls for an expansion of federal funding of the emergency assistance program from approximately $35 million to $150 million. The proposal would provide states the option of "cashing-out" food stamps for SSI beneficiaries.

Based on discussions with Senator Bellmon's staff, CBO has not included in this preliminary analysis any modifications to the current medicaid program or an expansion of Title XX day care funding.

COST OF SPECIFICATIONS

The specifications analyzed by CBO would cost all levels of government $39.05 billion in fiscal year 1982, $31.64 billion in federal costs and $7.41 billion state and local costs (see Table 1).[5]

TABLE 1.—TOTAL AND NET COST OF BELLMON-BAKER WELFARE REFORM PROPOSAL BY LEVEL OF GOVERNMENT IN FISCAL YEAR 1982

[In billions of dollars][1]

	Federal	State and local	Total
Total costs	31.64	7.41	39.05
Total offsets	22.31	10.46	32.77
Net cost	9.33	(3.05)	6.28

[1] Figures may not add to totals due to rounding.

Footnotes at end of article.

TABLE 2.—DIRECT COST OFFSETS OF BELLMON-BAKER WELFARE REFORM SPECIFICATIONS, BY LEVEL OF GOVERNMENT IN FISCAL YEAR 1982

[In billions of dollars][1]

Program[2]	Federal	State and local	Total
AFDC, AFDC-UF	8.93	7.58	16.50
Food stamps	6.69	.34	7.03
SSI	6.09	2.50	8.59
Emergency assistance	.04	.04	.08
Earned income tax credit	.56		.56
Total cost offsets	22.31	10.46	32.77

[1] Figures may not add to totals due to rounding.

[2] Based on CBO 5-yr current policy projections; "Five-year Projections: Fiscal Years 1979–1983" except the AFDC, SSI, and earned income tax credit estimates which were generated by the basic methodologies used to cost the welfare reform plan. Different methodologies underlie the current policy projections which indicate lower AFDC costs and higher SSI costs for 1982. However, in the aggregate the Federal cost estimated under the different methodologies differ by less than 5 percent.

The programs modified or replaced by the plan would cost all levels of government $32.77 billion in fiscal year 1982. $22.31 billion of this would be federal and $10.46 state and local costs. The details of these offsets are shown in Table 2.

Total costs, therefore, would increase by $6.28 billion in fiscal year 1982 under the specifications analyzed. Net federal costs would increase by $9.33 billion. while state and local governments would experience a decline in net spending of approximately $3.05 billion. These estimates do not include some secondary impacts of the reform proposal, such as increased federal and state tax revenues resulting from increased employment and some reduction in benefit payments in other income tested programs such as general assistance, housing assistance, child nutrition, and unemployment compensation programs. As mentioned earlier, CBO has not analyzed the impact of the proposal on the medicaid program. Some savings might be expected. however, given a net reduction in the AFDC caseload under the proposal.

INDIVIDUAL PROGRAMS

AFDC Programs.—Before taking into consideration the impact of the employment programs, the modifications to the regular AFDC program would increase the total amount of AFDC benefits by approximately $1.06 billion to $15.3 billion in fiscal year 1982. The number of AFDC families participating sometime during the year would decline by 390,000 families from current policy estimates of 4,823,000 families. Though this represents a net reduction in participation, some new families would begin to participate as a result of the proposal. Average AFDC benefits would increase approximately 17 percent over current policy estimates. This increase is attributable primarily to the modifications in the earned income disregard raising it from $30 to $60. This provision would increase the average benefit for the lower income families. Also, by terminating participation for some 390,000 families with high earnings and low benefits, the average benefit of participating units would increase. It should be noted that the current policy estimates provided in this paper for AFDC, SSI and the Earned Income Tax Credit rely on a different methodology than those published in CBO's five-year current policy projections, Five-Year Projections: Fiscal Year 1979–1983.

Before taking into consideration the impact of the employment programs. the AFDC–UF program would be expanded under the reform specifications. Approximately 740,000 families would participate in the AFDC–UF program sometime during the year, up from an estimated 217,000 under current law. Benefits would increase from about $525 million to nearly $1.92 billion under the reformed AFDC–UF program. Average benefits per participating family would increase by about 7 percent. The limitation of work expenses and income disregards, and the extension of program eligibility to families with earnings closer to minimum wage earnings, would result in a smaller increase in average benefits than the increase in benefits of the regular AFDC program.

Because the public service job specifications and the job voucher proposal would be targeted on AFDC and AFDC–UF families, benefits under these latter programs would decline. Based on simulation results, for every one dollar spent in the public service employment programs (targeted on AFDC families), AFDC benefits would decline by 54 cents. Therefore, AFDC benefits would decline by approximately $1.66 billion with a spending level of $3.0 billion in the public service job component of the proposal. Approximately 520,000 AFDC and AFDC–UF families would have their AFDC benefits reduced or terminated as a result of a public service job.

Similarly, based on the assumption (developed by staff of Senators Bellmon and Baker) that 350,000 AFDC or AFDC–UF units would benefit from employment as a result of the job voucher program, and that the average wage paid in the subsidized job would be $3.62 (eight percent more than the minimum wage in 1982), AFDC and AFDC–UF benefits would be reduced by $1.22 billion. Total AFDC and AFDC–UF benefits would be $14.35 billion in 1982 (see Table 3).

Federal-State Matching Rates.—Because the specifications would raise the federal matching rate for states by 30 percentage points, up to a maximum of 90 percent, state costs under the AFDC program would decline. However, all payments above the poverty threshold would be borne by the state if a state's AFDC payment standard plus food stamps for a family with no income exceeded their poverty threshold. Further, states failing to meet specified payment error rate standards would have their federal match lowered as follows:

Error rate:	*Approximate reduction in Federal matching rate (percentage points)*
4% but less than 5%	1
5% but less than 6%	2
6% but less than 7%	3
7% but less than 8%	4
8% or more	5

TABLE 3.—COSTS OF BELLMON-BAKER WELFARE REFORM SPECIFICATIONS, BY LEVEL OF GOVERNMENT IN FISCAL YEAR 1982

[In billions of dollars]

Program category	Federal	State	Total
Benefits:			
AFDC, AFDC-UF[1]	10.61	3.74	14.35
Public service employment	3.00		3.00
Food stamps[2]	5.06		5.06
SSI[3]	5.86	2.16	8.02
Emergency assistance	.15		.15
Earned income tax credit	3.12		3.12
Job voucher[4]	1.04		1.04
Job tax credit[5]			
Total benefits	28.84	5.90	34.74
Administrative costs:[6]			
AFDC, AFDC-UF, emergency assistance	.84	.84	1.68
Public service employment	.90		.90
Food stamps	.43	.27	.70
SSI	.40	.40	.80
Expansion WIN-job search[7]	.09		.09

Footnotes on following page.

TABLE 3.—COSTS OF BELLMON-BAKER WELFARE REFORM SPECIFICATIONS, BY LEVEL OF GOVERNMENT IN FISCAL YEAR 1982

[[In billions of dollars]

Program category	Federal	State	Total
Job voucher	.14	.....	.14
Total administrative	2.80	1.51	4.31
Total costs	31.64	7.41	39.05

[1] Simulation estimates indicate that a weighted average equal to 74 percent of the AFDC and AFDC–UF benefits would be federally funded. Estimates shown include adjustments for the work incentive disregard (currently $30 and ⅓ of additional earnings) for purposes of computing benefits but not for determining eligibility. Including this work incentive disregard for determining eligibility would raise benefit costs by 4.1 percent over estimates shown here. Estimates include adjustment for PSE and job voucher program earnings. Estimate also includes adjustment for quality control penalties on Federal matching rates associated with quality control sanctions).

[2] Includes an estimated $67,000,000 in cash out of food stamp benefits for SSI recipients.

[3] Estimate includes increase in benefits of $67,000,000 from cash out of food stamps.

[4] Estimated cost of the job voucher program based on Mar. 6, 1978, staff memorandum specifying 500,000 full-year, full-time job voucher slots and specific split of types of recipients. Memorandum indicates that the limit and recipient split could be accomplished through specific "capping" provisions in the program.

[5] Employment tax credit provision not estimated.

[6] Administrative costs were assumed to remain the same proporation of program benefits as under existing prereform programs

[7] Based on previous CBO estimate, see S. 95–573, "Public Assistance Amendments of 1977," Committee on Finance, H.R. 7200, Nov. 1, 1977.

The assumptions used in this cost estimate to account for these provisions are detailed in Table A which is attached at the end of this paper. The weighted average federal matching rate of all AFDC benefits, taking into consideration these factors, would be approximately 74 percent in fiscal year 1982. Federal AFDC benefits would be $10.61 billion, state costs would be $3.74 billion.

Public Service Employment.—The specifications call for 375,000 full-time job slots in fiscal 1982. Based on an assumed average wage rate of $3.85 (approximately 15 percent higher than minimum wage in 1982), the costs of the proposal would be $3.0 billion. It was assumed that the administrative costs for these jobs would represent the same proportion of administrative costs to benefits as exist under the Administration's welfare reform proposal—30 percent. Administrative costs of this provision would therefore be $900 million.

Food Stamps.—The food stamp program would not be explicitly modified under the reform proposal, but increased AFDC payments or increased income from employment programs would result in lower food stamp costs. Food stamp benefits would decline by approximately 8 percent ($425 million) from the current policy estimate and reach $5.06 billion in fiscal year 1982 (see Table 3). The number of households participating in the program sometime during the year would decline by 1,265,000 to 8,518,000. The provision which would allow states to cash-out food stamps for SSI benefits would cause food stamp costs to decline by an additional $67 million.[6]

Earned Income Tax Credit (EITC).—Modifications to the current EITC would result in costs of $3.12 billion. An estimated 6,014,000 families would either receive a refundable credit or have their tax liability reduced as a result of this provision in fiscal year 1982. This would be an increase from the 3,426,000 families who would benefit from the current EITC at a cost of about $560 million.

Job Voucher Program—Job Tax Credit.—The job voucher program would be restricted to one per family and the income of the family would have to be 70 percent or less of the BLS lower living standard. The voucher would provide a subsidy of one-dollar per hour for each employee hired under this program. The specifications of the job voucher program appear to provide a substantial inducement to employers ($1.00 per hour subsidy). However, the ability of the program to encourage the hiring of the specified categories of recipients can be questioned based on the disappointing results from the current WIN tax credit program aimed at AFDC recipients. Furthermore, in a previous analysis of employment subsidies, CBO has noted that the more narrowly defined the target category, the larger the administrative cost and the higher the subsidy will probably have to be to induce firms to participate.[7]

Using assumptions provided by Senator Bellmon's staff, the estimated gross cost of the voucher program would be $1.04 billion in 1982.[8] Administrative costs of the voucher program were estimated to be $144 million. Offsetting these increased costs would be a reduction in AFDC benefits of approximately $1.22 billion as indicated above. The net cost to the federal government of the job voucher program, then, would be a savings of $4 million.

No estimates have been developed for the impact of the job tax credit proposal. Assumptions as to the participating firms' marginal tax brackets must be developed in order to estimate revenue losses associated with the provision. A somewhat similar tax credit proposal introduced by Senator Baker in the last Congress (S. 731) was estimated by his staff to result in a revenue loss of $1.9 billion in fiscal year 1979. Offsetting the revenue loss would be a reduction in AFDC-UF benefits. These have not been estimated.

DISTRIBUTIONAL IMPACTS OF PROVISIONS[9]

Incidence of Poverty.—The provisions analyzed by CBO would result in a decline in the number of poor families in fiscal year 1982. Under the current program 7.1 million families (8.1 percent of all families) would be classified as poor. Based on the provisions analyzed by CBO, 6.1 million families (7.0 percent of all families) would be classified as poor (see Table 4).

TABLE 4.—FAMILIES IN POSTTAX, POSTTRANSFER POVERTY UNDER CURRENT POLICY AND UNDER BELLMON–BAKER WELFARE REFORM PROPOSAL, FISCAL YEAR 1982

[Families in thousands]

Category	Posttax, Posttransfer Income		
	Current	Bellmon-Baker reform proposal	Change from current policy
All families	7,060	6,085	−975
Incidence or poverty (percent)	8.1	7.0	−1.1

The proposal would affect different groups of the population differently. In general the proposal would reduce the incidence of poverty among families headed by a person 65 years of age or older less than the incidence among families headed by a person under 65 years of age. The incidence of poverty in families headed by a person under 65 would show a decline from 8.0 percent of all such families to 6.7 percent under the reform provisions (see Tables 5 and 5a).

Footnotes at end of article.

TABLE 5.—NUMBER OF FAMILIES IN POSTTAX, POSTTRANSFER POVERTY BY TYPE OF FAMILY AND REGION OF RESIDENCE UNDER CURRENT SERVICES AND BELLMON-BAKER WELFARE REFORM PROPOSAL, FISCAL YEAR 1982

[Families in thousands]

Characteristics of families	Postcash social insurance income	Posttax, posttransfer income[1]	
		Current policy	Bellmon-Baker reform proposal
All families	9,750	7,060	6,085
Age of head:			
65 and over	2,506	1,530	1,416
Under 65	7,244	5,531	4,668
Employment status of head:			
Working full time	1,392	1,208	1,065
Working part time	1,323	1,034	908
Unemployed	761	573	453
Not in labor force	6,274	4,246	3,601
Race of head:			
White	6,924	5,091	4,421
Nonwhite	2,826	1,965	1,764
Region of residence:			
South	3,670	2,937	2,611
West	1,944	1,290	1,136
Northeast	2,097	1,384	1,101
North-central	2,039	1,449	1,237

[1] Posttransfer excludes medicare and medicaid.

TABLE 5(a).—PERCENT OF FAMILIES IN POSTTAX, POSTTRANSFER POVERTY BY TYPE OF FAMILY AND REGION OF RESIDENCE UNDER CURRENT POLICY AND BELLMON-BAKER REFORM PROPOSAL, FISCAL YEAR 1982

Families in thousands]

Characteristics of families	Postcash social insurance income	Posttax, posttransfer income[1]	
		Current policy	Bellmon-Baker reform proposal
All families	11.2	8.1	7.0
Age of head:			
65 and over	14.3	8.8	8.1
Under 65	1094	8.0	6.7
Employment states of head:			
Working full time	3.1	2.7	2.3
Working part time	11.4	8.9	7.7
Unemployed	17.0	12.8	10.2
Not in labor force	24.9	16.8	15.2
Race of head:			
White	9.1	6.7	5.8
Nonwhite	26.7	18.6	15.7
Region of residence:			
South	13.5	10.8	9.6
West	11.5	7.6	6.7
Northeast	10.6	7.0	5.6
North-central	8.9	6.3	5.4

The proposal would reduce the incidence of poverty in families where the head of the family worked full-time from 2.7 percent to 2.3 percent. Families in which the head would be defined as working part-time, would experience a similar relative reduction in the incidence of poverty, declining from 8.9 percent of all such families under current programs to 7.7 percent under the reform provisions. Such families with an attachment to the labor force would benefit from the expansions of the EITC and AFDC–UF programs, along with the provision of public service employment. Families in which the head would be defined as unemployed, would experience a significant reduction in the incidence of poverty declining from 12.8 percent to 10.2 percent. Expansion of the AFDC–UF program would probably benefit this group the most. Those families defined as not being in the labor force would experience the least reduction in the incidence of poverty.

The proposal would be slightly more effective at reducing the incidence of poverty among nonwhite families as contrasted with white families. The incidence of poverty among white families is reduced from 6.7 percent to 5.8 percent, while the incidence among nonwhites is reduced from 18.6 percent to 15.7 percent.

The incidence of poverty is reduced in all regions of the country, with the Northeast region experiencing a relatively greater decline in poverty. Both the South and West regions would experience approximately the same relative reduction in the incidence of poverty.

In general, while the Northeast would experience the greatest relative decline in poverty under the provisions analyzed, relatively more families would gain income (in absolute terms) in the South. This apparent inconsistency is explained by the level of benefits under the current programs. Approximately 11.2 percent of all families in the South would gain more than $100 following the reform proposal, while 5.1 percent in the Northeast would show such gains (see Table 6). Since benefits under current programs are lower in the South and West relative to other areas of the country, the incidence of poverty shows a greater decline in the Northeast and North Central regions since fewer additional dollars are required to move families out of poverty.

TABLE 6.—PERCENT OF FAMILIES WHO WOULD LOSE, REMAIN UNCHANGED OR GAIN INCOME UNDER THE BELLMON-BAKER WELFARE REFORM PROVISIONS BY REGION IN FISCAL YEAR 1982

	Families losing more than $100	Families with no change	Families gaining more than $100
All regions	1.8	90.3	7.9
South	1.1	87.7	11.2
West	2.0	89.7	8.2
Northeast	2.8	92.1	5.1
North central	1.7	92.2	6.2

Distribution of Benefits by Pre-Welfare Income.—Tables 7 and 7a summarize the distribution of recipients and program benefits under the current welfare system and under the reform provisions in fiscal year 1982. Under the current programs approximately $23.7 billion in welfare benefits would go to families with pre-welfare income of less than $5,000. Under the reform system the amount of benefits going to this income class would be $26.9 billion. Most of this increase would be attributable to the expanded AFDC–UF and, the regular AFDC program, and public service employment programs.

Modifications to the AFDC and AFDC–UF program would shift the distribution of benefits away from the higher pre-welfare income classes toward lower income families. While under current programs the below $5,000 income class would receive 73 percent of the AFDC and AFDC–UF benefits, under the reform provisions these families would receive nearly 74 percent of such benefits.

The provision which would expand the EITC would shift classes. While under current law EITC families with pre-welfare incomes less than $5,000 would receive 38.7 percent of all EITC benefits, under the reform plan this would drop to 15.3 percent. The proportion of EITC benefits going to families in the $5,000 to $9,000 pre-welfare income class would decrease from 34.0 percent under current law to 31.5 under the reform provisions. Classes of families with pre-welfare incomes above $10,000 would experience an increase in amount of and proportion of EITC benefits.

While the provisions analyzed increased the absolute amount of benefits going to all income classes, the distribution of total benefits would be shifted. In absolute terms the pre-welfare income class of less than $5,000 would have an increase in benefits, but its relative share of the total benefits would decrease marginally from 60.0 percent of all the pre-reform benefits to 58.9 percent.

TABLE 7.—DISTRIBUTION OF FAMILIES AND BENEFITS BY PREWELFARE INCOME CLASSES UNDER CURRENT POLICY AND BELLMON-BAKER WELFARE REFORM PROPOSAL: FISCAL YEAR 1982 [1]

Program	Less than $5,000	$5,000 to $9,999	$10,000 to $14,999	$15,000 to $24,999	$25,000 and over	Total
Distribution (thousands of families):						
All families	11,137	10,284	9,921	18,044	37,414	86,801
Current policy:						
AFDC	2,762	834	542	345	66	4,584
AFDC-UF	64	54	42	52	8	220
SSI	2,489	410	247	163	43	3,347
Food stamps	6,228	1,732	969	498	21	9,448
GA	566	302	77	22	2	969
EITC	1,242	1,164	353	279	200	3,238
Bellmon-Baker reform:						
AFDC	2,660	753	365	242	61	4,080
AFDC-UF	217	216	201	57	2	692
SSI [2]	2,489	410	247	163	43	3,347
Food stamps	5,935	1,327	624	300	7	8,193
GA [3]	566	302	77	22	2	969
EITC	1,292	1,628	1,305	952	533	5,709
PSE	217	52	42	23	5	340
Benefits (billions):						
Current policy:						
AFDC	$10.1	$1.7	$1.0	$0.7	$0.2	$13.7
AFDC-UF	.2	.1	.1	.1	----	.5
SSI	4.5	.7	.4	.3	.1	6.0
Food stamps	3.2	1.9	.6	.4	----	5.1
GA	.8	.2	.1	----	----	1.1
EITC	.2	.2	.1	.1	----	.6
Other programs [4]	4.7	3.1	1.4	1.0	1.8	12.5
Total	23.7	6.9	3.7	2.6	2.1	39.5
Bellmon-Baker reform:						
AFDC	11.2	1.6	.8	.7	.2	14.5
AFDC-UF	.9	.4	.4	.1	----	1.9
SSI [2]	4.5	.7	.4	.3	.1	6.0
Food stamps	2.9	1.9	.5	.4	----	4.7
GA [3]	.8	.2	.1	----	----	1.1
EITC	.5	1.0	.8	.6	.3	3.2
PSE	1.4	.2	.1	.1	----	1.8
Other programs [4]	4.7	3.1	1.4	1.0	1.8	12.5
Total	26.9	8.1	4.5	3.2	2.4	45.7

[1] Figures may not sum to totals due to rounding. Figures are only for 50 States and District of Columbia.
[2] No interaction simulated between Bellmon-Baker changes in AFDC, AFDC-UF and current SSI program.
[3] No interaction simulated between Bellmon-Baker changes and general assistance program.
[4] No interaction was simulated between Bellmon-Baker and other welfare programs. Other welfare programs include veterans' pensions, child nutrition, and housing assistance.

TABLE 7a.—DISTRIBUTION OF FAMILIES AND BENEFITS BY PREWELFARE INCOME CLASSES UNDER CURRENT POLICY AND BELLMON-BAKER WELFARE REFORM PROPOSAL: FISCAL YEAR 1982 [1]

Program	Less than $5,000	$5,000 to $9,999	$10,000 to $14,999	$15,000 to $24,999	$25,000 and over	Total
Percent of families:						
All families	12.8	11.8	11.4	20.8	43.1	100
Current policy:						
AFDC	60.7	18.3	11.9	7.6	1.5	100
AFDC-UF	29.1	24.8	18.9	23.5	3.8	100
SSI	74.2	12.3	7.4	4.9	1.3	100
Food stamps	65.9	18.3	10.3	5.3	.2	100
GA	58.5	31.1	7.9	2.3	.2	100
EITC	38.4	35.9	10.9	8.6	6.2	100
Bellmon-Baker reform:						
AFDC	65.2	18.5	8.9	5.9	1.5	100
AFDC-UF	31.4	31.2	29.0	8.2	.2	100
SSI [2]	74.2	12.3	7.4	4.9	1.3	100
Food stamps	72.4	16.2	7.6	3.7	.1	100
GA [3]	58.5	31.1	7.9	2.3	.2	100
EITC	22.6	28.5	22.9	16.7	9.3	100
PSE	63.8	15.6	12.3	6.7	1.5	100
Percent of benefits:						
Current policy:						
AFDC	73.5	12.7	7.1	5.4	1.3	100
AFDC-UF	44.4	19.4	12.7	19.9	----	100
SSI	75.7	11.7	6.6	5.0	1.1	100
Food stamps	62.2	17.9	11.8	7.7	.4	100
GA	71.3	21.6	5.7	1.2	.1	100
EITC	38.7	34.0	11.6	8.9	6.8	100
Other programs [4]	37.9	24.7	11.2	12.0	14.1	100
Total	60.0	17.5	9.4	6.6	5.3	100
Bellmon-Baker reform:						
AFDC	77.0	11.3	5.5	4.8	1.5	100
AFDC-UF	48.4	22.5	22.7	6.3	.1	100
SSI [2]	75.7	11.7	6.6	5.0	1.1	100
Food stamps	61.8	18.6	11.7	7.7	.2	100
GA [3]	71.3	21.6	5.7	1.2	.1	100
EITC	15.3	31.5	24.4	18.1	10.8	100
PSE	75.9	12.1	6.8	4.3	1.0	100
Other programs [4]	37.9	24.7	11.2	12.0	14.1	100
Total	58.9	17.7	9.8	7.0	5.3	100

[1] Figures may not sum to totals due to rounding. Figures are only for 50 States and District of Columbia.
[2] No interaction simulated between Bellmon-Baker changes in AFDC, AFDC-UF and current SSI program.
[3] No interaction simulated between Bellmon-Baker changes and general assistance program.
[4] No interaction was simulated between Bellmon-Baker and other welfare programs. Other welfare programs include veterans' pensions, child nutrition, and housing assistance.

Poverty Gap.—The amount of money required to bring all low-income families up to their poverty threshold after counting the benefits of the current social insurance programs would be $35.6 billion in fiscal year 1982. This post-social insurance poverty gap would be reduced by $20.2 billion to $15.3 billion as a result of counting the benefits of the current welfare system. Since benefit costs of the current welfare system would be $39.5 billion, approximately 51 cents out of every dollar spent would be used to close the poverty gap.

The specifications analyzed for the Bellmon-Baker welfare reform proposal would reduce the post-social insurance gap by $22.5 billion, $2.3 billion more than the current welfare system (see Table 8). On the average 49 cents out of every dollar spent in the reformed welfare programs would be used to close the poverty gap. At the margin, the $6.2 billion additional expenditures under the reform provisions would close the poverty gap by $2.3 billion, hence for every dollar spent, 37 cents would go toward eliminating the poverty gap.

TABLE 8.—POVERTY GAP UNDER CURRENT POLICY AND BELLMON-BAKER WELFARE REFORM PROPOSAL IN FISCAL YEAR 1982

[In billions of dollars] [1]

Row	Post-social insurance	Posttax, Posttotal transfer	
		Current policy	Bellmon-Baker
Poverty gap	35.6	15.3	13.1
Reduction in gap		20.2	22.5
Total benefit cost		29.5	45.7
Average effectiveness ratio (2)-(3)		.51	.49

[1] Income excludes medicare and medicaid benefits.

PROVISIONS OF DRAFT BELLMON-BAKER BILL

This analysis was limited to a set of specifications that evolved over a period of three months. A draft bill developed by the staffs of Senators Bellmon and Baker will be submitted in the near future which will include a number of these specifications analyzed. This draft bill, entitled "Job Opportunities and Family Security Program" will, however, include a number of new provisions not covered here.

The provisions of the draft legislation which were not included in this analysis are listed below:

(1) Eligibility for the AFDC–UF program would be based on the average earnings over the two months preceeding application. To be eligible these average earnings would have to be less than three-quarters of a full-time federal minimum wage job.

(2) Up to a maximum of three AFDC cash assistance payment standards could be established within a state, to reflect differences in living costs among regions within a state.

(3) The AFDC assistance unit could not include individuals receiving SSI benefits, or any individual absent from the home for more than 90 days.

(4) The allowable work expense deduction and earned income disregards would be changed from those analyzed in this paper. A $60 standard earned income disregard would be allowed, and one-third of the remaining earnings above this amount. Additionally, recipients who could document work expenses exceeding $60 per month of earned income, would have this additional amount disregarded up to a maximum of $60. A total, therefore, of $120 in work expenses could be disregarded.

(5) AFDC grants would be reduced on a pro-rata basis for the presence of individuals in a household who are not eligible for assistance and who have other means of support.

(6) Financial incentives and matching payments would be paid to states for installing and modernizing computer systems for claims processing and management information systems.

(7) WIN funding authorization would be expanded from $365 million to $565 million.

(8) Federal payments for adoption of hard-to-place children would be provided. This is the same provision as developed by the Senate Finance Committee and included in H.R. 7200. In addition, legislation modifying federal matching of the foster care program would be developed.

(9) The priority selection for the public service jobs would be modified. First priority would go to any audit in any AFDC–UF household who had searched for private employment for at least 3 months. Of the remaining job slots, 50 percent would go to other AFDC recipients and 50 percent to other persons unemployed for longer than 26 weeks.

(10) Employers of persons qualifying for the job voucher program would be required to pay prevailing wages.

(11) AFDC and food stamp recipients whose incomes exceeded a specified level would be required to pay back to the federal government (through the federal income tax system) some or all of the benefits they received.

(12) The age limit for determining eligibility in the SSI program (aged component) would be dropped from 65 to 62, in fiscal year 1982.

TABLE A.—BELLMON-BAKER WELFARE REFORM FEDERAL MATCHING RATE ASSUMPTIONS BY STATE IN FISCAL YEAR 1982—RATES ASSUME A 50-PERCENT REDUCTION IN CURRENT ERROR RATES

[In percent]

State	Current error rate, July to December 1976	Assumed error rate, fiscal year 1982	Current law Federal matching rate, fiscal year 1982 [1]	Bellmon-Baker matching rate, no error rate adjustment, fiscal year 1982	Bellmon-Baker matching rate with error rate adjustment, fiscal year 1982 [2]
Alabama	6.0	3.0	65.8	90.0	90.0
Alaska	12.5	6.3	50.0	80.0	77.0
Arizona	12.4	6.2	56.5	86.5	83.5
Arkansas	7.3	3.7	72.1	90.0	90.0
California	4.7	2.4	50.0	80.0	80.0
Colorado	7.5	3.6	53.7	83.6	83.6
Connecticut	7.6	3.9	50.0	80.0	80.0
Delaware	9.5	4.8	50.0	80.0	79.0
District of Columbia	19.8	9.9	50.0	80.0	75.0
Florida	7.0	3.5	56.6	86.5	86.5
Georgia	12.2	6.1	62.0	90.0	88.2
Hawaii	9.4	4.7	50.0	80.0	79.0
Idaho	3.8	1.9	63.6	90.0	90.0
Illinois	12.1	6.1	50.0	80.0	77.0
Indiana	2.3	1.2	57.9	87.9	87.9
Iowa	11.0	5.5	52.0	82.0	80.0
Kansas	5.6	2.8	52.4	82.3	82.3
Kentucky	6.2	3.1	69.7	90.0	90.0
Louisiana	8.5	4.3	70.5	90.0	89.0
Maine	11.6	5.8	69.7	90.0	88.7
Maryland	11.5	5.8	50.0	80.0	78.0
Massachusetts	12.0	6.0	51.6	81.6	78.6
Michigan	9.2	4.6	50.0	80.0	79.0
Minnesota	5.8	2.9	55.3	85.3	85.3
Mississippi	9.2	4.6	65.0	90.0	89.0
Missouri	10.5	5.3	60.7	90.0	88.0
Montana	13.3	6.7	61.1	90.0	87.1
Nebraska	6.9	3.5	53.5	83.5	83.5
Nevada	.5	.3	50.0	80.0	80.0
New Hampshire	8.5	4.3	62.9	90.0	89.0
New Jersey	5.4	2.7	50.0	80.0	80.0
New Mexico	5.4	2.7	71.8	90.0	90.0
New York	12.1	6.1	50.0	80.0	77.0
North Carolina	6.7	3.4	67.8	90.0	90.0
North Dakota	3.4	1.7	50.7	80.7	80.7
Ohio	11.3	5.7	55.5	85.5	85.5
Oklahoma	3.1	1.6	65.4	90.0	90.0
Oregon	7.9	4.0	57.3	87.3	87.3
Pennsylvania	9.3	4.7	55.1	85.1	84.1
Rhode Island	3.8	1.9	57.0	87.0	87.0
South Carolina	8.5	4.3	65.0	90.0	89.0
South Dakota	5.3	2.7	63.8	90.0	90.0
Tennessee	8.6	4.3	65.0	90.0	89.0
Texas	5.4	2.7	56.3	86.5	86.5
Utah	8.1	4.1	69.0	90.0	89.0
Vermont	6.7	3.4	68.0	90.0	90.0
Virginia	6.4	3.2	57.0	87.0	87.0
Washington	5.4	2.7	51.6	81.6	81.6
West Virginia	4.9	2.5	70.2	90.0	90.0
Wisconsin	3.9	2.0	58.5	88.5	88.5
Wyoming	4.0	2.0	53.4	83.4	83.4

[1] Source: "Characteristics of State Plans for Aid to Families With Dependent Children," 1976 edition. Estimates are for Federal medical assistance percentage or regular Federal percentage for period Oct. 1, 1977 to Sept. 30, 1979.

[2] Estimates do not include adjustment for States which would continue local sharing of benefit costs of local administration.

FOOTNOTES

[1] Computer modeling and estimating assistance were provided by Mathematica Policy Research, Incorporated, under Basic Ordering Agreement, Task Order IG–01, December 23, 1977.

[2] The new formula for these modifications is as follows:

(1) For families whose monthly earned income less child care expenses is less than $360: AFDC Benefit=G—$Y_u$—.67 max (O, Y_e—CC—60)

(2) For families whose monthly earned income less child care expenses is equal to or greater than $360: AFDC Benefit=G—$Y_u$—.80 max (O, Y_e—CC—110)

Where:

G=AFDC payment standard by state for family with zero income

Y_e=Family earned income
Y_u=Family unearned income
CC=Child care expenses

[3] The estimated OMB poverty threshold for a family of four in fiscal year 1982 would be $7,520.

[4] CBO assumptions for the food stamp *guarantee* in fiscal year 1982 are those consistent with assumptions used to develop all other estimates in this paper (see *Food Stamp Act of 1976*, Report No. 94–1460, September 1, 1976). For a family of four with zero income the food stamp guarantee would be $2,496 annually ($208 monthly). In estimating the value of food stamps a family would be eligible for in fiscal year 1982 CBO included the food stamp standard deduction ($75 a month) and a combination shelter-child care deduction ($92.50 a month). These income deductions are consistent with the recently enacted Food Stamp Act of 1977—Public Law 95–113.

[5] All cost estimates include the 50 states, District of Columbia and outlying territories. The basic demographic and economic assumptions used in this analysis are consistent with assumptions used by CBO in developing previous estimates for the Administration Welfare Reform Bill (H.R. 9030) and the Welfare Reform Subcommittee bill (H.R. 10950).

[6] The basic methodology used to develop the cash-out estimate has been discussed previously and can be found in House Report No. 95–464 accompanying H.R. 7940, *The Food Stamp Act of 1977*, June 24, 1977. This methodology is being reviewed further by CBO.

[7] See Congressional Budget Office, *Employment Subsidies and Employment Tax Credits*, Background Paper (April 1977).

[8] CBO has not developed its own specific assumptions relative to this proposal. The assumptions specified by the staff of Senator Bellmon were that no more than 500,000 full-year, full-time persons would participate in this program and that 300,000 of these would be AFDC recipients if the voucher program did not exist.

[9] The estimates presented in this section reflect the following conditions: (1) the work incentive disregard provision would be used to calculate both eligibility and benefits for the AFDC program; relative to the actual proposal, the poverty reduction impact is upwardly biased in this section since the proposal would not allow the work incentive disregard for calculating program eligibility, (2) the estimates do not reflect the impact of the job voucher program and job tax credit provisions which would bias the poverty reduction estimates downward. Furthermore, the number of public service job holders is underestimated causing a downward bias in the poverty reduction estimates. This is partially offset by higher AFDC payments which reflect the lower public service employment calculations. All estimates in this section exclude the institutionalized population and Puerto Rico, comparable to previous CBO distributional analyses of the Administration's welfare reform proposal.

EXHIBIT 3

STATEMENT BY FORMER HEW SECRETARY WILBUR COHEN

The bill—Job Opportunities and Family Security Act of 1978—introduced by Senators Bellmon, Ribicoff, Baker and Danforth is a constructive and incremental approach to the improvement of the existing welfare system. While it does not solve all the problems which the Administration's proposal attempted to handle, it is a pragmatic and reasonable series of steps in the right direction.

We believe it is sound to undertake those legislative steps which are within our managerial, administrative, and fiscal capacities at the present time. There is nothing in the proposed bill which will impede future incremental improvements on the basis of experience and fiscal ability. Rather, the principle of federal standards incorporated in the bill is a significant step forward. This principle can be extended in the future. The standards established by Congress in the Supplemental Security Income program in 1972 have led the way to the adoption of standards in the Aid to Families with Dependent Children-Unemployed Parents (AFDC–UP) program and we believe that further progress in this direction can be achieved step-by-step which will demonstrate the ability of the federal-state system to work effectively in achieving welfare reform.

The AFDC–UP program, originally enacted in 1961, has been shown to provide a base upon which the coverage can be extended in the course of time to all the working poor.

The broadening of the SSI program to cover individuals age 62–65 will assist in helping many older persons, including any older persons affected by long-term unemployment. It will also result in less pressure on determinations for disability payments under the SSI program.

The proposal includes three provisions which utilize the federal tax system as an incentive to provide employment to low-income individuals and welfare recipients. We believe that it must be recognized that the welfare system cannot and should not be responsible for locating or providing work for welfare recipients. The proposal recognizes this principle and thus should help to advance improvements in the adequacy of welfare payments in the long run.

We recognize that several aspects of any comprehensive welfare reform plan, such as the one advocated by the Administration, are controversial. But we believe it is important to make some progress this year in improving the existing program. We believe that aspects relating to employment and to the financial aid of those persons (with children) who are unemployed and are capable, available, and willing to work will assist in bringing a better understanding to the general public of the constructive aspects of the welfare program.

EXHIBIT 4

SECTION-BY-SECTION DESCRIPTION: JOB OPPORTUNITIES AND FAMILY SECURITY ACT OF 1978

Section 1—The title of the proposed legislation—"Job Opportunities and Family Security Act of 1978"—reflects the two major thrusts of the bill: (1) to provide increased job opportunities, especially in the private sector, for employable recipients of public assistance; and (2) to improve programs which provide support to those citizens who cannot work and those who can and do work but who earn too little to meet their basic needs and those of their families in today's economy.

Title I—Family Security Program—Passage of this bill would begin the process of making much needed changes of terminology in the public welfare field. Both the current Aid to Families With Dependent Children Program and the Work Incentive Program would become components of a renamed program to be known as The "Family Security Program".

Section 101—Aid to Dependent Children of Unemployed Parents:

This section eliminates the option states now have to exclude from coverage in their AFDC programs two-parent families in which at least one of the parents is employable. 27 states and the District of Columbia currently provide support to such families while the remaining states do not.

In addition, section 101 repeals section 407 of the Social Security Act, thereby eliminating the so-called "work force connection" requirement under which a two-parent family is excluded from assistance unless the father has been in the work force during six of the preceding 13 calendar quarters.

Section 101 replaces the "100-hour rule" established by HEW regulations. Those regulations define "unemployment" as work for less than 100 hours in any given month. This provision creates a distinct work discentive by causing abrupt termination of assistance to two-parent families whenever the 100-hour line is crossed. Section 101 provides a new definition of unemployment based on earnings. Specifically, a family will be eligible for assistance if its income from earnings, averaged over a period of two successive months, does not exceed the equivalent of 30 hours per week (130 hours per month) times the Federal minimum wage. When the maximum cash assistance grant under the state program would be lower than the minimum wage equivalent just described, the lower figure will apply.

Section 101 adds to the law a requirement that AFDC recipients who are eligible for Public Service Employment under the Comprehensive Employment and Training Act (CETA) register for and accept such employment.

The provisions of section 101 would take effect October 1, 1980.

Section 102—Variations in Need Standards Within States:

This section allows states to establish up to three different payment standards for AFDC cash assistance, based on differences in living costs among regions of the state. None of these variations would fall below the minimum benefit amounts as defined in section 110. This section would become effective October 1, 1978.

Section 103—Assistance Unit Defined; Earned Income Disregard:

This section revises the definition of AFDC "assistance unit" to make clear that individuals receiving SSI benefits may not be included, and also to exclude persons absent from the home for more than 90 days, unless it can be established that the absence was for the purpose of seeking employment.

Section 103 also revises the allowable work expense deductions and earned income disregards for AFDC recipients who work. Under the new provisions, the first $60 per month of earnings, plus documented work expenses exceeding $60 per month up to an additional $60, plus one-third of earnings above that amount, plus an allowance for child care where necessary shall be deducted from income before offsetting earnings against the AFDC grant. The amounts to be deducted for child care are limited to $100 per month per child and $300 per family, and may not exceed 50 per cent of the recipient's earnings. The two $60 limitations will be increased to $65 in FY 1983 and $70 in FY 1985 to take account of rising costs. Likewise, the $100/$300 child care limitations will increase to $110/$330 in FY 1983 and $120/$360 in FY 1985.

Finally, section 103 would preclude disregard of earned income for any family member who fails to make a timely report to the state agency on earnings received. A similar provision is included in H.R. 7200 as reported by the Senate Finance Committee. However, the H.R. 7200 would preclude disregard of the earnings of all family members—not just the income of the person for whom no report, or an inaccurate report, was made to the state agency.

Section 103 would become effective October 1, 1978.

Section 104—Determination of Benefits in Certain Cases Where Child Lives With Individual Not Legally Responsible for His Support:

This section permits states to make pro-rata reductions in AFDC grants to take into account the presence in the household of individuals who are not eligible for assistance and who have other means of support. This provision is included in the Senate Finance version of H.R. 7200. It would take effect October 1, 1978.

Section 105—Additional Federal Funding for Certain Mechanized Claims Processing and Information Retrieval Systems:

This section adds to the AFDC program provisions similar to ones already in Title XIX for the Medicaid program (section 1903 (a)(3)), providing financial incentives and technical support to the states for installation of modern computerized claims processing and management information systems. States which submit plans approved by HEW for development and operation of such systems will receive 90 percent Federal matching fund for the initial development costs and 75 percent for system operations.

This section is similar to provisions in the Senate Finance Committee's version of H.R. 7200.

Section 105 would become effective October 1, 1978.

Section 106—Miscellaneous State Plan Requirements.

This section makes a conforming change (repeal of section 402(a)(23)) and adds a requirement that members of AFDC assistance units apply for any private or public retirement, disability, unemployment compensation and similar benefits to which they may be entitled.

This section will become effective October 1, 1978.

Section 107—Federal Payments to States; Maximum State Payments Subject to Federal Matching:

This section establishes a ceiling for Federal matching of state-local welfare costs. States would receive Federal matching as described below for AFDC benefits which, when combined with the value of food stamps, would provide a family (with no other income) total support equal to 100 percent of the Federal non-farm poverty line, as established by the Office of Management and Budget. States would be free to pay benefits which would exceed the poverty line (when combined with food stamps), but would themselves be required to pay 100 percent of the costs of going above the poverty line. The maximum benefit for Federal matching, as well as the minimum benefit provided for by section 109, would rise in future years in proportion to the cost of living.

This section also shifts from state and local governments to the Federal Government a substantial part of the current/local share of AFDC costs. The increased Federal matching will be phased in over a period of three years beginning in FY 1980. The percentage increase each state receives each year will be determined as follows:

FY 1980—States which under current law prior to these amendments) would have been entitled to receive 60 percent Federal AFDC matching funds or less under the alternative Medicaid formula will, in FY 1980, receive 10 percent higher Federal match than the Medicaid formula would have entitled them to receive. States which would otherwise be entitled to receive Federal matching funds at higher than a 60 percent rate in FY 1980 will receive Federal funds at the percentage to which the Medicaid formula would have provided, plus one-third of the difference between that State's Federal matching percentage under the Medicaid formula and 90 percent.

FY 1981—All states will receive another increase in the Federal AFDC matching funds percentage identical to the one received in FY 1980

FY 1982—Those states which meet the two conditions described below will receive a third increase in the Federal matching percentage equal to the increases provided in FY 1980 and FY 1981. Those states receiving the full increment in FY 1982 would thus receive Federal matching funds at no less than 80 percent and no more than 90 percent in FY 1982. Under the provisions of section 107, states which failed to meet either of the following conditions would receive reduced Federal matching funds as indicated:

(1) State Funding and Administration—Any state which, by FY 1982, still required local governments to either provide funding for, or administer the AFDC program, will not receive the increased Federal matching scheduled for FY 1982.

(2) Quality Control—Any state, which in the first half of FY 1981, had a dollar error rate in excess of four percent (from payments to ineligibles, overpayments, and underpayments), as determined by the Federal-State quality control program, would receive in FY 1982 a reduction in Federal funding as follows: If a dollar error rate of less than five percent but more than four percent were achieved, the Federal matching rate would be reduced by ten percent of the last full increment of increased Federal match to which the state was entitled. For each rise of one percent in its dollar error rate, the state's Federal matching rate would go down by 10 percent of one of the three increments to which it would otherwise be entitled, up to a maximum loss of up to 50 percent of that increment.

The following table shows how these provisions would apply to a range of states:

	Medicaid match in 1980	Increased Federal Match (fiscal years)		
		1980	1981	1982
States with full State funding and administration, and less than 4 percent dollar error rate by 1982				
State A	50	60	70	80.0
State B	55	65	75	85.0
State C	63	72	81	90.0
State D	69	76	83	90.0
States with local administration and/or funding, and with less than 4 percent dollar error rate by fiscal year 1982:				
State E	50	60	70	70.0
State F	55	65	75	75.0
State G	63	72	81	81.0
State H	69	76	83	83.0
States with full State administration and funding but with greater than 4 percent dollar error rate by fiscal year 1982:				
State I—Dollar error rate of 4.5 percent	50	60	70	79.0
State J—Dollar error rate of 4.5 percent	69	76	83	89.3
State K—Dollar error rate of 5.5 percent	50	60	70	78.0
State L—Dollar error rate of 5.5 percent	69	76	83	88.6
State L—Dollar error rate of 6.5 percent	50	60	70	77.0
State M—Dollar error rate of 6.5 percent	69	76	83	87.9
State N—Dollar error rate of 7.5 percent	50	60	70	76.0
State O—Dollar error rate of 7.5 percent	69	76	83	87.2
State P—Dollar error rate of over 8 percent	50	60	70	75.0
State Q—Dollar error rate of over 8 percent	69	76	83	86.5
States with both local funding and/or administration and greater than 4-percent dollar error rate by fiscal year 1982:				
State R—Dollar error rate of 4.5 percent	50	60	70	69.0
State S—Dollar error rate of 4.5 percent	69	76	83	82.3
State T—Dollar error rate of 5.5 percent	50	60	70	68.0
State U—Dollar error rate of 5.5 percent	69	76	83	81.6
State V—Dollar error rate of 6.5 percent	50	60	70	67.0
State W—Dollar error rate of 6.5 percent	69	76	83	80.9
State X—Dollar error rate of 7.5 percent	50	60	70	66.0
State Y—Dollar error rate of 7.5 percent	69	76	83	80.2
State Z—Dollar error rate over 8 percent	50	60	70	65.0
State AA—Dollar error rate over 8 percent	69	76	83	79.5

Section 108—Determination of Eligibility for, and Amount of, AFDC Payment;

This section authorizes states to base eligibility for, and amount of, AFDC payments on a one-month retrospective accounting period or a one-month prospective period. It also authorizes, but does not require, states to establish monthly reporting requirements.

These provisions will become effective on October 1, 1978.

Section 109—Minimum Benefit Amount:

This section requires that beginning with FY 1981, the combined food stamp and AFDC benefits provided to eligible families with no other income shall be not less than 55 percent of the official non-farm poverty level. The minimum benefit will increase to 60 percent of the non-farm poverty level in FY 1982 and to 65 percent in FY 1985. Based on anticipated increases in living costs between now and FY 1982, the minimum combined food stamps AFDC benefit under this provision for a family of four with no other income in FY 1982 will probably be about $4600.

Section 109 provides deviations from the poverty line in two situations: (1) the minimum benefit standard for a single-member AFDC unit shall be one-fourth of the standard for a family of four; and (2) states will satisfy the minimum benefit requirements for family units larger than seven members as long as their combinations of food stamps and AFDC payments equal at least 60 percent of the poverty line for a family of seven.

Section 110—Resource Limitation:

This section would standardize resource limitations affecting AFDC eligibility by adopting on a national basis the resource limitations used in the Supplemental Security Income (SSI) program. For example, single-member AFDC units would be ineligible if they had liquid assets exceeding $1500 in value. The limit on liquid assets for a family of two or more would be $2250, the same as the limit for a married couple in the SSI program.

Section 110 would take effect at the beginning of FY 1981.

Section 111—Change of Title of "Aid to Families With Dependent Children" to "Family Security Program":

This section would change all references to the AFDC program throughout the Social Security Act to "Family Security Program" or "Aid for Family Security" as appropriate. This change in terminology would take effect at the start of FY 1981.

Section 121—Implementation of Work and Training Requirements:

This section makes the following changes to the Work Incentive Program:

(1) Requires AFDC recipients defined as employable to engage in work search activities. This requirement is also included in the

Senate Finance Committee's version of H.R. 7200.

(2) Exempts from WIN participation AFDC recipients who are: (a) working for not less than 30 hours a week; (b) engaged in a college-level undergraduate educational program for not less than 30 hours a week; or (c) employed in a CETA public service job.

(3) Clarifies for treatment, for purposes of the AFDC income disregard, of wages and training stipends paid under the WIN program. Public service employment and on-the-job training stipends are to be treated as earned income, while work experience and classroom training stipends will not.

(4) Revises the authority of the Secretary of Labor to issue regulations for certain aspects of the WIN program by requiring that all such regulations be jointly issued by the Secretaries of HEW and Labor.

(5) Eliminates the requirement for 60-day counseling before terminating assistance to an AFDC recipient who refuses a job offer or participation in WIN activities.

(6) Authorizes social and supportive services during work search and after employment is accepted.

(7) Authorizes counting of in-kind state and local contributions toward required 10% state-local share of WIN funding.

(8) Exempts from the Fair Labor Standards Act work experience assignments of up to 26 weeks under the WIN program.

Section 121 will take effect October 1. 1978.

Section 122—Placement of Responsibility for WIN Programs With States:

This section makes a number of changes to Part C, Title IV of the Social Security Act to make clear that the primary responsibility for operating the WIN program rests with the States. The Secretaries of Labor and HEW are to issue joint regulations for the WIN program, and the Secretary of Labor is to handle Federal-level administrative functions and oversight.

Section 122 also enables Governors to determine what agency will serve as the WIN agency for their states.

Section 122 will take effect October 1, 1978.

Section 123—Limitations on Amount of Annual Authorization for Programs; Quarterly Payments to States; Allotments to States:

This section provides for WIN funding of $565,000,000 annually (as compared to $365,000,000 appropriated for FY 1978) and makes WIN an appropriated entitlement program as opposed to merely authorizing appropriations under current law. This will assure that the full $565,000,000 is actually made available to the states. The procedures for allocating WIN funds among the states are also clarified.

Section 123 will take effect October 1, 1978.

Section 131—Federal Payments for Adoption Assistance and Foster Care:

This section adds a new Part E to Title IV of the Social Security Act, providing revised authority for Federal funding of state foster care programs, and a new program of Federal support for subsidized adoptions.

This section includes much of the bill language developed by the Senate Finance Committee and included in H.R. 7200 as reported by the Committee (now awaiting Senate Floor action). The states will be able to receive Federal matching for adoption subsidies paid to adoptive parents of hard-to-place children, provided the adoptive parents have incomes under 115% of the state median for a family of four. (In special circumstances, states may pay subsidies to higher income families). The adoption subsidy may not exceed the amounts which could have been payable if the child were in a foster care home. A child with a medical disability existing at the time of adoption will continue to have Medicaid coverage for treatment of that condition, even though the adoptive family is ineligible for Medicaid. States will also have the option to extend full medicaid coverage to such children.

The subsidized adoption program will become effective October 1, 1978 and will terminate September 30, 1982 unless extended by Congress.

Section 131 will also enable states to utilize Federal funding for the first time for foster care provided by public institutions serving no more than 25 resident children. This funding will only be available for children placed in such institutions after the effective date of the Act.

Section 201—Amendment to Title VI of the Comprehensive Employment and Training Act of 1973:

This section extends Title VI of CETA for five years, and provides that no less than 375,000 subsidized public service jobs shall be provided under it each year.

Section 202—Employment of Long-Term Unemployed and Certain Recipients of Aid to Families With Dependent Children:

This section targets CETA Title VI Public Service Jobs, as follows:

First priority: a guaranteed job for one adult in any AFDC-Unemployed Parent household who has searched unsuccessfully for a regular job for 90 days.

Remaining jobs: 50 percent to other AFDC recipients; 50 percent to other persons unemployed for 26 weeks or more, whether or not receiving unemployment compensation.

Section 211—Private Sector Voucher Program for Jobs:

This section adds a new Title IX to the Comprehensive Employment and Training Act, providing for a job voucher program to encourage employment in the private sector of AFDC recipients, persons unemployed for more than 26 weeks, unemployed youth (all of whom have searched for work for at least 90 days) and persons terminated from CETA public service jobs (who have searched for work for at least 30 days).

The vouchers will provide a subsidy of one dollar an hour for one year to for-profit and non-profit private organizations who employ persons who qualify for the vouchers. Eligibility will be certified by a state agency designated by the Governor. Vouchers will be redeemed through the banking system by the Treasury Department.

Employers will be precluded from using voucher-eligible employees to replace or reduce the hours of other employees. Employers will be required to pay prevailing wages, and will be required to choose between participation in the voucher program and claiming the job creation credit. (See section 302.)

Section 211 will become effective on October 1, 1978.

Section 301—Earned Income Credit:

This section enlarges the refundable Earned Income Credit now provided for in section 43 of the Internal Revenue Code, and authorizes distribution of the credit, as earned, through a "reverse withholding" process. The credit will continue to be available only to families with dependent children. The maximum credit would be increased from 10% of the first $4000 of earnings, to 15% of earnings up to the poverty line. The credit will vary by family size, up to a maximum of seven family members. For a family of four, the maximum credit will be approximately $975 in 1979, the first year in which the revised credit will be in effect (based on poverty line of approximately $6500).

Once the credit reaches its maximum, it phases out as income rises at a rate of 20 percent of earnings. This would result in the credit phasing out for a family of four at slightly over $11,000 in 1979, using the above assumptions about the poverty line.

Section 301 provides for special withholding certificates to be filed and periodically updated by employees. It also requires employees to report to their employers promptly any changes in earnings or other circumstances which could make them ineligible for the credit or reduce its size. Employers will off-set the credits distributed to employees against Federal income taxes withheld for employees. In order to provide stronger incentives for searching for and taking regular jobs, the credit will not be available for subsidized public service jobs under either CETA or WIN.

Section 302—Job Creation Credit:

This section would revise the existing temporary jobs credit and make it permanent. The credit would be targeted on the same groups who are eligible for job vouchers under section 211. The credit, like the vouchers, would be for one dollar an hour for one year for each eligible employee. Employers could not receive the tax credit if they participated in the Job Voucher Program.

The credit would be available only after employers increased their employment by more than 2 percent over the prior year's average. To keep employers from having an incentive to hire part-time rather than full-time workers, the employer would be entitled to the credit only if hours worked exceeded the prior year's by more than 5 percent.

The credit would not be refundable; but it would be an off-set against any tax liability the employer owed, up to a maximum of $100,000 per year.

The revised credit would become effective on January 1, 1979.

Section 303—Recoupment of Excess Welfare and Food Stamp Payments:

This section provides for recoupment through the Federal income tax system of amounts paid in AFDC and food stamp benefits to taxpayers who, on an annual basis, have incomes above the point where they would normally be entitled to public benefits. To illustrate: The way the program would work can be seen in the example of a head of a family of four who worked for part of a year during which he received $11,000 in earnings. He was unemployed for the balance of the year during which he received food stamps and/or AFDC worth $1,000. Under this section, he would owe the Treasury $240 over and above any positive tax liability he may have.

The premise behind this section is that people who work intermittently, at relatively high salaries, should not be put in better positions because of the AFDC and food stamp programs than a family with steady employment but similar overall income.

Section 303 would become effective January 1, 1979.

Section 401—Cash Assistance in Lieu of Food Stamps for Supplemental Security Income Recipients:

This section authorizes states to elect to have the Federal Government cash-out food stamps for recipients of Supplemental Security Income (SSI). In those states which elect cash-out, SSI recipients will receive benefit checks increased by the average value of food stamps received by all SSI recipients in that state.

Section 401 will become effective October 1, 1978.

Section 402—Reduction in Age Limit for SSI:

This section would lower the age limit for eligibility for Supplemental Security Income (SSI) on the basis of age from 65 to 64 in 1980, 63 in 1981, and 62 in 1982 and thereafter. Benefits for the elderly under SSI would then have the same age limits as retirement eligibility under Social Security.

Persons newly eligible for SSI on the basis of age would be required to meet the same income and resource limitations as other SSI recipients. States would have an option on whether to provide Medicaid coverage for the newly-eligible SSI recipients.

Section 501—Demonstration Projects:

This section authorizes demonstration projects involving cash-out of food stamps for public assistance and non-public assistance households.

Section 502—Repeal of Section 410 of Social Security Act:

This section repeals an out-of-date provision relating to the food stamp program.

Section 601—Assistance to Meet Emergency Needs:

This section establishes a Federal block grant program of $150 million per year to assist states in responding to temporary, emergency needs of vulnerable people. The money will be divided in proportion to the AFDC population.

The states will have wide latitude in use of the funds. This program would replace the existing much smaller ($35 million per year Federal costs; $35 million state/local), and more restrictive emergency assistance program.

The Secretary of HEW would be required to hold back up to 10% of the funds and use them to respond to special needs as they arose.

Section 701—Demonstration Projects:

This section directs HEW to work with USDA, Labor, HUD and states and localities in running demonstration projects to evaluate the feasibility of consolidated public assistance centers, and of various approaches to making more fundamental changes in the public welfare system. The welfare reform concepts which could be tested under this authority include a Federally-operated, consolidated program approach of the type reflected in the Carter welfare proposals, and an approach under which states would be freed from Federal regulations entirely in the design and operation of their welfare programs.

Section 702—Review of Art:

This section requires HEW in cooperation with Labor, Agriculture, and Treasury to conduct a thorough review of the effects of this act and report to the Congress in the fourth year after the bill is enacted, including recommendations for legislative changes.

Section 703—National Commission on Public Assistance:

This section creates a National Commission on Public Assistance, directed to study current welfare programs, including the modifications made by this bill, and to submit recommendations for further improving these programs (or replacing them with new programs) to the President and the Congress within three years. The Commission would consist of 11 members, with seven appointed by the President and two each by the Speaker of the House and President Pro Tem of the Senate. At least two of the members would be senior officials of state and local governments. The membership would also include recipients and potential recipients of public assistance, as well as experts in program design and operation.

Section 704—Uniform Definitions:

This section requires the Secretary of HEW to work with other cabinet departments in developing uniform definitions of household units and other concepts used in needs-tested programs. Appropriate legislative recommendations will be submitted to the Congress as one of the results of this work.

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

Mr. BELLMON. I yield.

Mr. BAKER. Mr. President, I take this opportunity to thank the distinguished Senator from Oklahoma for his magnificent contribution to the conceptualization and the formalization of this proposal. Without his valuable assistance, I am not sure we would ever have reached this point. I am happy to be associated with him in this venture.

COMMITTEE MEETING

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be authorized to meet until 12:30 p.m. today to consider S. 2236, the bill to strengthen Federal programs and policies for combatting international and domestic terrorism, and to explore ways of preventing nuclear terrorism.

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

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Texas (Mr. BENTSEN) is recognized, as in legislative session, for not to exceed 5 minutes.

S. 2778—PCP CRIMINAL LAWS AND PROCEDURES ACT OF 1978

Mr. BENTSEN. Mr. President, about 7 million Americans, 20 percent of whom are under the age of 18, have used or continue to use one of the most dangerous and insidious drugs known to mankind.

Mr. President, you can buy 5 milligrams of PCP on the street, in the school hallway, at the playground, for a dollar. PCP is the most dangerous, illicit drug in use today. It is one of the least expensive and most available, as well. For the price of a school lunch, an eighth-grade student can literally blow his mind, possibly forever.

The widespread use of phencyclidine, PCP, angel dust, or hog is a plague on the youth of America. The drug can kill and cripple the mind. Consider the following:

A recent survey by the National Institute for Drug Abuse uncovered over 1 million young people under the age of 18 who admitted using PCP. Forty percent of them said they obtained the drug from a friend.

There has been a 50-percent increase in the number of young people using PCP in the past year alone.

The average age of the person admitted to hospital emergency rooms suffering from the effects of PCP is 15 years.

Mr. President, the horrors engendered by the use of angel dust are appalling. The files of the Los Angeles Police Department contain evidence of a young man pulling out his own teeth with pliers while under the influence of PCP; another gouged his eyes from their sockets to avoid seeing grotesque visions; a third young person drank rat poison to kill the rodents he believed had infested his body.

Persons under the influence of PCP are not restricted to doing harm to themselves. Violent, unprovoked attacks on innocent bystanders—such as the recent incident in which a teenager murdered his mother and father with a high-powered rifle while suffering PCP hallucinations—are not uncommon.

Earlier this year, Senator PERCY amended the Criminal Code Reform Act to reschedule PCB into schedule I of the Controlled Substances Act and increase the penalties for trafficking in this terrifying drug. I commend the Senator for this initiative. It is certainly a step in the right direction.

However, I believe that there is more we can do—more we must do—to control the abuse of PCP, to get this curse of a drug off the street.

One of the basic problems in attacking PCP is the fact that any person with a few hundred dollars and perverse instincts can manufacture angel dust at home or even in the back of a van. He can freely order the ingredients from a mail order house, and turn a $200 investment into drugs worth $1,000 on the street. He runs a certain risk of blowing himself up in the process, but this does not deter these entrepreneurs of derangement. Most of the angel dust used by the young people of America today is manufactured by nonprofessional criminals out to make a quick buck.

Mr. President, if there is an achilles heel in the process by which PCP is manufactured and distributed, it is access to piperidine, one essential element of PCP. We produce only 500,000 pounds of piperidine annually—that is one ten-thousandth of a percent of U.S. total organic chemical production. The major legitimate use of piperidine is in curing rubber, but it takes only a few hundred pounds of this chemical to addle the minds of millions of young people.

I noted earlier that most "street" PCP is manufactured by weekend profiteers who are encouraged to participate in the highly lucrative synthesis of PCP by the veil of anonymity that presently surrounds the purchase of chemicals.

Mr. President, when it comes to piperidine the time has come to tear away that veil of secrecy. In this country you have to register to drive a car, you have to present identification to purchase a handgun or dynamite; you have to show proof of age to buy a bottle of whiskey; you cannot obtain most drugs without a prescription. I think anyone who purchases piperidine should be prepared to identify himself.

I am not suggesting a licensing procedure. I do not envision interfering with the normal flow of chemicals throughout our economy. I have no intention of creating cumbersome bureaucratic procedures. I am simply proposing that the individual who goes to a chemical supply company, in person or by mail, to purchase piperidine should be required to present positive identification.

The purpose of the PCP Criminal Laws and Procedures Act of 1978, which I am introducing today, is to bring to the formal attention of the proper authorities the names of persons purchasing piperidine and perhaps producing PCP illegally. The act also increases criminal sanctions for first offense trafficking in PCP to a maximum of 10 years in prison and a fine of up to $100,000.

The present penalty is 5 years in prison and a $15,000 fine.

My legislation would have three primary benefits. It gives law enforcement authorities important information on purchasers of piperidine—people who are either curing rubber legally or destroying minds illegally.

Second, the requirement to register upon purchase of piperidine would obviously deter the casual entrepreneur from obtaining one of the raw materials used in the manufacture of PCP.

Finally, by providing legal procedures for the purchase of piperidine, we give law enforcement officials an added weapon to use in prosecuting illegal PCP manufacturers.

Mr. President, my legislation has been favorably received by the Drug Enforcement Agency and numerous State and local law enforcement agencies.

Obviously, I do not pretend that it will solve the problem of drug abuse among the youth of America. I acknowledge that it will not necessarily eliminate PCP from our streets, schools, and playgrounds. I am well aware of the potential for piperidine leakage and the possibility of increased organized criminal involvement.

I do, however, submit, that the PCP Criminal Laws and Procedures Act of 1978, if enacted, will drive the small, casual producer from the marketplace; lead to a dramatic increase in the street price of PCP; and hopefully substantially decrease usage by the young people of this country.

I commend this legislation to the attention of my colleagues and hope that we shall be able to enact it into law during this session of Congress. I do not think this country can afford to wait any longer before acting to control the abuse of PCP.

THE PANAMA CANAL TREATY

The ACTING PRESIDENT pro tempore. Under the previous order the Senate will now resume consideration of Executive N, 95th Congress, 1st session, Calender No. 2, the Panama Canal Treaty, which the clerk will state.

The legislative clerk read as follows:

Executive N, 95th Congress, 1st Session, the Panama Canal Treaty.

The Senate resumed the consideration of the treaty.

AMENDMENT NO. 86

The ACTING PRESIDENT pro tempore. The pending question is on amendment No. 86 by the Senator from Alabama (Mr. ALLEN). Under the previous order the Senator from Alabama (Mr. ALLEN) is recognized.

Mr. ALLEN. I thank the Chair.

Mr. President, the pending amendment covers two separate related subjects. I ask the Chair if he will kindly have the clerk state the amendment for the benefit of Senators.

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

The legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN) proposes an amendment numbered 86.

Amend Article I by adding at the end of Section 1(d) the following new Subsection:

(e) It is expressly provided, however, that (A) nothing contained in this treaty shall deprive the United States of the right it has under the 1903 and 1955 treaties to prevent the construction of a second canal in Panama by any nation other than the United States; and that (B) nothing contained in the treaty shall prevent the United States from negotiating with any other nation for the construction, maintenance, and operation of a transoceanic canal anywhere in the Western Hemisphere, or from construction, maintaining, and operating any such canal.

Mr. ALLEN. Mr. President, inasmuch as the amendment contains two separate divisible subjects, I ask that the Chair divide the subjects, and I will address my remarks to the first part of the amendment.

The ACTING PRESIDENT pro tempore. The Senator has that right, and the amendment is divided.

Mr. ALLEN. I thank the Chair.

Mr. President, this amendment is one of the most important amendments that will be offered to the Panama Canal Treaty. It covers provisions in the treaty that would prevent the United States for the next 22 years from negotiating with any other country for the construction of a second canal, and it provides that in return for that supposedly no second canal could be constructed in Panama without our permission.

This amendment in its two phases would allow the United States to continue to have the right to prevent another country from building a second canal in Panama but it would not impose this limitation on the United States that we cannot even negotiate with another nation for the construction of a second canal.

Mr. President, it has been stated time and time again by the proponents of these treaties that the two provisions now in the treaty, that is, that no other nation can build a canal in Panama without our consent and that in return for that we must agree that we will not negotiate with another country, such as Nicaragua or Mexico, for the construction of another canal were put in the treaty at our request. That is hardly reasonable, Mr. President, to contend that.

Of course, if we are prevented from negotiating with another nation for the construction of a canal, obviously the negotiators then insisted that in compensation for that, to offset that prohibition on the United States, Panama would have to agree that no other nation could build a canal in Panama. The fallacy of that position, however, Mr. President, is that under the existing treaties—and I say treaties, because there is not only the 1903 treaty, but there is also the 1955 treaty that confirms the monopoly that we have on the construction of canals in Panama—as I shall read in just a moment from the 1903 treaty and the 1955 treaty, we already have the right to prevent any other nation from building a canal in Panama. But under the treaties—now listen to this; this is the way they worded it—we give up that monopoly. We give up the right to prevent any other nation from building a canal in Panama. That monopoly, that right to prevent another nation coming into Panama for building a canal, is wiped out under the treaty that we have. How is it wiped out? It wipes out every single treaty, protocol, agreement, exchange of notes, whatsoever, between the United States and Panama with respect to the Canal Zone and the Panama Canal. And we have to start from scratch.

Under the Panama Canal Treaty, nothing heretofore that has been negotiated in good faith will remain the agreement between the two countries. Every bit of it is wiped out, wiped out in the preamble or the first proviso before we get the articles. So whereas now we can prevent the construction of another canal by another nation in Panama—that is the rule now—in order to get that right again in the new treaties, we have to make the ridiculous commitment that we are not going to negotiate with any other nation that might have a feasible route for another canal. We cannot even negotiate with such a nation for another canal for 22 long years. So, what sort of negotiating was that by our negotiating team? A right that we already have they give up and then in order to get back the right we have just given up we have to make this prohibitive concession that we cannot negotiate with another nation for another canal for 22 years.

Mr. President, when the Panama Canal was on the verge of coming into being, while they were considering routes, the House of Representatives back in 1902, by an almost unanimous vote, 300 some odd to 8, voted for the Nicaraguan route, not the Panamanian route. That was changed in the Senate to go the Panamanian route. But many top engineers of the time felt that the Nicaraguan route was the preferable route. The House of Representatives thought so strongly that they almost unanimously voted for the Nicaraguan route. But under the treaty we have before us we cannot negotiate with Nicaragua for the construction of a canal for 22 long years.

Some say that across Mexico and coming out on the Pacific side at the Bay of Tehuantepec is a good route for a sea-level canal. Well, we cannot negotiate with Mexico. We cannot negotiate with Nicaragua, under the terms of the treaty, for 22 years.

What is the situation now? It is going to be changed by these treaties, while we negotiate all day long, day in and day out, week in and week out, anywhere we want to go for a canal. Why should we give up that right? Mr. President, it does not make sense. Why should we not retain the right, if the Panama Canal is not properly operated? If it becomes too small to take care of our ships, why should we not have the right to negotiate with another nation for another canal? It does not mean we have got to do it, but we are deprived of the right even to negotiate with another country.

Now that right is given up under the treaty and in return for the giving up of that right they say, "Oh, well, in return

for that we will let let you say that you will prevent Panama from allowing another nation to construct a canal across Panama."

Well, we already have that right. So we are making a tremendous concession in return for a right that we already have. Why no reasonable person would negotiate such an agreement, and this is a vital flaw in this treaty.

Some of the proponents of the treaties state that they have open minds with respect to amendments, and I heard the distinguished majority leader on a television program on just Sunday state that he had an open mind with respect to amendments on this treaty. Well, I assume he had that same open mind with respect to amendments to the Neutrality Treaty, but it did not open it up sufficiently, Mr. President, to admit any amendments other than the leadership amendment.

So I think it is going to be interesting, as this debate proceeds, to see to what extent the proponents of the treaties have open minds with respect to amendments.

Now, I would say that any Senator with an open mind with respect to amendments should certainly see the fallacy in a treaty that puts such a burden upon the United States, a burden that does not now exist, a burden of not being able for 22 years to negotiate with another country for another canal, in return for giving us the right to veto another canal in Panama by another nation, which is a right that we now have, to make such a tremendous concession as that in return—in return for what? In return for nothing. Because we already have that right, the right to veto the construction of another canal in Panama.

So I would feel that openminded Senators would see the fallacy of these two provisions in the treaties.

Mr. SARBANES. Will the Senator yield?

Mr. ALLEN. I will yield for a question, yes.

Mr. SARBANES. Could I ask the Senator to what provisions in the Panama Canal Treaty is his amendment directed?

Mr. ALLEN. My amendment is directed to article I. That is what we have under consideration.

Mr. SARBANES. And what provision in article I is it that the Senator feels needs amending or what provision of the treaty before us is it that the Senator feels is deficient and requires this amendment?

Mr. ALLEN. This question is so vital, the question of eliminating this prohibition, that in all likelihood, if the leadership persists in its policy of stonewalling against amendments, if it persists in its policy of demanding that the Senate rubberstamp this treaty without amendment, this is an amendment, or these are amendments, that the leadership is going to have to face time and time again here in this Senate.

Mr. SARBANES. Well, that may be, but just to make it clear, what provision in the Panama Canal Treaty is it that the Senator feels creates the problem that he is addressing?

Mr. ALLEN. I will respond, but I hope the Senator will allow me to complete my response before he interrupts again to ask a question.

The distinguished Senator has asked to what provision of the treaty my amendment is directed. Well, obviously, Mr. President, only amendments to article I can be considered at this time, because in Committee of the Whole that is the procedure, and I am glad that we are in Committee of the Whole, because we have to take these articles one at a time, in order.

At this time we are on article I. So. naturally, my amendment is directed to article I. It adds an addendum to article I.

Now the particular provisions of the treaty that would be supplanted by these two amendments, if they are agreed to by the Senate, can be found in article XII, section 2, subsections (a) and (b), which I will now read for the distinguished Senator's edification.

Mr. SARBANES. May I assure——

Mr. ALLEN (reading):

No new interoceanic canal shall be constructed in the territory of the Republic of Panama during the duration of this Treaty, except in accordance with the provisions of this Treaty, or as the two Parties may otherwise agree.

Mr. President, that is the veto power to which I alluded that the United States is given under this treaty in return for section (b), which I will now read for the further edification of the distinguished Senator from Maryland.

(b) During the duration of this Treaty, the United States of America shall not negotiate with third States for the right to construct an interoceanic canal on any other route in the Western Hemisphere, except as the two Parties may otherwise agree.

Now, Mr. President, that is already the treaty law between the two states involved.

I want to now proceed to read the provision of the 1903 treaty to which I have alluded. We find that in article V of the 1903 treaty. But for just a moment I want to comment on the effect of the 1955 treaty.

We have heard so much, Mr. President, about the United States negotiating with Panama back in 1903, and I have heard the distinguished Senator from Idaho (Mr. CHURCH) say that if the Panamanians had not agreed to that treaty, they were going to face a Colombian firing squad, and that, of course, they had to agree to that treaty, that it was forced on them almost against their will. That, in fact, it was against their will; it was sign the treaty or face the firing squad, is the issue as the Senator from Idaho has stated it.

The 1903 treaty gives us the right to have a monopoly in perpetuity for the construction, maintenance, and operation of the canal. I will read it in full, so it will not be considered my version; it is only four lines:

The Republic of Panama grants to the United States in perpetuity a monopoly for the construction, maintenance and operation of any system of communication by means of canal or railroad across its territory between the Caribbean Sea and the Pacific Ocean.

That is the right that we have under the 1903 treaty. Now, 52 years later Panama and the United States entered into another treaty. Well, they did not have that Colombian firing squad to force Panama to enter into that treaty; it was an arm's-length transaction between sovereign states. So let us not refer to the 1903 treaty as the only basis for rights of the United States to construct, maintain, and operate a canal in the Panama Canal Zone.

First, let us compare the provision I just read with the provision that the distinguished Senator from Maryland called upon me to read. Let us compare those two, and see if they were any different.

Mr. SARBANES. Is the Senator now referring to the provisions of article XII, paragraphs 2 (a) and (b) of the Panama Canal Treaty?

Mr. ALLEN. Yes. I read them a moment ago. I am pleased that the distinguished Senator identifies them at this time.

Mr. SARBANES. The provisions in article XII of the treaty?

Mr. ALLEN. Well, the Senator just got through saying that. There is no need of repeating it.

Mr. SARBANES. All right.

Mr. ALLEN. Now, to compare the provision that is already the law between the two countries, which gives us the monopoly and gives us the veto right on the construction of another canal—frankly, Mr. President, I do not regard that right as being worth a great deal. I do not believe any country is going to be foolish enough to spend $10 billion building a canal in Panama, and then have the Panamanians do as they are doing now, and say "Give us that canal." They might well expropriate it.

So I really feel that that is of small moment, the right that we have from the 1903 treaty and the 1955 treaty, and that is given us in the treaty before us in return for tremendous concessions. I do not put too much stock in that. I do not know of any country, unless it be the Saudis, that could build a canal and spend $10 billion. If they sought to amortize a $10 billion investment, they would have to have some traffic there. So I do not regard that as too much of right, that is worth a great deal to us, the right to say that another nation cannot build a canal in Panama.

But I do regard this prohibition against the United States from even negotiating with another country for another canal as an intolerable prohibition.

All right. I have read the 1903 treaty; now I am going to show how it was brought forward in the 1955 treaty, when there were sovereign states dealing at arm's length with each other.

This is what is provided in the present treaty:

During the duration of this Treaty, the United States of America shall not negotiate with third States for the right to construct an interoceantic canal on any other route in the Western Hemisphere, except as the two Parties may otherwise agree.

That is what we would give up in return for a provision we already have. That provision reads as follows:

No new interoceanic canal shall be constructed in the territory of the Republic of

Panama during the duration of this Treaty, except in accordance with the provisions of this Treaty, or as the two Parties may otherwise agree;

What does that give us in that section that we do not already have? The answer is a great big fat zero. It gives us absolutely nothing in addition to what we already have.

Now, Mr. President, let us look at the 1955 treaty, where concessions were made, where departures were made from the 1903 treaty, and the provisions about the monopoly that the United States has.

In 1955—let us read the heading of that, just for the information of Senators before we get to this paragraph.

This starts off, just to give the history of the 1955 treaty:

Treaty, with Memorandum of Understandings reached;
Signed at Panama January 25, 1955;
Ratification—

We speak loosely here in the Senate sometimes of the Senate ratifying. The Senate does not ratify, it merely gives its advice and, if it approves the treaty, its consent, or it could give its advice and nonassent and, of course, that is what I would like to see the Senate do, give nonassent to this treaty. But we do not ratify it, even though that is a phrase that is sometimes loosely used:

Ratification advised by the Senate of the United States of America July 29, 1955;

Now, this took about 6 months. Talking about all this delay on the present treaty, this was a treaty that there was practically no controversy over, and it took 6 months from the time of the signature to the time that ratification was advised by the Senate, from January 25, 1955, to July 29, 1955.

The present treaty was signed, I believe, September 7, 1977, and we have not been on this treaty much longer than they were on that treaty way back in 1955. So I do not believe we are taking an undue amount of time with respect to the consideration of this treaty;

Ratified by the President of the United States of America August 17, 1955;

So there is where the word "ratification" properly comes in. The President ratifies it, on advice from the Senate.

I do not believe we have given the President the proper advice, Mr. President, unless we point out to him and change provisions which are not in the best interests of the United States. It would be mighty poor advice, it seems to me, with full knowledge that the treaty is defective. How could the Senate properly advise the President to ratify it?

It is our duty, Mr. President, as I see it, under the advise and consent provisions of the Constitution, as part of our advice to point out and to implement that pointing out of defects. We should point out and change defects which are so apparent in the wording of the treaty. That is part of our advice.

The leadership and the floor managers of the treaty apparently do not think that the Constitution places very much authority, power, and duty on the U.S. Senate in considering these treaties.

Pretty soon we are going to see just how openminded are Senators, the leadership, and the managers of the treaty.

I will say this for my distinguished friend, the distinguished Senator from Idaho (Mr. CHURCH): He does not beat around the bush on his attitude with respect to these treaties. He says:

Do not add a single word. Eight words, six words, two words, will kill the treaty.

So we see what his attitude is going to be. I admire that frankness and that candor in stating straight out:

No, we are not going to allow any amendments to pass, no siree.

We know what the attitude of the manager is. He did not say he had an open mind on the treaties. I will say that to the credit of the distinguished Senator from Idaho (Mr. CHURCH).

Mr. SARBANES. Will the Senator yield?

Mr. ALLEN. No, I will not. We have divided time here. The Senator interrupted me a few moments ago. I gave him the information he desired. I prefer he use his own time because it interrupts my chain of thought.

Mr. SARBANES. I will be happy to use my time——

Mr. ALLEN. I hope the Senator will allow me to finish my remarks. He has plenty of time to make such remarks as he wishes. I see him taking notes over there.

Mr. SARBANES. I will say to the distinguished Senator I have not taken a note this morning.

Mr. ALLEN. It might be well for the Senator to start making notes.

Mr. SARBANES. I have been listening to the Senator's comments very carefully.

Mr. ALLEN. I am glad the Senator is paying attention.

Mr. SARBANES. If he feels he has queries he wishes to pose to us during our time, I hope he would be happy to do so. I would hope on occasion he would yield for the purpose of a question. I have one further question I would like to ask the Senator.

Mr. ALLEN. Very well, I will accommodate the distinguished Senator.

Mr. SARBANES. I appreciate that. I wanted to ask this question: The provisions of the Panama Canal Treaty, now pending before us, which create concern in the Senator's mind, and which he is seeking to change, are in article XII of the treaty. Why is he offering his amendment to article I? Why not offer it to article XII when that provision is before the Senate?

Mr. ALLEN. Is that the single question the Senator wanted to ask?

Mr. SARBANES. I would be interested in the Senator's reasoning on that point. By his own admission, I believe his amendment applies to article XII.

Mr. ALLEN. I thought the Senator had a single question to propound. Having propounded it, I hope he permits me to answer it.

Mr. SARBANES. I do not want to argue with the Senator. I hope he will answer my question.

Mr. ALLEN. I will answer it right now. The whole treaty is before the Committee of the Whole of the U.S. Senate. We are limited at this time to article I. Since the entire treaty is before us, since the thrust of the treaty is before us, it is entirely appropriate, I will say to the distinguished Senator, to present any phase of the treaty as an amendment to the first article. My amendment does not change one single word in the wording of article I. All it does is to bring to the fore one of the most important defects in the treaty and to point out a way to correct that defect.

If the leadership is going to stonewall amendments, if the leadership is going to insist that we have rubber stamp treatment of this treaty, then this amendment will be defeated.

I recognize the leadership is at the head of an army of some 60 Senators who are willing to vote according to the recommendations of the leadership. It may be possible that we will have to address this very same question not once but several times when we get down to article XII. We will probably still be needing this amendment.

The PRESIDING OFFICER. The Chair would like to remind the Senator from Alabama that there is no allocation of time.

Mr. ALLEN. Mr. President, I ask unanimous consent that the time between now and the time of the vote on the amendment be equally divided between the managers of the treaty and the Senator from Alabama.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. I ask the Chair how much time the Senator from Alabama has consumed.

Mr. SARBANES. Under the unanimous consent request, I thought the time was equally divided between the two sides.

The PRESIDING OFFICER. The only thing the unanimous-consent agreement has in it is that we would vote at 1 o'clock and at 3:30.

Mr. SARBANES. I meant the time between when we started considering the amendment and the vote should be divided.

Mr. ALLEN. That is certainly all right. I will say for the benefit of the leadership, to give full credit to the leadership, the distinguished majority leader asked me last evening before we recessed if I would agree with that. I was going to honor that request even though it had not been made. Of course the time should be equally divided. I now ask the Chair how much time the Senator from Alabama has consumed.

The PRESIDING OFFICER. Without objection, the unanimous-consent request is agreed to.

Mr. ALLEN. How much time has the Senator from Alabama consumed, Mr. President?

The PRESIDING OFFICER. The Senator from Alabama has used 38 minutes. The time began at 10 minutes after 10.

Mr. ALLEN. I thank the Chair.

The distinguished Senator from Maryland wished to make one further inquiry, which he did. He asked me why I was addressing by an amendment to article I something which appears down in article XII. The answer is that the Senator from

Alabama feels that the major issues in this treaty should first be addressed.

In the interest of seeing that the Senate is occupied with the consideration not of frivolous amendments, not of dilatory amendments, but of amendments which go to the very heart of the treaty is the reason the Senator from Alabama has brought up this amendment to article I.

I will say this to the distinguished managers of the treaty: Some interest has been expressed in wondering when this treaty might come to a vote. I say that if the distinguished managers of the bill will allow the Members of the Senate that they lead, the substantial majority of the Senators they lead, to vote their independent convictions in this area, and will see that much needed amendments are agreed to and added to this treaty, we will come to a vote much quicker than if the leadership and the managers of the treaty insist on the Senate rubberstamping these treaties, than if they insist on stonewalling against meritorious amendments.

If the Senate will permit or if the floor managers will permit Senators, if they will release them from blindly following the recommendations of the managers so that they might vote for amendments that are needed, let Mr. Torrijos worry about the ratification down in Panama and let the U.S. Senate give proper advice to the President with regard to the ratification of this treaty, in all likelihood, we could finish action on this treaty in the next few days.

I will say, no matter how the treaty might be amended by such amendments as the one that I have at the desk, as long as the treaty provides for giving the Panama Canal away, then I cannot vote for such a treaty. But there is a difference between not voting for a treaty and allowing an early final vote on the treaty. If we could, if the Senate would, in its wisdom, take care of the American taxpayer, with a substantial amendment providing that we are just going to give the canal to Panama and we are not going to pay them the hundreds of millions of dollars to take it—that is one amendment that needs to be adopted. Even though we are going to give it away, do not burden the American taxpayer, who will be overburdened with taxes, with the duty of paying thousands of millions of dollars to Panama.

If we knock out this provision that we must not negotiate with another country for the building of a canal; if we require the Panama Canal Commission, a commission of nine that takes over immediately—five U.S. citizens, four Panamanian citizens—if we allow those commissioners to be confirmed by the U.S. Senate so that we will not have just anybody that Torrijos names serving on this commission. That is a U.S. commission. It is not a United States–Panamanian commission. It is an agency of the United States.

To say that we are going to have to take as four of the nine commissioners four Panamanians whose names are submitted to us without any right to refuse those names—I challenge the supporters of these treaties to show that the United States has any discretion whatsoever in the naming of these four Panamanian out of nine members of this United States-Panama Canal Commission. We have to take whoever they name. I do not care whether they be men of poor character, violators of laws, rascals if you please, we have to accept those four Panamanians. Not one word about the United States having any discretion.

That is the sort of treaty that has been dumped in our lap. I feel that there are major amendments that should be made.

Another provision, Mr. President, I think needs careful attention. We have about—well, I shall not say the number. We have several thousand U.S. citizens working for the Panama Canal Company. Already, there are some 75 percent—I heard the distinguished Senator from Maryland use the figure 80 percent the other day—of the employees of the Panama Canal Company who are Panamanians. Of this 20 percent that is left who are citizens of the United States, do you know what the treaty provides? It provides that, within 5 years, we have to reduce that 20 or 25 percent that we have by 20 percent. I feel that there ought to be an amendment protecting the U.S. employees, U.S. citizens who are employees of the Panama Canal Company. They should be protected in their employment. If they are doing a good job, they should not be booted out.

The United States is supposed to have the operation of the canal for the next 22 years. What kind of operation is that? What kind of control is that, Mr. President, if we have to agree that we are going to reduce this 25 percent of employees that are U.S. citizens by 20 percent in 5 years?

Then, Mr. President, they talk about the dignity of Panama, when we cannot put any American employees down there, U.S. employees, add them to the work force down there, unless such person has a skill that is not available in Panama.

Well, it is one thing to give them the canal 22 years from now and to say that in the interim, we are going to keep control of the canal, we are going to operate it, and yet, we find that we have to start a systematic reduction right away of employees who are citizens of the United States.

How much more do they want, Mr. President, than 75 percent of the employees? That is a pretty good percentage on an operation that is supposed to be a U.S. operation. They are not satisfied with that. But we cannot send anybody down there unless he has a special skill and, of the employees that are there, we have to get rid of 20 percent of them in the next 5 years.

Mr. President, I was reading a moment ago, and I did digress somewhat. I was pointing out the steps in the ratification of the 1955 treaty. Mighty little has been said, Mr. President, about the 1955 treaty, entered into over 50 years after the first treaty. They talked about how helpless Panama was back in 1903, that we just took advantage of them down there and did not respect their sovereignty and they sent a Frenchman up here to sign a treaty for them, and all of that; even though some nine members of the Panamanian cabinet did sign the instrument of ratification showing approval by the Panamanian Government of the 1903 treaty. We have not heard a great deal about the 1955 treaty, more than 50 years later. I guess by that time, Mr. President, we were not exerting undue influence on them.

The charge has been made here, on the floor, that if the Panamanians had not signed the 1903 treaty, if they had not agreed to it, they would have faced a Colombian firing squad.

(Mr. SASSER assumed the chair.)

Mr. ALLEN. But I do not believe anybody feared a Colombian firing squad in 1955.

Let us go on here where it says, "Ratified by the President of the United States of America, August 17, 1955."

That is the 1955 treaty, ratified by Panama.

August 15, 1955, 2 days before the President ratified:

> Ratifications exchanged at Washington, August 23, 1955, proclaimed by the President of the United States of America, August 26, 1955, entered into force August 23, 1955.

Now, let us see what the Panamanians agreed to with respect to the monopoly as to a canal and other interoceanic communication in this treaty 50 years later when they had arms' length bargaining between sovereign states.

I mentioned the provision in the 1903 treaty that did give us a monopoly on all interoceanic communication across Panama by railroad, by canal, even by roads.

Mr. President, in 1955, article III of that treaty, let us read the first paragraph. I think it will shed some light on it:

> Subject to the provisions of the succeeding paragraphs of this Article, the United States of America agree that the monopoly granted in perpetuity by the Republic of Panama to the United States for the construction, maintenance and operation of any system of communication by means of canal or railroad across its territory between the Caribbean Sea and the Pacific Ocean, by Article V of the Convention signed November 18, 1903, shall be abrogated as of the effective date of this Treaty in so far as it pertains to the construction, maintenance and operation of any system of trans-Isthmian communication by railroad within the territory under the jurisdiction of the Republic of Panama.

So by this article, in the first paragraph, the United States had a monopoly throughout Panama on any type of interoceanic communication from the Pacific to the Caribbean, whether it be by railroad, by canal, or even by roads.

But in this treaty, article V, the next paragraph, has to do with releasing this monopoly as to roads, but it retained the monopoly as to canals.

So we do not have to go back to 1903 to see this right that the United States has to have a monopoly in perpetuity on another canal.

In releasing it, in releasing as to railroads and roads, they just released, Mr. President, as I read it, the monopoly; they do away with the monopoly as to railroads and roads in Panama outside the Panama Canal Zone.

They retain that monopoly inside the zone. But they retain the monopoly on additional canal construction in all of Panama. This is a sovereign state in 1955, not worried about that Colombian firing squad as the proponents of the treaty say was one of the inducements to agreeing to the 1903 treaty. They reiterate in 1955 this monopoly.

So it seems passing strange to me, Mr. President, that with this right so deeply embedded in the law, reconfirmed in 1955 that the United States has a veto on canal construction in Panama, having that right already and then to proceed to release that right in the Panama Canal Treaty we have before us.

Then in order to get that right back, a right we now have, it seems rather strange Panama forcing our negotiators to put in a provision against our best interests and putting a limitation on the United States of America on negotiating with another nation for the construction of another canal in such other nation.

Why in the world would our negotiators put such a provision as that in there? They say it is put in at our request. Well, they say it was put in in order to get this veto power against another canal by another nation in Panama when we already have that veto power.

Now, what kind of trading is that? The Yankees are supposed to be pretty good traders. It looks to me like the Panamanians outtraded our fellows at every turn.

They get us to release rights and then when we want them back, they say, "Well, we will give them back to you provided you will do something else."

That is how this provision came into the treaty, that we cannot negotiate with another nation for the construction of another canal in a country other than Panama.

So this needs to be adjusted, Mr. President. This is going to be a major test, as I see it, of whether the leadership and the managers of the treaty are going to agree to provisions that will knock out provisions in the treaty directly against the best interests of the people of the United States.

If the leadership says, "Well, this is not needed," it is needed. Without an amendment at this point or later on in the treaty, we are going to find ourselves giving up a right we now have and, in order to get it back, making a concession that is a most ridiculous concession.

Why in the world should this be? The United States has a right to negotiate, I assume, with any nation on any subject. Why should it commit itself in this treaty not to negotiate with another nation for another canal, outside Panama for 22 long years? That is what the treaty provides.

This amendment would knock out those provisions, or it would have the effect of knocking them out, because it goes directly contrary to what it later says in the treaty; and I imagine it would be a mere formality to knock out the two provisions when we get down to them. But this is an issue that needs to be faced right at the very beginning of this debate.

I say again—I cannot emphasize too strongly—that we are really just now getting to the basic issue of these treaties. All that has been decided up to now is that in the year 2000 we are going to defend the canal. Well, many of us felt that the defense provisions were not strong enough. Be that as it may, we voted that under certain conditions we are going to have the right to intervene in Panama for the defense of the canal, even though at some time under this treaty we are providing that our troops have to be out of there, under the Neutrality Treaty, that our troops have to be out of there by the year 2000. That is all we have decided—that we are going to defend the canal.

So the basic thrust of the treaties still has to be addressed. Are we going to give the canal away? Are we going to protect the American taxpayer? If this treaty is approved, it would breathe life into the other treaty. It is absolutely dormant at this time—in a state of suspended animation, as it were, not worth a thing. It has no life, has no effectiveness, has no being, until this treaty is approved.

If this treaty is defeated, the other treaty falls. I argued in the first days of the first debate that we should take up this treaty first, decide first whether we are going to give the canal away, before worrying about whether we are going to defend it in the year 2000.

Let us see how the pending amendment would help cure this defect in the treaty—a major defect in the treaty, I might say. As I say, this is going to be a test of the leadership willingness to accept constructive amendments, whether the managers of the bill are going to insist on rubberstamping the approval of the treaty, whether they are going to stonewall against every amendment that is offered, no matter what its merit, whether we are going to be forbidden from submitting and obtaining passage of a single word change.

Mr. President, I wonder whether the leadership is going to come forward with a leadership amendment on this treaty. They saw some great defects in the other treaty, and they came forward with an amendment that they said takes care of these defects. Well, the amendment was the memorandum, word for word, entered into between the President and the dictator. They saved that treaty. They all said it was doomed. Both leaders said it was doomed, the members of the Foreign Relations Committee said it was doomed, unless the leadership amendment was adopted, and that was going to cure everything.

We discussed the leadership amendment quite a bit here. It had about as many defects as the treaty had, but the amendment is supposed to make acceptable something that was absolutely unacceptable, that was headed for defeat. It made the treaty so acceptable that no other amendments were permitted, not one. I wonder whether the leadership is going to come forward with an amendment to cure the manifest defects in this treaty. I hope they will. I will support it, just as I supported the inadequate leadership amendment on the other treaty. Let us see if the leadership is going to come up with perfecting amendments on this treaty.

I must say, Mr. President, that the Foreign Relations Committee did not make a single committee amendment. They had witnesses for weeks on end. They did not offer a single committee amendment. They gave approval to the leadership amendment, but the committee did not make a single committee amendment to either treaty—not one. I believe there is enough ability on that committee to see these defects and to offer amendments to correct them, but they have not done it. I am going to be watching with great interest to see if the leadership will offer leadership amendments to this treaty, which is full of holes and ambiguities and defects.

Back again to the amendment. It is in two parts. One part, and this is the one on which we will be voting first—there will be two separate votes—reads:

> It is expressly provided that nothing contained in this treaty shall deprive the United States of the right it has under the 1903 and 1955 treaties to prevent the construction of a second canal in Panama by any nation other than the United States.

Is that a radical departure? Is this putting in a surprise provision? Why, no. It is the present treaty between the two countries. It says that whatever the law is under the treaties now in existence between Panama and the United States—and I am referring not only to the 1903 treaty but also to the 1955 treaty—whatever is there, be it much or be it little, with respect to this one issue, the building of another canal in Panama by a nation other than the United States or Panama, whatever rights we now have under these treaties, they are not going to be done away with by the treaty we have before us, the present Panama Canal Treaty. That is all it does.

That is all it does. It does not put in this ignoble provision saying that we cannot negotiate with another nation about a canal in that other country.

Mr. President, what if the opponents of these treaties—or I might say those who have sought to strengthen these treaties—what if those who had thought to strengthen both of these treaties had suggested, I say to the distinguished Senators from Utah (Mr. HATCH and Mr. GARN), what if we or other like-minded Senators had sought to put a provision in either of these treaties that Panama could not negotiate with another nation for the building of a canal? Would there not have been a tremendous outcry from the leadership and the managers of the treaty that we should not heap this indignity on Panama, that we should not prevent them from taking lawful acts to protect their interests, that that would be a gross violation of the dignity and the sovereignty of Panama if we should seek to do any such outrageous thing? But yet we provide that, put that prohibition on ourselves under this treaty, and the managers of the bill apparently are going to seek to keep that provision in there. I will pose that question rhetorically to the distinguished Senators, and I am going to yield the floor in just a minute after I explain the second provision. That says that we will continue to have the right to prevent the construction of a second canal and then the other

provision about which I was alluding to a moment ago:

. . . nothing contained in the treaty shall prevent the United States from negotiating with any other nation for the construction, maintenance, and operation of a transoceanic canal anywhere in the Western Hemisphere, or from constructing, maintaining, and operating any such canal.

That is the rule now between the two countries, and our negotiators very foolishly allowed them to impose that prohibition upon the sovereign United States. This is the kind of stuff that you might think about having happen in reverse order back in 1903. You would not think a provision like that would be inserted in a modern-day treaty, to say the United States shall not have the authority to seek to provide another canal in another country, but for 22 long years we cannot take that action.

The first matter says that we shall continue to have our veto power over the construction by another nation of a canal in Panama irrespective of other provisions in the treaty. That will be the first question to be decided by the first part of this amendment.

I do yield the floor at this time, after asking Mr. President, how much time remains to the Senator from Alabama?

The PRESIDING OFFICER. The Senator from Alabama has 13 minutes remaining.

Mr. ALLEN. I thank the Chair.

I reserve the remainder of my time.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I have listened carefully to the distinguished Senator from Alabama, as I always try to do, and I appreciated him yielding on occasion for a question, although I understood and, of course, respected his desire not to do that too frequently and his desire to simply be allowed to go on and make his statement with respect to the amendment he has pending at the desk; the amendment he has offered to article I which has been now divided. So there will be two votes with respect to the provisions of the amendment. One at 1 p.m. today and one at 3:30 p.m. today.

The first point I wish to make, Mr. President, and it was a point that did come out in the colloquy that we were able to have earlier in the morning, is that as to the Panama Canal Treaty which is now pending before us, the provisions in that treaty to which the Senator from Alabama is now raising questions and concerns are found in article XII of the treaty, in article XII of a treaty which encompasses 14 articles. Yet the amendment that has been proposed to deal with provisions found in article XII has been proposed to article I of the treaty. Under the procedure for considering treaties in the Senate we proceed through the treaty article by article. In other words, article I is first before us for amendment, and when all amendments to article I have been disposed of and if there is no further debate we then move on to article II. Article II will then be before us for amendment. When all amendments to article II have been disposed of and if there is no further general debate we move on to article III, and in that way we move through the treaty article by article.

In addition, Mr. President, at the end of the consideration of all of the articles in sequence, article by article, it is then open to any Member of the Senate, if he wishes, to go back and offer an amendment to any of the articles through which we have passed.

What has happened here is that an amendment has been laid down to article I of the treaty which I do not think anyone would deny deals with article XII of the treaty. I think that is very clear. The distinguished Senator from Alabama in fact quoted the provisions of article XII of this treaty in the course of his exposition with respect to his amendment. I simply want to suggest to the Members of the Senate that, if we are going to consider every amendment to any provision of the treaty first as an amendment to article I of the treaty and then quite possibly again when we reach the relevant and pertinent article to which the amendment is actually addressed, in this instance article XII, and then, in addition, at the conclusion of having gone through all of the articles to go back and offer an amendment yet again, we are on a procedure which would appear to have no end to it.

It is, of course, the prerogative of the distinguished Senator from Alabama and any other Member of the Senate to frame their amendments in such a way as they choose and to offer them when they choose to whatever article they choose to do so. But I simply wish to suggest that the more logical and orderly way to proceed would be to offer amendments to the article to which the amendments are addressed and not to put the Senate in the position of considering amendments when the article to which the amendment applies is not pending before the Senate.

We have a situation here in which an amendment, which clearly goes to article XII of this treaty, has now been laid down to article I of the treaty. There is no provision in article I of the treaty that relates to the question to which the amendment is addressed. The provisions in the treaty that relate to the questions to which the amendment is addressed are to be found in article XII of the Panama Canal Treaty.

For the sake of some order and logic in how we proceed, it seems to this Senator that it would be a more sensible procedure for amendments to be presented at the time when the relevant provisions of the treaty to which they are addressed are before the Senate.

Now, turning to the amendment—and the Senator from Alabama has divided his amendment—turning to that portion of it which will be before us at 1 o'clock for a vote, which seeks to give the United States the right to, in effect, control the use of Panamanian territory with respect to the construction of any other canal in Panama, reference has been made back to the 1903 treaty, and it has been asserted that this is a right which we have under the 1903 treaty.

That may be. But the reason we are here considering these treaties that are before the Senate, the reason we are engaged in this entire debate, is that the 1903 treaty has not proven a satisfactory basis upon which to rest the relationship between the United States and the Republic of Panama.

We have been through that issue at great length in the consideration of the permanent Neutrality Treaty which this body approved by the quite sizable margin of 68 to 32. We have been through that issue, that the 1903 treaty, given how it was arrived at and given the nature of its provisions, has not proven to be a stable basis upon which to rest the relationship between the United States and the Republic of Panama.

We are here to renegotiate that relationship and to arrive at a different, more equitable, more permanent, more stable relationship between our two countries.

One of the things the people of Panama have always been sensitive to with respect to the 1903 treaty is that they do not have jurisdiction and control over their country like any other nation has; that the United States holds a corridor of land through Panama which divides that country in two. It is their territory, their country, and we hold a part of it and exercise jurisdiction over it. Of course, it has always been the contention on the part of the Panamanian people that this is unacceptable to them.

We discussed at great length on the floor of the Senate over the course of the 6 weeks we have now been engaged in this debate how the 1903 treaty was arrived at, the nature of the negotiations by Philippe Bunau-Varilla, the Frenchman, with our Secretary of State, without any Panamanians being involved in the negotiations; the hasty signing of a treaty document in advance of Panamanian negotiators arriving in Washington since it was perceived that the terms would clearly not be acceptable to the Panamanians; and then the subsequent ratification of that document by the Panamanians under the threat that unless they did so the American protection for the Panamanian revolution, leading to their independence from Colombia, that our protection of that would be withdrawn, and that those who had led the independence fight would be left at the mercy of the Colombian armed forces which, under the circumstances fairly clearly meant death at the hands of a firing squad.

Therefore, I think it is understandable, given that choice, why they chose then to subsequently ratify the treaty. But the treaty of 1903 was never accepted, and over the years the resentment toward it and the feeling that it was a completely unfair bargain imposed upon the people of Panama has grown and grown in that country.

It does not really answer anything to take the floor of the Senate, as the Senator from Alabama did earlier this morning, and say, "Well, this is a provision that is in the 1903 treaty and, therefore, it ought to be carried forward."

There are many provisions in the 1903 treaty which are not acceptable for nego-

tiating a new basis of our relationship with Panama.

The whole exercise in which we are engaged is to arrive at a new basis for the relationship between the United States and the Republic of Panama, a basis which is perceived to have equity to it, a basis that protects the interests of both countries, and a basis that is mutually acceptable and, therefore, gives us something on which to rest our relationship in the future.

So the fact that some provision was in the 1903 treaty and is not being carried forward is not an argument for that provision, because the whole 1903 treaty is before us for renegotiation. That is an argument for adhering to the 1903 treaty and, of course, I note there that the distinguished Senator from Alabama has been opposed to revision of our treaty relationship with Panama, has taken early, before these treaties were even presented to the Senate so that we knew their texts and what they involved, the position that he was opposed to revision of that relationship.

In fact, the other day, in all fairness to him, when he talked about amending the treaties and he suggested we should have considered them in reverse order, and he then suggested that had we done that there might have been 90 or 95 Senators or he said even 99 Senators who would then support the treaty—he was careful not to include the 100th—and, of course, in a genial response to a question he allowed as how he could not include the 100th because his own position would, of course, have been in opposition, which conforms to a pledge which he made to his constituency with respect to his position on the treaties. So we understand his opposition, as it were, from the very beginning, even before there was a treaty document before us to consider with respect to these treaties.

Reference was made to the revision in 1955, in the treaty of 1955, and it was mentioned that the preclusion of a canal by another party was carried forward in the 1955 treaty. That is correct.

The fact is that the revisions in 1936 under President Roosevelt's Good Neighbor Policy, and the revisions again in 1955 by President Eisenhower when he held the office of Chief Executive in this country, neither fully answered the concerns of the people of Panama with respect to the treaty of 1903.

Both sought to improve the situation, and did, in fact, improve the situation. But neither treaty was put forward by us, and certainly neither treaty was perceived by the people of Panama, as rectifying fully the 1903 treaty.

It is very important to appreciate that because what we are seeking to do here today is to move from the 1903 treaty and place the relationship between our two countries on a basis that can have a lasting quality to it.

That is why the treaty we approved only last week in a 68-to-32 vote, is called the Permanent Neutrality Treaty. That treaty runs without limitation as to time and is, of course, designed to insure the permanent neutrality of the Panama Canal or of any other canal constructed through the Isthmus of Panama. And I want to underscore that last point.

The regime of neutrality under the Neutrality Treaty which provides for the neutral operation of the Panama Canal and which provides that the Republic of Panama and the United States can take such actions as each of the countries deems are necessary to maintain the neutrality of the canal, those provisions would apply to any canal through the Isthmus of Panama, and those provisions, of course, take effect not after the year 2000, but take effect along with the Panama Canal treaties 6 months after the exchange of instruments of ratification with respect to these treaties.

Now that is very important because it insures a regime of neutrality of any canal through the Isthmus of Panama, and, of course, one of the premises of these treaties is that a neutral canal serves American interests. It best insures our ability to continue to use the canal both for military and for commercial purposes, and as it has been repeatedly said in this debate, the importance of the canal to the United States is its use. If we could not use the canal, if we could not make use of the canal for purpose of transit from one ocean to the other, the canal would not have any value. The canal value lies in its use and that is very important to be understood.

So the 1903 and the 1955 treaties to which the Senator from Alabama has referred constitute the past relationship and that relationship has proven to be inadequate. That relationship is not sufficient to structure a mutual cooperative and constructive framework between the people of Panama and the people of the United States. We are now trying to revive that relationship and arrive at an understanding that will enable us to move forward between the two countries in a way that serves our interests, the interests of the United States, and in a way that serves the interests of the people of the Republic of Panama.

Now I wish to address the Senate with respect to this question of a canal through Panama or through somewhere else and the importance of the provisions that Panama will not, as this new treaty states, allow anyone else to build a canal until the end of the century through their territory without the approval or the permission of the United States, and that we in turn will not negotiate outside of the country of Panama to construct such a canal.

I wish to read testimony that was given before the Foreign Relations Committee by Col. John P. Sheffey, U.S. Army, retired. When he appeared before the committee, Colonel Sheffey stated the following, and I am now quoting:

Mr. Chairman, gentlemen, I am Colonel John P. Sheffey, U.S. Army (Ret.). My experience in Panama Canal affairs has been rather extensive—five years as the Secretary of the Army's Military Assistance for Canal matters, five years as the Executive Director of the President's Atlantic-Pacific Interoceanic Canal Study Commission, and three years in the Department of State as Special Advisor to the U.S. Canal Treaty Negotiator on an appointment that was terminated by the Department of State in 1974. Subsequently, I have maintained contact with the State and Defense negotiators and have followed the development of the current treaty drafts.

He then goes on to say:

First, as the former Executive Director of the $22 million sea-level canal study in 1965–70, I assure you that there are no foreseeable circumstances in which the United States would be likely to consider building a new Isthmian canal outside Panama. The only feasible routes are in Panama. The economic, technical and political objections to the far longer routes in Colombia and Nicaragua eliminate them from practical consideration. Limiting the choice to Panama for the remainder of this century costs the U.S. nothing, and the treaty proposal for this prevents other powers meddling in the matter.

The theoretically feasible routes in Nicaragua and Colombia are 140 miles and 100 miles in length, respectively, as compared with 40 miles or less for the Panamanian route. The movement of large ships in narrow canal waters is a slow and hazardous operation. Ship operators would not readily accept the risk and time lost in transit on these long routes. The construction and operation costs of these longer canals would be three or four times the cost of the shorter canals in Panama, and even the shorter Panamanian routes are not economically feasible at currently forecast traffic levels.

I will read that sentence again. This is from the statement of Colonel Sheffey, who had been the executive director of the $22 million sea-level canal study from 1965 to 1970.

We have here the report of the Atlantic-Pacific Interoceanic Canal Study Commission, the final report which is a very thick document. I think it is fair to say it is over a thousand pages and it has extensive backup documents as well.

That was a special commission authorized by Public Law 88–609 of the 88th Congress. It was chaired by Robert B. Anderson and included as its members Milton S. Eisenhower, Raymond A. Hill, Kenneth E. Fields, and Robert G. Storey.

Mr. President, this was a very extensive study. Anyone interested in this issue really ought to examine carefully the study of this commission.

For example, they have chapters in this book which deal with the isthmian canal interest of the United States and other nations. They analyze the potential canal traffic and revenues. They considered the matter of excavation by nuclear methods. They considered important environmental matters. There was a very extended analysis of the alternatives, very careful analysis of financial feasibility. They dealt with the issue of the management of a sea-level canal and its construction and operation.

Now their conclusion, as Colonel Sheffey stated, was that the only feasible routes are in Panama. The economic, technical and political objections to the far longer routes in Colombia and Nicaragua eliminated them from practical consideration.

Colonel Sheffey stated:

Limiting the choice to Panama for the remainder of this century costs the U.S. nothing, and the treaty proposal for this

prevents other powers meddling in the matter.

Then Colonel Sheffey went on to say:

The construction and operation costs of these longer canals would be three or four times the cost of the shorter canals in Panama, and even the shorter Panamanian routes are not economically feasible at currently forecast traffic levels.

He then stated:

In the 1970 study, the Nicaraguan and Colombian routes were considered only for a sea-level canal constructed by nuclear excavation. Nuclear excavation is of questionable technical feasibility at best, and is politically infeasible beyond doubt. Conventional excavation costs on these longer routes were so great that they were not even estimated with any precision. Today's construction costs on either route would be in excess of $20 billion, and this could easily double by the time such a canal might be needed.

In the question period involving Colonel Sheffey, he was asked about the sea level canal, and he made the following points:

The argument that we need the right to build a canal outside Panama for some unforeseen purpose is an empty one. We cannot build a canal outside Panama.

He went on to say:

When we entered this study in 1965, one of our purposes was to prove that we could build a canal, a technically satisfactory canal, outside Panama because it would give us far better negotiating leverage to renegotiate our relationship with Panama.

We spent $22 million of the taxpayers' money in 5 years and proved only that we could not build outside Panama.

This is from the executive director of the study commission. I have not heard anyone question the quality of work which has gone into the interoceanic canal study commission.

To come back again to the provisions of the amendment of the Senator from Alabama, now before us, it, in effect, seeks to carry forward into this treaty the provisions of the 1903 treaty. I simply want to underscore again that we are here considering these treaties because it is clearly in our interest and has proven necessary to renegotiate the terms of the 1903 treaty. It does not advance us very far in considering these documents to fasten on to some provision of the 1903 treaty and insist that it be carried forward in terms of the relationship between the two countries.

The reason we are here with these new treaties, trying to arrive at a new relationship which will protect our interests, which is fair to the Panamanians, which will be the basis on which we can move into the future, is that so many of the provisions of the 1903 arrangement have proven to be unacceptable. That is the issue which is before the Senate.

Senators only avoid that issue, and the country only avoids it, if one proceeds on the premise that we are going to carry forward provisions of the 1903 treaty. If we could carry forward the provisions of the 1903 treaty as a basis of the relationship between the United States and Panama, we would not be here considering these treaties. That is the reason we are here and the reason we have been here for 6 weeks.

I would hope, Mr. President, that at some time we would reach an understanding on when we are going to conclude our considerations with respect to this treaty. I think it quite reasonable that an appropriate period of time should pass for considering each of the articles. However, I hope we can at least settle when that process is going to come to an end as we did with the Neutrality Treaty.

The reason we are here considering these treaties and have now spent 6 weeks on it, or over 6 weeks on it, is because the provisions of the 1903 treaty are not acceptable. Now to come with an amendment which seeks to carry those provisions forward is to proceed on an assumption that belies the realities of the situation with which we are confronted.

I feel that the proposal offered by the distinguished Senator from Alabama is really premised on the notion that the appropriate course for us to follow is to maintain the 1903 treaty, as revised in 1936 and 1955. Those revisions do not fully answer the problem, and we have to deal with the problem as it is. That is what we are trying to do with the treaties which are before us.

Mr. CHURCH. Mr. President, first of all I commend my colleague, the able Senator from Maryland, for a very fine argument against this amendment. I wonder if he would mind an exchange between us in which he might play the part of Panama and I might play the part of the United States. I ask this because it is useful to remind ourselves that we are dealing here with a treaty, one that has been negotiated at arm's length between two governments.

Normally, the Senate, in exercising its constitutional prerogative, does not undertake to rewrite a treaty that has been negotiated between two governments. We exercise our powers, either by consenting to the treaty as negotiated, or by refusing to consent to it, thus rejecting the treaty as negotiated; or by attaching conditions to our consent. Those conditions can take the form of reservations or understandings affixed to the instrument of ratification.

It has been 54 years since the Senate undertook to amend a treaty by actually changing its language.

A few days ago, it is true that the Senate, in adopting the amendments proposed by the leadership, as recommended by the Senate Foreign Relations Committee, amended the permanent Neutrality Treaty. It was the first time in 54 years that this has happened, though during that period the Senate has considered hundreds of treaties.

In amending the text of the permanent Neutrality Treaty, however, the Senate was careful to adopt interpretive language which had already been consented to by the two governments. Indeed, that language had, in effect, been submitted to the people of Panama and had been passed upon in their earlier plebiscite.

Mr. HATCH. Will the distinguished Senator yield for just one question?

Mr. CHURCH. Yes, I yield.

Mr. HATCH. I have enjoyed the comments of the distinguished Senator from Idaho, but I hope I am not misinterpreting. The distinguished Senator, although he indicates that most treaties, if not the vast majority, have not been amended on the floor of the Senate, is not arguing that the Senate does not have the prerogative or the right to amend, if the Senate finds that the treaties are not properly written, do not protect the United States, are ambiguous, or have other difficulties? It is within the prerogative of the United States to amend for any reason it so desires, even though past practice may have dictated otherwise.

Mr. CHURCH. Of course. I was just now mentioning our adoption of the leadership amendments.

Mr. HATCH. I thank the Senator.

(Mr. HODGES assumed the chair.)

Mr. CHURCH. In fact, as I have stated, the Senate saw fit, for the first time in 54 years, to amend the actual text of the Neutrality Treaty in order to clear up certain ambiguities that the Senate Foreign Relations Committee had identified. Obviously, it is within the power of the Senate to amend the treaty itself, but we were careful to do so in a way that had already been agreed upon by both the Government of the United States and the Government of Panama, the two parties to the Neutrality Treaty.

Mr. HATCH. Will the Senator yield for just one other question on that precise point?

Mr. CHURCH. Yes, I yield.

Mr. HATCH. Just so we understand at this point, the Senator is emphasizing that, although this is the first time in so many years that a treaty has been amended, the treaty was amended to use the precise language of the two governments. If I understand the Senator correctly, and just to correct the record, it is my understanding, and I believe the Senator would concur, that the Senate has the authority, the power, and the right, if it so desires, to amend a treaty for any reason the Senate desires, whether or not it is to amend to clarify language agreed upon by the two respective powers.

Mr. CHURCH. Of course, the Senate has that power.

Mr. HATCH. I thank the Senator.

Mr. CHURCH. But the usual practice of the Senate, when it has wished to impose a condition or make a change, has been not to amend the text of the treaty itself, but to amend the articles of ratification by adding reservations or understandings, so that the Senate's consent rests upon the conditions stipulated in the articles of ratification.

Now, this is the normal way of proceeding, for the reason that a treaty represents a contract negotiated between two sovereign governments. If we choose to change the treaty language, then, of course, the effect of that, unless we adopt language that has already been agreed to by the two governments, is to force a renegotiation of the treaty.

The able Senator from Maryland is a lawyer, and a good one. I, myself, am a lawyer——

Mr. SARBANES. And, I may add, Mr. President, a good one, a very good one.

Mr. CHURCH. Well, now that we have established our credentials——

Mr. SARBANES. We have to have some reciprocity here, just as we do in treaty negotiations.

Mr. CHURCH. Very well. I am going to ask if the Senator from Maryland would, for the moment, just for purposes of this debate, consent to play the role of lawyer for the Government of Panama and I shall act, for purposes of the debate, as the lawyer for the United States.

Mr. SARBANES. Let me say I am willing to do that for the purposes of the debate, as the able Senator from Idaho has suggested, but I want it very clearly understood, because the argument has been asserted on the floor of this body that there is an oversensitivity to Panamanian concerns, that those of us supporting these treaties do it, first and foremost, because we believe that the treaties serve American interests.

Mr. CHURCH. Absolutely.

Mr. SARBANES. We happen, among other things, to have a perception that American interests are served if there is a relationship between the United States and Panama which is acceptable to both peoples and protects their mutual interests; such a relationship may well serve American interests better than a situation like the 1903 treaty, which was arrived at in such a way and was so unfairly structured that it has provoked constant resentment and antagonism on the part of one of the parties to the relationship. That is one of the reasons these treaties are important and why they serve American interests.

Mr. CHURCH. Of course.

I ask the Senator to join me at an imaginary negotiating table only for the purpose of making a point that seems to be lost in this debate. As the Senator has correctly observed, the 1903 treaty was so odius to the Panamanian Government and its people that indignation over it led, in 1964, to serious riots and bloodshed, in which American lives, as well as Panamanian lives, were lost. The shock of such violence erupting in that small country led to a Presidential decision that the time had come to work out new treaty arrangements with Panama.

Now, if the Senator would, for a moment, take off his Senatorial hat, as I shall take off mine, and cast himself in the role of a lawyer negotiating for the Government of Panama, I shall cast myself in the role of a lawyer negotiating for the United States. Now, I put to you the following proposition.

The proposition is contained in this amendment offered by the Senator from Alabama. I ask you to agree to the following provision for the new treaty: First, that the United States, under the new treaty, will retain the rights it had under the old treaty; namely, to hold in perpetuity the exclusive right to construct a new canal in Panama. That is to say, we want to exclude any other country from ever building a new canal in Panama, thus depriving the Government of Panama, in perpetuity, from ever negotiating with any country except our own for the purpose of building a new canal in Panama.

However, the United States will not be so bound. For we shall insist on our right to negotiate with any government we please, should we decide to build a new canal.

All I am asking you to do, as the representative of Panama, is to relinquish Panama's right to negotiate with any country forever, while the United States shall have an unfettered right to negotiate with any country, at any time, for a new canal.

Now, Panama, are you willing to accept this provision in the treaty?

Mr. HATCH. If the Senator will yield——

Mr. SARBANES. Having put the question, I think the questioner himself ought to recognize an absence of any element of evenhandedness in that approach.

Mr. CHURCH. Well, after all, Panama should give a little here.

Mr. SARBANES. I must say I am being very restrained in that response, because I have great respect and affection for the questioner and I, in the end, want to have a good relationship between our two parties. But if you would just read your question again, and think about it for a moment, I would have to say to you that it is all take and no give. I cannot regard that as even the semblance of an evenhanded proposal.

Mr. CHURCH. All I am asking you to do is to give us the right in perpetuity to exclude any other country from negotiation with Panama for a new canal. Only the United States may build a new canal in Panama, provided we want one there.

On the other hand, the United States must naturally preserve its option to build a new canal in another country, should we decide some other place better serves our needs. Even then, Panama would remain bound by this provision to deal with no other government.

Now, why do you find that unacceptable? I am sure it would be approved in the United States overwhelmingly.

Mr. SARBANES. I am not fully familiar with all of your slang or phrases, but I think there is the phrase about having your cake and eating it, too, that well applies to this proposal that you are putting forward.

Mr. HATCH. Will the two distinguished lawyers yield for maybe a thought here, for just a second?

All I know is that I would have to admit both Senators are distinguished lawyers, but if I am a citizen of the United States, if I might play that role, I think I might want a different counsel representing me in these negotiations. [Laughter.]

As a matter of fact, I think I would want a counsel who would not start off by asking what I consider to be an objectionable question, but might start off pointing out the relationship that we have had, a good relationship, the $250 million that we put into the economy last year, and many other things, to try and show that maybe there is some reciprocity that might be very much interesting to our Panamanian friends.

Mr. CHURCH. I thank the Senator for his intervention.

Mr. HATCH. Well, I would rather have you be U.S. Senators who are actively working for our country. If we are going to have lawyers working for our country, have lawyers who know how to negotiate.

Mr. CHURCH. May I say to the Senator, even if he were there with all his skills, and made this proposal at the negotiating table I doubt that he would get any different response from the Panamanians than the reply offered by the Senator from Maryland.

Mr. HATCH. Will the Senator yield on that point?

Mr. CHURCH. I would prefer not to be interrupted again.

Mr. HATCH. It would be fair if the Senator would on that point, just that point, and then I will sit down.

Mr. CHURCH. I thought the Senator——

Mr. HATCH. And allow it to continue.

Mr. CHURCH (continuing). Wished me to yield for a question.

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

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

Mr. HATCH. I would be very appreciative of the Senator from Idaho.

I would like to have been the negotiator of these treaties because I believe that we would have had a more forceful negotiation which would have benefited both countries, not just the country of Panama.

In addition to that, I think there would have been a lot of things pointed out that would have been for the benefit of both countries.

Mr. CHURCH. And the Senator's question?

Mr. HATCH. And the Senator's question is this: If the distinguished Senator from Idaho was the negotiator, would the distinguished Senator from Idaho beginning the negotiations for this canal, have started off with a question like the question he just asked of the other distinguished Senator and lawyer from Maryland and expect any nation, I do not care how small, insignificant, weak, ineffectual, or unrelated to the United States, to even negotiate? The answer is probably "no."

Mr. CHURCH. If I may supply my own answer to the Senator's question, it is this: The proposition I put to the Senator from Maryland was taken from the text of the amendment offered by the Senator from Alabama.

Mr. HATCH. Yes, out of context and——

Mr. CHURCH. Oh, no, not out of context.

Mr. HATCH. Surely.

Mr. CHURCH. It was paraphrased quite accurately. The Senator is wrong. He obviously knows that the proposition is so one-sided it could not possibly float.

Mr. HATCH. In the context it was given.

Mr. CHURCH. Well, the context in which it was written. It was the amendment itself which I read from.

Mr. HATCH. If we are going to be lawyers, let us at least be fair lawyers and fair negotiators, and let us consider all ramifications and not just take something out of context that seems to be repugnant to everybody and act as if that is going to be an effective negotiation for the United States of America, because it

certainly is not, nor is it, I might add, good law.

Mr. CHURCH. Nor, I might add, a proposal worthy of serious consideration.

Mr. SARBANES. Does the Senator from Utah, with all of his great skills, think there is any possibility that, if a plane was placed at his disposal, he could fly down to Panama now and say to the Panamanians, "I want you to agree to the following proposition. No other country is to be able to build a canal through Panama except the United States, but the United States can go anywhere else it wants other than Panama in order to build a canal," and expect the Panamanian people to agree to that?

Mr. HATCH. If I may answer that——

Mr. SARBANES. As being an even-handed proposition?

Mr. HATCH. I can answer that. I think I will be able to.

If I were negotiating this, I would not start off with that proposition.

Second, I would not have negotiated these awful treaties.

Third, as a lawyer who has written a lot of contracts and negotiated a lot of contracts and millions and millions of dollars in contracts, I certainly would not have had the imprecise, poor legal language that had to come from imprecise, poor negotiations.

Now, with the fait accompli——

Mr. SARBANES. Having said all that, what is the answer to the question?

Mr. HATCH. Let me answer it in my way. I know the Senator asked the question.

All I am saying is this, if I were negotiating, I believe I could have gone down to Panama and come back with new treaties which would have benefited both countries and which would have had that provision in it.

I know I could have done it. But, on the other hand, I would not have negotiated from a position of weakness, as our two lawyers are doing here. I would have negotiated from a position of strength and I would have come up with treaties that benefited my Nation first and foremost, and yet still would have been fair to the Panamanians.

I am willing—and I am not a betting man—but I am willing to bet I would have come back with that exact provision in the treaty.

Mr. CHURCH. Mr. President, if I may reclaim the floor, I must say that the Senator's confidence in himself is limitless.

Mr. HATCH. I think Senator Allen could have, also, and a number of other Senators I have confidence in, a number of other people.

Mr. CHURCH. If I may reclaim the floor, Mr. President.

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

Mr. CHURCH. Perhaps, the Senator from Utah has been endowed with the gift of working miracles. But the proposition we are faced with is a very plain one. I read it from the pending amendment.

It is a proposition which, in effect, stipulates that the United States, in perpetuity, shall have the exclusive right to build a new canal in Panama, that Panama can deal with no other country. But, on the other hand, the United States need not build a new canal in Panama, but reserves the right, on its part, to negotiate with any other country it may choose.

It would take a magician, indeed, to get the other party to agree to such a proposition in an arms-length negotiation.

Now, what proposition was agreed to?

Well, it is contained in section 2 of article XII and it is a proposition based upon some semblance of balance between the two countries. It is based upon a quid pro quo, which is always the case when governments negotiate at arm's length.

The provision is as follows:

2. The United States of America and the Republic of Panama agree on the following:

(a) No new interoceanic canal shall be constructed in the territory of the Republic of Panama during the duration of this Treaty, except in accordance with the provisions of this Treaty, or as the two Parties may otherwise agree.

In other words, the two governments consent that no new interoceanic canal will be built in Panama unless both governments agree.

Now, that gives us a veto. The Panamanians have conceded it to us. They may not go to another government—they cannot go to Japan, for example—and say, "You come in and make an arrangement with us whereby we will permit you to build a sea level canal across our country." Under this treaty, they have given up that right. They have said, "We will not allow a new canal to be built unless the United States consents to it." That is an important right we have obtained, and the Panamanians have agreed to it, under the terms of the treaty.

What did they get in exchange for giving us the exclusive option, in effect, to build a new canal in Panama, or at least a veto that could prevent them from dealing with any other country for that purpose? What did they get in exchange? That is covered in part (b) of section 2, article XII, of the treaty. It reads:

During the duration of this treaty, the United States of America shall not negotiate with third states for the right to construct an interoceanic canal on any other route in the Western Hemisphere except as the two parties may otherwise agree.

So we got a veto preventing Panama from dealing with any other country to build a sea level canal across Panama; and the Panamanians, in return, got a veto to prevent us from negotiating with any other country for that purpose, for the duration of the treaty. That was the quid pro quo.

We felt, on our side, that it was a good trade, because we do not have any intention of building a canal in any other country, anyway. We had already spent $22 million hiring the best of engineers to explore thoroughly all alternative canal routes in Central America. They came back to us, after careful study, and said in their report to the President of the United States that they found no feasible route for a sea level canal in any other country except Panama.

So, in effect, we gave away little or nothing in return for the Panamanian concession that we should have the right to veto their dealing with any other country on a new canal for the duration of the treaty.

As a matter of fact, I am told by those who negotiated the treaty that this was a provision we sought on our initiative, because we felt it served the American interest so well.

It is obvious what is intended here. If the Senate were to adopt this amendment, it would simply gut the treaty. It is an amendment unacceptable on its face. No self-respecting government could accede to it. If we are going to have a treaty entered into voluntarily by two sovereign governments, then it has to be based upon a certain evenhandedness. There has to be fair consideration given to the legitimate interests of both sides. Otherwise, of course, no treaty can be consummated; no agreement can be reached.

So, Mr. President, since we did not have magicians negotiating and had to deal with normal considerations of fair play, we have in this treaty a provision that reflects not only the sensitivities but also the interests of both parties.

I believe it is a provision highly favorable to the United States, one of the better provisions in the treaty, from the standpoint of American interests.

However, if the Senate should decide against this provision, if the Senate should wish to preserve for the United States its option to deal with other countries in Central America on the building of a sea level canal, the way to do that is by reservation to the articles of ratification, not by attempting to amend the text of the treaty itself.

Perhaps Senators believe that the exhaustive study that has been made heretofore on this subject, and the large amount of money spent on it, is insufficient to convince them that the engineers were right when they concluded that the alternative routes outside of Panama were not feasible. Perhaps the Senate wants a new investigation of that question, on which we could spend $35, $40, or perhaps $50 million, to reinquire into the matter during the next 5 years.

If that is the judgment of the Senate, the way to reach this provision in the treaty is not by trying to substitute a proposition so one-sided that it could not possibly be accepted by Panama, and thus kill the treaty; the way to do it is through an appropriate reservation to the articles of ratification.

For these reasons, Mr. President, I hope the Senate will reject this amendment.

I ask the Chair how much time remains to the two sides on the amendment?

The PRESIDING OFFICER. The Senator from Alabama has 13 minutes, and the Senator from Idaho has 20 minutes.

Mr. CHURCH. I thank the Chair.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. I yield myself as much of Senator ALLEN's time as I may require.

Mr. President, I have enjoyed the remarks of the distinguished Senator from Idaho. I know that he is very sincere and dedicated in his approach to try to resolve these problems and to try to put forth the best logic and position he can for the proponents of these treaties.

On the other hand, I had to interrupt him when the two attorneys were talking, because I felt that if we are going to negotiate these treaties, let us start from the beginning.

I was almost ready to interrupt him again, before the distinguished Senator admitted that it is his understanding that we voluntarily offered to do this. We voluntarily offered to put this provision in, binding the United States to not be able to build a new sea level canal anywhere else without the country of Panama's basically expressed provision. I do not think that is negotiating for our benefit. I do not think our negotiators were taking care of the good old United States of America, when they voluntarily bound us to the will or whim of a country of 1.7 million people, however much we want to have good relations between the two nations.

The fact is that nobody else is going to build a sea level canal in this hemisphere. As a matter of fact, back at the turn of the century, when this matter was being considered, the preferable route was thought to be through Nicaragua.

We all know the historical aspects surrounding the preferable route through Nicaragua and the force and power of Teddy Roosevelt, and others, who gradually overturned what seemed to be the overwhelming sentiment at the time and allowed us to go into the relations and negotiations with Panama which resulted in the 1903 treaty.

What I am saying is this: If we are going to have negotiators representing the United States of America, then let us get negotiators who represent the United States of America who are not people going down there just to volunteer binding commitments of the United States of America which we would not otherwise have to have.

I am not an engineer and I do not purport to say which route would be better and whether routes through Nicaragua would be better or whether there could even be a sea level canal or whether a route through Panama is better.

I heard both sides, and I have heard both arguments. I have heard persuasive arguments both ways.

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

Mr. HATCH. I am delighted to yield.

Mr. SARBANES. Has the Senator read the interoceanic canal study of the Atlantic-Pacific canal study?

Mr. HATCH. No; I have read parts of it. I have not read it all. I have not read all 1,000 pages.

Might I ask the Senator from Maryland has he read it?

Mr. SARBANES. I think it is fair to say I have, yes.

Mr. HATCH. All of it, every page, from beginning to end?

Mr. SARBANES. No, I cannot guarantee the Senator that.

Mr. HATCH. That is what I cannot guarantee.

Mr. SARBANES. I think I studied this commission report and I know what is in it and I know its conclusions and recommendations.

Mr. HATCH. I have, also. I would say I have studied it as much as the Senator.

Mr. SARBANES. I do not know how the Senator knows that but, in any event, what does the Senator then think of the conclusions and recommendations?

Mr. HATCH. I think it is a good study, and the conclusions may be accurate. I do not know. I have also read the background materials for the 1903 study from what Senators at that time who wanted the Nicaraguan canal. I do not know. I am not an engineer. I cannot make the ultimate decision on that matter, and it may very well be this is the only definitive and important study.

My point is not that. My point is why do we bind the United States of America in any way? Why did we not negotiate to allow us without question to build it if we want to or not? I think we could have done it. I think when we volunteer to bind ourselves to the whims and fancies of Panama we did not have to do that.

That is one of the things that I find some fault with in the negotiations. It is only one of the things. I think there are many, many things we can find some fault with.

I know a lot of people in our society believe that our negotiators, at least one of them was representing certain banking concerns to which are owed upward of a billion and a half dollars, and that there was a definite conflict of interest, and that he was appointed for only 6 months for no other reason than he could avoid the confirmation process of the U.S. Senate, so that he did not have to come in and present his credentials and justify them in front of the Senate committees and prove that he did not have any conflicts of interest.

That is going to be a cloud that hangs over these treaties forevermore if they are passed.

And for anyone to act like it does not hang over bothers me, and for anyone to think we had the best negotiations in this matter bothers me also, especially when we look at the language of the treaty, which I think as a composite whole does not protect the United States of America the way it should. That is why some of these——

Mr. SARBANES. Mr. President, will the Senator yield on my time on that point?

Mr. HATCH. I am delighted to yield.

Mr. SARBANES. I do not want to consume the Senator's time.

Mr. HATCH. I understand our time is going rapidly.

Mr. SARBANES. I do not think the Senator should take the floor of the Senate and place a cloud over the integrity of Ambassador Linowitz. The Senator may want to quarrel with the negotiators on the substance of what they achieved—that is what we are supposed to be here arguing about as reasonable people. But to cast doubt on people's motives or integrity, that is an entirely different matter and I deplore it.

Ambassador Linowitz received from the Department of State a letter on the matter of conflict of interest. That letter has been placed in the RECORD and has been referred to previously in this debate. The letter set out a ruling from the legal adviser to the State Department that there was no conflict of interest present between his role as a negotiator and the various holdings which he had.

The Senator from Utah may want to differ with the negotiators over the substance of the treaty provisions, but I do not think he should place a dark cloud over people who have served the country well in many capacities, including both Ambassador Bunker and Ambassador Linowitz, and others.

Mr. HATCH. Let me add to the statement of the distinguished Senator from Maryland that I said "some people."

Let me go further. I do not think what has——

Mr. SARBANES. I do not think that takes care of the situation. If the Senator will yield, I think we are proceeding on my time.

Mr. HATCH. I am happy to allow the Senator to proceed on his time. But let me respond when I start.

Mr. SARBANES. Let me make the point.

I do not think it takes care of the point for the Senator to raise the issue and then attribute it to some other people and leave that dark cloud hanging.

If the Senator subscribes to that view, and if he does then I am most disappointed to hear it, he should let us know what his position is. I do not think he should trot out something which casts a dark cloud on the personal qualities of very distinguished people and then attribute it over to some other people.

If the Senator wants to disagree with the substance of what the negotiators have reached and question that, this is what a good part of this debate is about, but do not cast aspersions on the personal qualities of dedicated individuals.

Mr. HATCH. Mr. President, if I might respond——

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

Mr. SARBANES. I yield to my colleague from Maryland.

Mr. HATCH. Mr. President, who has the floor?

Mr. SARBANES. Mr. President, it is on my time.

The PRESIDING OFFICER. No. I think the floor is held by the Senator from Utah.

Mr. SARBANES. I see. I thank the Chair.

Mr. HATCH. Mr. President, I am delighted to yield to the distinguished Senator from Maryland, Senator MATHIAS. Is it on this point?

Mr. MATHIAS. Yes, it is.

Mr. HATCH. Mr. President, could I

make a point before he does that if I may?

I wish to answer the other distinguished Senator from Maryland. Let me say this: I did not put the cloud of Ambassador Linowitz's service over these treaties. The President did.

When there was a fuss raised about him being on the board of directors of Marine Midland Bank, he resigned temporarily, saying he will go back on, as I understand it, as soon as these treaties are concluded and any conflict of interest is resolved.

Mr. SARBANES. No.

Mr. HATCH. That is my understanding.

Mr. SARBANES. No.

Ambassador Linowitz, prior to that, had received a letter from the legal adviser of the State Department saying there was no conflict of interest.

Mr. HATCH. Then why did he resign?

Mr. SARBANES. Because a number of people perhaps including the Senator from Utah——

Mr. HATCH. Not including the Senator from Utah.

Mr. SARBANES. I do not know for a fact—who attacked him in any event, and he said, so that we do not even leave the basis for the attack he was quite happy to get off the board, but he had received an authoritative letter telling him there was no conflict of interest in response to his own careful inquiry.

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

Mr. HATCH. I am delighted to yield to the distinguished Senator from Michigan.

Mr. GRIFFIN. Mr. President, who in the devil is the State Department to do the job of the U.S. Senate? The Senate is the body that should decide whether or not there is a conflict of interest in the case of a nomination of a person to perform a diplomatic service. It may be true that someone in the State Department issued such a legal opinion, but as far as this Senator is concerned, that is no answer for me.

Mr. SARBANES. No; but that is an answer as far as the integrity of Ambassador Linowitz is concerned. He put the issue to appropriate legal officials and received a response.

Mr. HATCH. Who preselected them?

Mr. SARBANES. The Senator might want to say that he may disagree with the legal adviser, but the question is——

Mr. GRIFFIN. We did not get a chance to.

Mr. SARBANES. The question was put. The Senator had his opportunity.

I want to pursue with the Senator from Michigan——

Mr. HATCH. On the Senator's time. Is this on the Senator's time?

Mr. SARBANES. Yes. I assume all of this is on my time.

Mr. HATCH. All of this is on the Senator's time.

Mr. SARBANES. Because the Senator from Michigan never raised that point until after——

Mr. GRIFFIN. Now the Senator is going on to a different issue, is he not?

Mr. SARBANES. No. It is the same issue and as the Senator knows we have discussed it before.

Mr. GRIFFIN. The Senate can be concerned about it just the same. Even if this Senator were negligent in any way, that does not resolve the matter. Let us go back to whether or not he was a member of the board of directors of this bank; let us go back to whether this bank made a loan in the neighborhood of $50 million to the Government of Panama headed by Mr. Torrijos, and did he remain on the board of directors after he undertook the job of negotiator? If he did, never mind what this Senator did or did not do. Maybe I did not do my duty. I thought I did. But it seems to me that is beside the point. The Senator from Maryland is dodging the issue.

Mr. SARBANES. No; I am not dodging the issue.

I will ask directly to the Senator from Michigan whether he is asserting that Ambassador Linowitz had a conflict of interest and that his integrity in negotiating this treaty, therefore, should be questioned?

Mr. GRIFFIN. Under the Constitution those who are appointed to perform diplomatic functions are supposed to be confirmed by the U.S. Senate. As I have said before, I think it was very ill advised for President Carter—when he knew he would have to come to the Senate with the treaty for our consent after it was negotiated—to circumvent the Senate by obviously appointing Mr. Linowitz on a temporary basis, so the nominee would not have to come before the Senate.

Whether being a member of the board of directors of a bank which has a $50 million loan outstanding to the Republic of Panama, headed by the dictator Torrijos, is a conflict of interest in such a situation is a question that the Senate should have had an opportunity to pass upon.

It troubles me, frankly, that the administration and Mr. Linowitz himself, did not go through the regular channels and bring this out in advance. That would have been the thing to do, and then to have explained it.

Mr. SARBANES. Mr. President, I ask unanimous consent to have printed at this point in the RECORD the exchange of correspondence between the chairman of the Committee on Foreign Relations and the Secretary of State concerning the appointment of Ambassador Linowitz to a temporary 6-month appointment, an appointment which I might point out was authorized under legislation enacted by the Congress of the United States. I ask unanimous consent that that material be printed at this point in the RECORD.

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

JANUARY 31, 1977.

Hon. CYRUS R. VANCE,
Secretary of State, Department of State, Washington, D.C.

DEAR MR. SECRETARY: I am writing you with respect to our recent conversation concerning the appointment of Mr. Sol Linowitz.

It is my understanding that this appointment will be made for a period not to exceed six months and for the purpose of putting Mr. Linowitz in the position of U.S. co-negotiator on the Panama Canal talks. As I indicated to you, I have no objection to this arrangement for a not-to-exceed-six-month period, so long as the negotiations from the U.S. side are headed up jointly by Ambassador Bunker and Mr. Linowitz. I am sure you will agree with me that Ambassador Bunker has performed admirably throughout his tenure as chief negotiator and I am confident, as I am sure you are, that he will continue to perform in this fashion until these negotiations are brought to a successful conclusion.

I know that you will apprise me of any misunderstanding on my part about Mr. Linowitz's role. Similarly, I would appreciate being informed beforehand of any change in the co-negotiating procedure.

Sincerely,

JOHN SPARKMAN,
Chairman.

THE SECRETARY OF STATE,
Washington, February 10, 1977.

Hon. JOHN SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate.

DEAR MR. CHAIRMAN: Thank you for your letter of January 31 concerning the appointment of Mr. Sol Linowitz. This is to confirm that your understanding that Mr. Linowitz is to be appointed as Co-Negotiator with Ambassador Bunker on the Panama Canal Talks, with the personal rank of Ambassador for a period not to exceed six months, is entirely correct. There has been absolutely no change in the co-negotiating procedure.

Sincerely,

CYRUS VANCE.

EXCERPT FROM FOREIGN SERVICE ACT OF 1946, AS AMENDED

APPOINTMENTS

SEC. 501. (a) The President shall, by and with the advice and consent of the Senate, appoint ambassadors and ministers, including career ambassadors and career ministers.

(b) The President may, in his discretion, assign any Foreign Service officer to serve as minister resident, chargé d'affaires, commissioner, or diplomatic agent for such period as the public interest may require.

(c) On and after the date of enactment of the Foreign Relations Authorization Act of 1972, no person shall be designated as ambassador or minister, or be designated to serve in any position with the title of ambassador or minister, unless that person is appointed as an ambassador or minister in accordance with subsection (a) of this section or clause 3, section 2, of article II of the Constitution, relating to recess appointments, except that the personal rank of ambassador or minister may be conferred by the President in connection with special missions for the President of an essentially limited and temporary nature of not exceeding six months.

EXHIBIT 2

DEPARTMENT OF STATE,
Washington, D.C., March 7, 1977.

Hon. JOHN J. SPARKMAN,
Chairman, Senate Foreign Relations Committee, U.S. Senate.

DEAR MR. CHAIRMAN: In light of certain statements by a member of the Senate and a member of the House with respect to Ambassador Sol M. Linowitz, I would like to make the following observations which may assist you and the members of your Committee in responding to questions or inquiries.

Ambassador Linowitz was appointed, last February 10, as Co-Negotiator for the Panama Canal Treaty, in the capacity of Special Government Employee with a six-month appointment to the personal rank of Ambassador, in accordance with applicable Federal and Department of State regulations and established procedures. He is serving in this capacity without compensation.

The Department of State conflict of interest regulations provide that no Department employee may "have a direct or indirect financial interest that conflicts substantially, or appears to conflict substantially, with his

Government duties and responsibilities" (22 CFR 10.735-205). Pursuant to these regulations, Mr. Linowitz prior to his appointment submitted to the Department a full statement of his memberships on boards of directors as well as his financial holdings. These were reviewed thoroughly by the Office of the Legal Adviser.

In the cases of two companies, Pan American World Airways, Inc., and Marine Midland Banks, Inc., Mr. Linowitz furnished information from them outlining their activities and financial interests in Panama. Appended are the statements from the Presidents of these two companies. Based on the Department's review, Mr. Linowitz agreed that in the unlikely event any aviation issues arise during the course of the treaty negotiations which might be of possible interest to Pan American, he would recuse himself from participation in the negotiation of any such issues. Continued membership on the board of Marine Midland Bank did not violate the applicable regulations because of the relatively low level of financial transactions of the bank with and in Panama.

Mr. Linowitz also agreed that his law firm "is not now and will not while I am serving in this capacity, represent any client on any matter related to the Panama Canal Treaty negotiation or the Canal Zone."

In the case of Mr. Linowitz' financial interests, two companies in which he had small shareholdings—AT&T and Texaco—did have business which the Legal Adviser believed might be affected by the outcome of the Canal Treaty negotiations. Consequently, Mr. Linowitz agreed to sell his shares in those companies, and has done so.

As a result of the Department's review and the foregoing undertakings by Mr. Linowitz, the Acting Legal Adviser gave a written opinion which concluded that the requirements of the applicable statutes and Department of State regulations on conflicts of interest had been satisfied.

Sincerely yours,

KEMPTON B. JENKINS,
Acting Assistant Secretary for Congressional Relations.

NOTE

Note to F. C. Wiser.

Re Pan Am Activities in Panama—Intertrade.

Intertrade is a small distribution company, wholly-owned by Pan Am. Established in 1972, its principal functions are:

Provides bonded warehouse services, including customs clearance services and some inventory management services. It now has facilities at three locations: Colon Free Zone, Panama Airport, and Panama City.

Provides extensive local trucking services primarily between the Airport and its bonded warehouses.

Acts as Pan Am's General Sales Agent in Colon and certain other points in Panama.

Provides sea-air transhipment services; arranges for the receipt of goods by sea from Japan and other points in the Orient and for onward shipment, usually by air to points in Central and South America.

As indicated in the attached 1977 projections, 1977 Intertrade sales are expected to increase from the 1976 level of $703,000 to $946,000 and net profit before tax from $125,000 to $142,000. Pan Am originally invested $10,000 to establish the company. The underlying book value of our equity is now $170,000.

Intertrade is under the direction of Art Sumner, who has been with Pan Am 35 years, most of them as a resident of Panama. The other 58 employees are citizens of Panama.

Also attached is a recent brochure on Intertrade which may be of interest.

I understand you are being provided with information on SDISA through Art Best.

CHARLES W. TRIPPE.

JANUARY 7, 1977.

Note to F. C. Wiser.

Subject Pan American Operation, Panama.

Sales office location: Edificio Hatillo, Avenida Justo Arosemena, Panama City, Republic of Panama.

Hours/Telephone: Mon.-Fri. 8:00 am–12 Noon/1:00 pm-5:30, Sat.-Sun. closed. Telephone: 25–5425.

Airport/location: Tocumen International Airport, located approximately 18 miles from Panama City. The Airport operation at the present time is 100% handled by Pan American personnel, with the exception of inbound cargo, which is handled by Intertrade.

Director: Reeder Chaney Office Phone: 25–6510. Home Phone 26–0859.

Mr. Chaney is the only international employee in Panama, and is responsible for not only Panama, but offline west coast/South American General Sales Agents in Colombia, Ecuador, Bolivia and Peru.

Present Employment: 151 people.

Passenger Operations: 75 movements/month.

Passenger Sales/1976: $10,000,000.

Cargo Sales/1976: $4,000,000.

General Information: New Airport and terminal facilities will be in operation by fall of 1977.

Separate Corporations in Panama:

(a) Intertrade (separate report being prepared by C. Trippe).

Intertrade is wholly owned Panamanian cargo company and is the general Sales Agent for Pan American on the Atlantic side of the canal for cargo and passengers. They are also general Sales Agents for Pan Am for the balance of the Republic of Panama, other than the City of Panama.

An agreement has recently been signed with Intertrade to do all of our inbound cargo handling at Tocumen Airport.

(b) SDISA (Servicios y Diversiones Internacionales, S.A.).

A Pan Am wholly owned Panamanian Catering operation located at Tocumen Airport servicing all carriers.

A. S. BEST.

PAN AMERICAN OPERATION, PANAMA

Prior to World War II, Pan American operated from both the Atlantic and Pacific side of the Canal Zone in Panama. When World War II started, the operation at France Field, located on the Atlantic side, was consolidated with the operation at Albrook Field on the Pacific side.

Pan American's operation continued at Albrook Field until the Republic of Panama developed an International Airport at Tocumen in October, 1949.

At one time, our operation in Panama was considerably more active than at present. Due to retrenchment in military forces, reduction in Panama Canal Zone international employees, long-range and wide-bodied aircraft, Pan Am has decreased its total activity through Panama.

The present 151 employees represent only 9.2 percent of our employees in Latin America or slightly over 1 percent of our employees worldwide in the field marketing group. Likewise, today the total sales of $10,000,000 for passengers and $4,000,000 for cargo represents .8 percent of our revenue.

MARINE MIDLAND BANKS, INC., OPERATIONS RELATED TO PANAMA

A. Past or Dormant Investments.—

1. Banco Inmobiliario de Panama S.A.—This is a small mortgage bank in Panama that engages in medium- to long-term housing mortgages and the warehousing of mortgage paper. We have just sold our 2½ percent interest.

2. Financiera Centroamericana S.A.—This is a general finance company engaged in commercial, industrial, and real estate lending in Central America, as well as holding an equity interest directly and indirectly in bonded warehouses in Central America and the Caribbean. This 22.4 percent investment was just disposed of.

3. Servicio de Anuario Telefonico Internacional S.A.—This company sold and distributed telephone books in several Latin American countries. We have preferred shares at modest value. This investment will be written off.

B. Current Investments.—

Marine, through Intermarine London, owns Bream Shipping, which was formed a few years back in conjunction with the international lending operations of Intermarine London. This company is presently not being used; however, it has limited assets resulting from prior activities conducted external to Panama.

C. Branch Operations.—

Most international banks have involvements in Panama consistent with that country's currency relationship with the dollar and its favorable climate as a financial center. Accordingly, the Marine started in Panama with a Regional Representative Office for Central America in 1971. It subsequently opened a branch operation in October 1973 to complement the Representative Office with a primary focus on generating corporate business in Panama and Central America, as well as deposit gathering from Latin America. As of November 30, 1976, it has total claims of approximately $32.4 million (of which $18.5 million is claims in Panama, and the remainder is almost entirely claims due from other Central American corporate clients). In Panama much of its business involves financing trade of corporations located in the Colon Free Trade Zone. The combined Representative Office and Branch have a staff of 25, 3 of whom are U.S. nationals. This operation is not large when compared to the activities of several others.

As a large international money center bank, the Marine conducts business throughout the world. Panama has long been a center for trade, as well as a notable financial center. Loans in Panama are a national consequence of the position of the bank and the country.

Marine Midland, either directly from New York or through the Bahamas or Panama Branch or foreign affiliate, has a $100,000 short-term, unsecured loan available to the Hydroelectric Power Authority of Panama.

There is a $100,000 loan to the Agricultural Development Bank in Panama.

There is a $4 million loan to the Republic of Panama, due in November, 1983. There is Marine's share in a $115 million international syndicated loan, managed by Citibank/New York. InterUnion/Paris, in which Marine directly owns 45 percent, also has a loan of $2 million to the Republic of Panama.

In addition to these direct loans to the Government of Panama or institutes of the Government, the Marine is engaged in normal short-term lending operations through the banks and the private sector in that country.

* * * * *

Intermarine owns two Panamanian special-purpose shipping companies, International Ship Finance (Panama) Inc., and Avon Shipping, Inc. These companies each own a Panamanian flag vessel on behalf of Japanese owners, which vessels are financed by Intermarine. These corporations are financing vehicles, and they are only notionally involved with Panama.

Mr. HATCH. Mr. President, how much time do we have remaining for the Senator from Alabama and the other Senators?

The PRESIDING OFFICER. The Senator from Alabama has three minutes remaining. The Senator from Maryland has 15 minutes.

Mr. HATCH. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HATCH. All of this last colloquy was supposed to be charged to the Senator from Maryland. I believe we have more time.

Mr. SARBANES. Mr. President, I think what I said was that in order to be fair to the Senator from Utah, whatever time I consumed from the point I arose either to make responses or ask questions should come out of my time. If that is not reflected in the time figure just given to us by the Chair it should be.

The PRESIDING OFFICER. The time was allocated to the Senator who was speaking. Fifteen minutes and three minutes.

Mr. HATCH. Let me just say this, in closing: I believe that when we talk about negotiating treaties we ought to talk about why these treaties are not negotiated well, and when our ambassadors voluntarily bind the United States to something which they would not ordinarily have to bind them, then I call that pretty poor negotiation.

Having to go through the approach made by the distinguished Senator from Idaho in taking it out of context, as though he were negotiating for the United States, was not quite accurate in my judgment.

In addition, I think there will be a cloud over these treaties because Ambassador Linowitz, whether he is right or wrong—and I am not passing judgment on that—was appointed for only 6 months so he could avoid the confirmation process of the Senate, when they knew he was a member of the board of directors of Marine Midland Bank; when he has still maintained his membership on the board of directors, as I understand it, of Pan American World Airways, which has extensive interests in Panama; when he was a full partner, as I understand it, in the Coudert Brothers law firm, an international law firm, representing various international interests, and because of other, I think, pretty important issues.

It is my understanding—I do not believe I am incorrect in stating—that these treaties were negotiated in the last hours of that 6-month appointment.

Those things bother a lot of American citizens and deserve to be brought up here on the floor.

When I hear this type of a colloquy and interchange, as though they are negotiating effectively for the United States of America, and when we volunteer through these ambassadors to bind ourselves to things to which we would not have ordinarily been bound, I do not think we have been represented well.

I thank the Chair.

The PRESIDING OFFICER. All the time of the Senator from Utah has expired.

The Senator from Maryland.

Mr. SARBANES. Mr. President, how much time remains to the managers of the bill?

The PRESIDING OFFICER. Fifteen minutes or all of the time until 1 o'clock.

Mr. SARBANES. I thank the Chair.

Mr. President, I want to go back to this strange idea that some opponents of the treaties were to have that, when you negotiate a treaty or negotiate an agreement, you can unilaterally impose all of the terms and conditions.

By definition an agreement has to be arrived at between two parties. These agreements have been negotiated between the executive branch of our Government and the Government of Panama, and they are now presented to the Senate for advice and consent.

It is clear that the Senate has not simply taken the treaties as presented. We have, in fact, amended the Neutrality Treaty. Senator BYRD and Senator BAKER joined in proposing amendments to the Neutrality Treaty, and those were accepted by the Senate, by an overwhelming vote.

A number of reservations and understandings were adopted to the resolution of ratification, so the Senate has been working its will on these treaties.

On the other hand, when a treaty comes before us we should recognize, while it is wide open to do anything we want to it, that in doing so we may, in fact, lose the agreement with the other party. Then we have to make the judgment in terms of what is being proposed, whether it is of such sufficient consequence that it is worth running the risk of losing the agreement. That is simply what it boils down to, and people ought to recognize that as these amendments are proposed and judged. Many of the amendments, are not really addressed to a substantive concern but are designed to be simply for one purpose, and that is to defeat the treaties by indirection by making it impossible to have an agreement between the two parties.

I yield to my distinguished colleague from Maryland.

Mr. MATHIAS. I thank my colleague for yielding.

As he knows, I was trying to get the floor a moment ago to make a very simple and brief statement. The name of Sol Linowitz has been raised in this debate, and I merely want to say that I have known Sol Linowitz for a number of years. I view him as a man of obvious talent and capability. But beyond that he has always been a man who has been of the highest integrity. He has always been conscious of the special obligations of public service, and has been scrupulously observing the limits which bind and restrain the lives of those who are engaged in any form of public service.

I think the United States has been fortunate in having Sol Linowitz available to perform important public service when we have needed him.

I thank the Senator for yielding.

Mr. SARBANES. I thank the able Senator for his thoughtful and sensitive comment.

I want to return to that subject because I think it is quite important. I do not think in the course of debating these treaties and their substance we ought to cast any reflections or aspersions on American citizens who have served this country with distinction and with dedication.

I want to read into the RECORD a letter from the Department of State, from the Acting Assistant Secretary for Congressional Relations, to the chairman of the Committee on Foreign Relations, dated March 7, 1977, in other words, just over 1 year ago. The letter follows:

DEAR MR. CHAIRMAN: In light of certain statements by a member of the Senate and a member of the House with respect to Ambassador Sol M. Linowitz, I would like to make the following observations which may assist you and the members of your Committee in responding to questions or inquiries.

Ambassador Linowitz was appointed, last February 10, as Co-Negotiator for the Panama Canal Treaty, in the capacity of Special Government Employee with a six-month appointment to the personal rank of Ambassador, in accordance with applicable Federal and Department of State regulations and established procedures. He is serving in this capacity without compensation.

The Department of State conflict of interest regulations, provide that no Department employee may "have a direct or indirect financial interest that conflicts substantially, or appears to conflict substantially with his Government duties and responsibilities" (22 CFR 10.735-205). Pursuant to these regulations, Mr. Linowitz prior to his appointment submitted to the Department a full statement of his memberships on boards of directors as well as his financial holdings. These were reviewed thoroughly by the Office of the Legal Adviser.

In the cases of two companies, Pan American World Airways, Inc., and Marine Midland Banks, Inc., Mr. Linowitz furnished information from them outlining their activities and financial interests in Panama. Appended are the statements from the Presidents of these two companies. Based on the Department's review, Mr. Linowitz agreed that in the unlikely event any aviation issues arise during the course of the treaty negotiations which might be of possible interest to Pan American, he would excuse himself from participation in the negotiation of any such issues. Continued membership on the board of Marine Midland Bank did not violate the applicable regulations because of the relatively low level of financial transactions of the bank with and in Panama.

Mr. Linowitz also agreed that his law firm "is not now and will not while I am serving in this capacity, represent any client on any matter related to the Panama Canal Treaty negotiation on the Canal Zone."

In the case of Mr. Linowitz' financial interests, two companies in which he had small shareholdings—AT&T and Texaco—did have business which the Legal Adviser believed might be affected by the outcome of the Canal Treaty negotiations. Consequently, Mr. Linowitz agreed to sell his shares in those companies, and has done so.

As a result of the Department's review and the foregoing undertakings by Mr. Linowitz, the Acting Legal Adviser gave a written opinion which concluded that the requirements of the applicable statutes and Department of State regulations on conflicts of interest had been satisfied.

Now, that is the letter that was sent to the chairman of the committee in response to an inquiry from the chairman concerning the conflicts-of-interest question. Now, the attachments to those letters, which, of course, set out, as pointed out in the letter, both the activities of Pan American and Marine Midland loans—this lists the loans, and this has been referred to earlier——

Mr. GRIFFIN. What was the loan level of activity of the Marine Midland Bank?

Mr. SARBANES. I was just about to read that. It has listed under "loans" the following:

As a large international money center bank, the Marine conducts business throughout the world. Panama has long been a center for trade, as well as a notable financial center. Loans in Panama are a national consequence of the position of the bank and the country.

Marine Midland, either directly from New York or through the Bahamas or Panama Branch or foreign affiliate, has a $100,000 short-term, unsecured loan available to the Hydroelectric Power Authority of Panama.

There is a $100,000 loan to the Agricultural Development Bank in Panama.

There is a $4 million loan to the Republic of Panama, due in November, 1983. There is Marine's share in a $115 million international syndicated loan, managed by Citibank/New York. InterUnion/Paris, in which Marine directly owns 45 percent, also has a loan of $2 million to the Republic of Panama.

Mr. GRIFFIN. Forty-five percent of how much?

Mr. SARBANES (reading):

In addition to these direct loans to the Government of Panama or institutes of the Government, the Marine is engaged in normal short-term lending operations through the banks and the private sector in that country.

Mr. GRIFFIN. That was 45 percent of how much?

Mr. SARBANES. If the Senator will let me conclude, the attachment also covers what are referred to as "past or dormant investments," and it also covers the branch operations of Marine Midland with respect to their branch operations in Panama. Of course, as has been pointed out on this floor, Panama serves as an international banking center for South America and Central America, and has, I think, some 85 banks, not only American but a number of Japanese and European banks as well.

Now, this material from which I am quoting, as I pointed out in reading the letter from the Department of State, was made available to the State Department, setting out the activities——

Mr. GRIFFIN. Will the Senator yield for one inquiry?

Mr. SARBANES. Let me just quote that section:

In the cases of two companies, Pan American World Airways, Inc., and Marine Midland Banks, Inc., Mr. Linowitz furnished information from them outlining their activities and financial interests in Panama. Appended are the statements from the Presidents of these two companies.

So those statements were submitted to the Department of State for examination by the acting legal adviser prior to giving this written opinion, which concluded that Mr. Linowitz had met all the requirements of the applicable statutes and Department of State regulations on conflicts of interest, that those requirements had been satisfied.

Mr. GRIFFIN. Before the time runs out, will the Senator yield to me for just one inquiry?

Mr. SARBANES. Sure.

Mr. GRIFFIN. The Senator has said that the Marine Midland Bank had a 45-percent interest in a particular loan arranged by a group of banks. I do not think the figure of 45 percent of what was clear. What was the size of the loan, 45 percent of how much, that the Marine Midland Banks had outstanding to the Republic of Panama in that one loan?

Mr. SARBANES. Well, as I read this, I thought I read that paragraph, but I will read it again.

Mr. GRIFFIN. If so, I did not catch it.

Mr. SARBANES. For the benefit of the Senator from Michigan:

There is a $4 million loan to the Republic of Panama, due in November, 1983. There is Marine's share in a $115 million international syndicated loan, managed by Citibank/New York InterUnion/Paris, in which Marine directly owns 45 percent, also has a loan of $2 million to the Republic of Panama.

Mr. GRIFFIN. Of how much? Forty-five percent of how much; If the Senator does not have the information, I will tell him: It is 45 percent of $115 million.

Mr. SARBANES. I thought I read that for the Senator.

Mr. GRIFFIN. I am trying to get the Senator to say how much. I did not hear him say that; 45 percent of $115 million.

Mr. SARBANES (reading):

There is a $4 million loan to the Republic of Panama, due in November, 1983. There is Marine's share in a $115 million international syndicated loan, managed by Citibank/New York InterUnion/Paris, in which Marine directly owns 45 percent, also has a loan of $2 million to the Republic of Panama.

Mr. GRIFFIN. I am sorry.

Mr. SARBANES. Mr. President, I just want to go on.

Mr. GRIFFIN. So that is about $57 million.

Mr. SARBANES. That is the third time that I have read that paragraph to the Senator from Michigan, and I hope he has heard that paragraph now.

Mr. GRIFFIN. You stated that was a low level of activity.

Mr. SARBANES. Mr. President, if I may proceed, this information was submitted to the Department of State by Mr. Linowitz, who asked for a ruling with respect to whether there were any conflicts of interest, and he did that prior to his appointment:

Pursuant to these regulations. Mr. Linowitz prior to his appointment submitted to the Department a full statement of his memberships on boards of directors as well as his financial holdings. These were reviewed thoroughly by the Office of the Legal Adviser.

In the cases of two companies, Pan American World Airways, Inc., and Marine Midland Banks, Inc., Mr. Linowitz furnished information from them outlining their activities and financial interests in Panama. Appended are the statements from the Presidents of these two companies.

And then the Department then went on and said, in concluding:

As a result of the Department's review and the foregoing undertakings by Mr. Linowitz, the Acting Legal Adviser gave a written opinion—

The PRESIDING OFFICER. All time has expired.

Mr. SARBANES (reading):

which concluded that the requirements of the applicable statutes and Department of State regulations on conflicts of interest had been satisfied.

(The following proceedings occurred later in the day and are printed at this point in the RECORD by unanimous consent.)

Mr. SARBANES. Mr. President, earlier in the day I had an exchange with the distinguished Senator from Utah and the distinguished Senator from Michigan concerning Ambassador Linowitz and some conflict-of-interest questions which they raised, and I pointed out that material had been submitted to the State Department and examined and he had been given a legal opinion that there were no conflicts of interest before he entered on his assignment, a temporary 6-month appointment, as an ambassador to be involved in the negotiations.

In the course of that I read from a submission that was made by Marine Midland, on whose board he served, concerning their interest in Panama and, of course, the State Department ruled that the extent of their interest was at such a low level of financial transactions that there was no violation of any conflict of interest.

In reading a paragraph from that submission there was a misprint in the CONGRESSIONAL RECORD which made the meaning somewhat unclear, and I want to correct that RECORD and read now the exact, correct, disclosure or submission made by Marine Midland as to its loans to Panama.

The statement that they filed at the time when Ambassador Linowitz had requested a ruling with respect to any conflict of interest pertaining to his various holdings included the following provision:

LOANS

As a large international money center bank, the Marine conducts business throughout the world. Panama has long been a center for trade, as well as a notable financial center. Loans in Panama are a national consequence of the position of the bank and the country.

Marine Midland, either directly from New York or through the Bahamas or Panama Branch or foreign affiliate, has a $100,000 short-term, unsecured loan available to the Hydroelectric Power Authority of Panama.

There is a $100,000 loan to the Agricultural Development Bank in Panama.

There is a $4 million loan to the Republic of Panama, due in November, 1983. This is Marine's share in a $115 million international syndicated loan, managed by Citibank/New York. InterUnion/Paris, in which Marine directly owns 45 percent, also has a loan of $2 million to the Republic of Panama.

That paragraph is where the misprint occurred, and there was some question raised that Marine Midland had a 45-percent share in the $115 million international syndicate loan. That was not the case. Marine's share of the $115 million loan was $4 million only.

The 45-percent figure referred to Marine Midland's ownership in InterUnion/Paris which had a $2-million loan to the Republic of Panama. So Marine Midland had an ownership interest of 45 percent in a bank which had a $2-million loan to Panama and in addition Marine Midland had a $4-million share in the $115-million syndication, and that was the extent

of this loan involvement on the part of Marine Midland.

Understandably, I think because of the typographical misprint the Senator from Michigan took the view and suggested that Marine Midland had a 45-percent interest in the $775-million syndicated loan.

That was not the case. They had $4 million which was their share in that. In other words, their share of it was about 3½ percent, not 45 percent. I think that is an important fact to get on the record since the State Department, in its legal opinion, indicated "that continued membership on the board of Marine Midland Bank did not violate the applicable regulations because of the relatively low level of financial transactions of the bank with and in Panama."

I ought to point out that later on, even after obtaining this ruling, that there was no conflict of interest; Ambassador Linowitz, because of the queries some people had raised and, I think, because of the sensitivity that has always characterized his public service, and his own deep sense of integrity, went ahead and resigned from the board of Marine Midland voluntarily, although he was clearly not required to do that and, in fact, had been given a legal opinion that there was no conflict of interest.

I mention all of this again simply to underscore the outstanding service which Ambassador Linowitz has rendered this country, and to once again urge that while people may disagree with the substantive judgments of our negotiators or, in fact, with other people involved in the treaty, that we ought not to cast any aspersions on people's personal qualities in the course of carrying forward this debate.

It is important to underscore in this debate that Ambassador Linowitz has behaved throughout with a very high sense of standards and an uncompromising sense of integrity.

(This concludes proceedings which occurred later in the day.)

● Mr. THURMOND. Mr. President, I rise in support of part 1 of the Allen amendment to the pending Panama Canal Treaty.

This amendment would expressly provide that nothing contained in the treaty would deprive the United States of the right to prevent the construction in Panama of a second canal by any nation other than the United States.

Many might feel that this privilege granted to the United States in the 1903 and 1955 treaties is protected by article 12, part 2, section a of the current treaty.

That section reads as follows:

The United States of America and the Republic of Panama agree on the following:

(a) No new interoceanic canal shall be constructed in the territory of the Republic of Panama during the duration of this Treaty, except in accordance with the provisions of this Treaty, or as the two Parties may otherwise agree.

Thus, we can see upon examination of the pending treaty that the prohibition against construction in Panama of another canal by another state is negotiable and may be accomplished if the United States and Panama agree to it.

Mr. President, much has been said about what the United States had to give up to get an agreement from Panama that they would not allow another country to build a second canal in Panama. To keep what we already had in the original treaties it is claimed the United States had to offer a quid pro quo in the form of a provision preventing us from even negotiating to build another canal elsewhere.

The Senate must remember that the greatest giveaway of all is the treaty itself, in which we are giving the canal to Panama. One would think that after that giveaway we would not have to offer a quid pro quo to balance each provision of the treaty.

By surrendering the right to even negotiate with another country for another canal route, we not only surrender the canal, but surrender as well our leverage over Panama to keep the canal open.

Mr. President, this is the Western Hemisphere we are dealing with in these treaties. It is our national security and our economic health involved here. We are the ones with a small Navy which has to be shifted back and forth through the canal. We are the ones who need minerals from other nations that have to be shifted through the canal.

Once we act on these treaties it is final. When we pass a law and make a mistake we can do it over. If the Senate passes this treaty then the action is final. We will have to live with it forever.

Mr. President, I urge acceptance of this amendment by the Senate.●

The PRESIDING OFFICER. All time having expired under the previous order, the hour of 1 o'clock p.m. having arrived, the Senate will now proceed to vote on the division 1.

Mr. SARBANES. Mr. President, have the yeas and nays been ordered on division 1?

The PRESIDING OFFICER. They have not.

Mr. HELMS. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I ask unanimous consent that further proceedings under the quorum call be dismissed and I ask for the yeas and nays.

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

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SARBANES. Mr. President, I move to table the pending amendment of the Senator from Alabama and I ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER. The Senator can only move to table division 1.

Mr. ROBERT C. BYRD. That is what he is doing.

Mr. SARBANES. That is what I am doing. I am moving to table division 1, which is now pending for a vote at 1 o'clock, and I ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

(Mr. NELSON assumed the chair).

Mr. CRANSTON. I announce that the Senator from Alaska (Mr. GRAVEL), the Senator from Hawaii (Mr. INOUYE), the Senator from South Dakota (Mr. McGOVERN), the Senator from New Hampshire (Mr. McINTYRE), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that the Senator from Colorado (Mr. HASKELL) is absent on official business.

I further announce that, if present and voting, the Senator from New Hampshire (Mr. McINTYRE) and the Senator from Alaska (Mr. GRAVEL) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Nebraska (Mr. CURTIS) and the Senator from Arizona (Mr. GOLDWATER) are necessarily absent.

The result was announced—yeas 56, nays 35, as follows:

[Rollcall Vote No. 74 Ex.]

YEAS—56

Abourezk	Hart	Metzenbaum
Anderson	Hatfield,	Morgan
Baker	Mark O.	Moynihan
Bayh	Hathaway	Muskie
Bellmon	Hayakawa	Nelson
Bentsen	Heinz	Pearson
Bumpers	Hodges	Pell
Byrd, Robert C.	Hollings	Percy
Case	Huddleston	Proxmire
Chafee	Humphrey	Ribicoff
Chiles	Jackson	Riegle
Church	Javits	Roth
Clark	Kennedy	Sarbanes
Cranston	Leahy	Sasser
Culver	Long	Stafford
Danforth	Magnuson	Stevenson
Durkin	Mathias	Stone
Eagleton	Matsunaga	Weicker
Glenn	Melcher	Williams

NAYS—35

Allen	Garn	Randolph
Bartlett	Griffin	Schmitt
Biden	Hansen	Schweiker
Brooke	Hatch	Scott
Burdick	Hatfield,	Stennis
Byrd,	Paul G.	Stevens
Harry F., Jr.	Helms	Thurmond
Cannon	Johnston	Tower
DeConcini	Laxalt	Wallop
Dole	Lugar	Young
Domenici	McClure	Zorinsky
Eastland	Nunn	
Ford	Packwood	

NOT VOTING—9

Curtis	Haskell	McIntyre
Goldwater	Inouye	Sparkman
Gravel	McGovern	Talmadge

So the motion to lay on the table was agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

SCHEDULE FOR NEXT WEEK

Mr. ROBERT C. BYRD. Mr. President, may I have the attention of the Members of the Senate?

Mr. President, there is at the desk House Concurrent Resolution No. 544 which provides for adjournment of the House on today over until 12 o'clock meridian on Monday, April 3. That resolution also provides that when the Senate recesses at the close of business tomorrow, it stand in recess until Wednesday, March 29, or April 3, as determined by the Senate on tomorrow, Thursday, March 23.

Now, Mr. President, I have asked that the verbiage of the resolution be worded in this manner so as to give the Senate the option no later than the close of business tomorrow to either recess until next Wednesday or the following Monday.

I have sought to secure an agreement on this treaty for a final vote.

I think that in view of the fact that the Senate has been debating the treaty now for 27 days, it is a part of the package. While the Senate was considering the Neutrality Treaty, the debate was wide-ranging and actually covered both treaties because, as I have said, and as some others in here have said many times, the two treaties constitute the package.

So we have been on the treaty now for 27 days. There is other legislation that is important and we are going to have to attend to it sooner or later.

I think Senators are entitled to know whether or not they are going to be required to come back next Wednesday or whether or not they can fulfill the schedule which was originally laid out for them which would allow them to come back on April 3.

Now, in my judgment, 27 days constitute an ample time for debate on these treaties.

I am not pressing to close the debate today, or tomorrow, or even the first week of April. But it seems to me that we ought to be able, and I think Senators are entitled to know, to reach a date, to agree on a date for a final vote, because I think all Senators want to be here when the final vote occurs, those who oppose and those who support the treaty. They want to be here. They want to cast their vote on that occasion and they are entitled to know sometime in advance when that date is going to occur.

I would like to see the Senate proceed to recess until April 3. The joint leadership made that announcement earlier this year, that that would be the period of time for the Easter nonlegislative period.

We cannot always foresee what eventualities may occur. I never anticipated that the debate on the treaties would extend 7 or 8 or 9 weeks, and we are already in the sixth week.

I think it is about time that we reached an agreement, if it is at all possible, on a date certain when a final vote will occur. That was done on the first treaty. I respect the opponents of the treaty for their consideration in that matter and for their helping us to reach an agreement.

We have been on these treaties now a total of 175 hours as of 11 minutes after 1 p.m. today. I cannot understand why it is not possible at this time to say that we will have had enough by April 10, or April 15, or some such. We could easily give the Senate another 10 days after it returns, if we stayed out until April 3, and that would seem to me to be a very reasonable length of time.

That is not pressing the opponents. That is not any attempt to gag anybody to institute the gag rule or to stop the debate suddenly. But the time has come when the leadership needs to know so that we can tell our Members on our respective sides of the aisle what they can expect.

I would hope that those who are opposing the treaty would see what they can do to help the leadership to bring about an agreement as to a time to vote.

I am not suggesting that it be April 3. I am not suggesting that it be April 10 even. But it would seem to me that we could agree on a date during the week of April 10, say April 14, that is on a Friday, Friday of that week. That would give the Senate 10 days, not counting Saturdays, 10 days after returning on April 3.

Having been on the treaties for 27 days already, we would still be on them tomorrow, that would mean we would have been on the treaties 37 or 38 days before reaching a vote on this second treaty.

So I hope that Senators will accept what I have said in the spirit in which I say it. I do not speak in criticism of anyone. I understand how strongly the opponents feel about the treaty.

But there has to come a time when we close the debate on this treaty and go on to other things. It seems to me it is only reasonable on the part of the leadership to ask those Senators who oppose the treaty if they would please get together during the afternoon, or tomorrow morning, and see if they cannot give the leadership an agreement so that that agreement can be announced and Senators can proceed to take the time off that was originally laid out by the joint leadership.

I want to bend over backwards. I want to be fair. I want to be reasonable. But I think that in return all the Members of the Senate are being discommoded when they cannot be given a definite time now, after 27 days of debate, on which we can reach a final vote.

The Senate itself is being discommoded We have other legislation. There are deadlines that have to be reached in connection with some of the legislation.

I would hope and I implore and beseech the opponents to continue in their efforts.

I want to thank Senator LAXALT. He has made efforts, very sincere efforts, he and others, to arrive at a time certain.

So I would just simply urge him to continue to try today and tomorrow, because, if we can reach an agreement tomorrow, then the Senate can resort to the alternative of reconvening on April 3. It will not be too late to do it tomorrow. But I will have to get the resolution up today because the House is waiting on it. The House is ready to adjourn.

Before calling up the resolution, I would be glad to yield to the distinguished minority leader.

Mr. BAKER. Mr. President, nothing, I suppose, in the nature of the leadership is more sacrosanct than the right of the majority leadership to set schedules for the Senate. However, as the majority leader knows I am really concerned about the possibility that we might abbreviate the Easter recess—not because it will discommode me. It will do that. But I am perfectly prepared to be here at whatever time and all the time the Senate is in session. I am concerned because of the fact that the people on this side of the aisle—and I am sure those on the other side of the aisle—have come to depend on the published schedule and have made their plans and representations in reliance on it.

I hope very much that the majority leader will consider any other alternative and other facts that could lead us to a reconciliation and a resolution of this problem without abbreviating the recess.

I urge that the opponents of the treaty and the proponents of the treaty and the distinguished majority leader try to arrive at some solution to this dilemma. Otherwise, I think it will cause an enormous hardship on Members of the Senate on both sides of the aisle. I urge that we try to find a solution to it.

I do believe, Mr. President, that we should go ahead with the full recess. I must respectfully disagree with the majority leader in that respect. While we are on the same side with reference to the ratification of these treaties, I find that we do not agree on this particular item.

I urge that we try to find a way out of this dilemma, to remove the possibility that the recess will be abbreviated.

Mr. ROBERT C. BYRD. I thank the distinguished minority leader. I appreciate everything he has said. I realize that to bobtail the recess would discommode Senators on both sides of the aisle. I know that no Senator needs me to say that our first responsibility, I think, is to attend to the business of the Senate. I think the Senate would be severely criticized if, after spending 28 days on the treaties, it proceeds to take 10 days off, knowing that when we get back, we have no agreement as to a final vote and that we have no way of knowing how long the debate is going to continue, with important legislation backed up, committees being hampered in their operations, with other legislative matters scheduled far down the road, and keeping in mind that it is hoped that the Senate can close down a scant month before the election in November.

So I think the Senate would be severely criticized—and it would be justifiable criticism—if the leadership took off 10 days, without an agreement as to a final vote.

I am very sorry, Mr. President. If Senators want to blame anybody, I will take my share of the blame. But I have diligently sought to get an agreement. I hope

the opponents will rise to this occasion and help the leadership to get an agreement, so that not only they but also their colleagues will not be discommoded.

I cannot—as majority leader, I simply cannot—say that we are going to go out until April 3, unless we get an agreement, and I will not say that. I just cannot see that as my responsibility. I have to have an agreement, or we will have to call the Senate back next Wednesday. That discommodes me, too, but I see no alternative.

I am perfectly willing to continue to work today and tomorrow, in the effort to get an agreement. But I think it is about time that we agreed on a target date for a final vote. I do not believe that is unreasonable at all, after all the time we have spent on these treaties. I think the American people want to see us get this issue behind us one way or the other.

If the opponents win, that is fine with me. But let us have a showdown; let us have a vote. If the proponents win, that is fine with me. I happen to be a proponent. I think the American people are entitled to have their business consummated in the Senate, and I do not think they want to see the Senate stay on and on and drone on and on with respect to these treaties.

I have had my say.

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

Mr. ROBERT C. BYRD. I yield.

Mr. LAXALT. Mr. President, I would like nothing better, representing the opposition, than to be able to comply with the majority leader's request. But I have consulted with several of my colleagues during the course of the last couple of days, and I simply am not prepared to enter into any firm time agreement at this time.

The fact is that, upon evaluation of the entire subject matter, we have had extensive debate here, but there are vital areas in connection with the canal treaty that we really have not touched. We really have not dug in detail into the administration aspects in connection with the Commission. We certainly have not dug into the economic aspects in connection with the payment schedule.

Above all that, our problem is a mechanical one. If I could offer the majority leader a time agreement today, I would, because, as I have indicated to him, I want the debate to be expedited; I want this matter to be concluded. I think all the colleagues in opposition share that view. But at this point, from the standpoint of pure mechanics, we are not prepared to do that.

The fact is that we presently have in the works, among opposition Senators, major amendments to the canal treaty, some in the nature of a substitute, which are going to take some time to prepare. They would like the period during the recess to do that. When that is done, we will sit down and evaluate how much time is going to be required to process those amendments adequately.

My own view, I say to the majority leader, is that, in all probability, upon returning here from the recess, we can conclude this matter by April 14 or so—perhaps before. But I cannot, in this position, at this point, much as I would like to settle upon a firm time agreement, make such an agreement.

I ask the majority leader, in terms of what the minority leader said, to preserve the recess. Plans have been made by many Senators to go back to their constituencies—it is not any form of vacation—and do their public service, see how the people have reacted to their votes on the canal treaty.

Then we will come back, and as soon as I have an opportunity to develop these amendments, I assure the majority leader that we can sit down and arrive at a time agreement. Until that point, I do not think we will be able to do that.

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

Mr. ROBERT C. BYRD. I yield.

Mr. GRIFFIN. Mr. President, I should like to supplement what the Senator from Nevada has said.

I think it important that everyone realizes, particularly the American people who have been listening to the Senate debate, that it requires unanimous consent of the Senate to impose such a time agreement. It is not just a matter of the leadership, of the opposition, or a majority vote of the opposition.

If there is one Senator out of a hundred who will not go along with a time agreement, then obviously we cannot impose the restriction that the distinguished majority leader seeks.

I, for, one, will say that I am in the opposition group, but I would favor the proposal of the distinguished majority leader. However, that leaves us a long way from having the unanimous consent of a hundred Senators.

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

Mr. LAXALT. I yield.

Mr. McCLURE. Mr. President, there is no one who is aware of the burdens of scheduling the matters before the Senate who cannot sympathize with the problem that the Senator from West Virginia is confronted with in trying to expedite this matter and others. I think there is a great deal of sympathy with that problem on the part of the vast majority of the Members of the Senate.

However, there is another side to that problem as well, and that is that there are 99 other Senators who also have problems with their own schedules. That is one of the reasons why many of us have pressed for a fixed recess schedule, so that we can attend to some of the work that must be done among the people whom we have the duty to represent here.

The Panama Canal treaties are very important issues. There are, as the majority leader has said, a number of other important issues. I am among those who find it advisable as well as proper that I draw from the experience and the judgment of the people of Idaho in order to assist me and guide me in how I should answer the questions which will be asked us on a number of legislative issues.

I regard the legislative recess schedule as simply a way of allocating our time between the work we do here and the work we do outside of these Chambers. I assure the Senator that I will share with him my fixed schedule for all of next week, starting on Sunday evening and running through the entire week, based upon the firm assurances I have had from the joint leadership over a long period of time that I could make that schedule. I have any number of people and groups of people in my State who have sought to reach me, to tell me what they think should be done. They all cannot come 2,500 miles across the country to reach me here. I try to make myself available to them here.

My schedule next week is full—absolutely full—of firm commitments I have had for weeks, based upon firm commitments made to the Senate that we would be able to do that.

I know from my conversations with the Senator from Nevada that this matter can be expedited as soon as it is possible for Senators who have various amendments to get together and try to work out which ones have to be offered and which ones might be left without being offered.

Mr. LAXALT. Mr. President, will the Senator yield at this point?

Mr. McCLURE. I yield.

Mr. LAXALT. I indicate to the Senator from Idaho as I previously have to the majority leader that we have been in the process on a staff level of attempting to distill and coordinate some 55 amendments, reservations, and understandings we have at the desk. That has been quite successful. I think realistically, I say to the majority leader, looking at it less from the standpoint of what is on the desk, between 20 and 25 amendments. The unanswered questions, I must emphasize again, are the unprinted amendments, which are going to be substantial in nature. They will be drafted as soon as we recess and we will evaluate them when we come back.

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

Mr. LAXALT. I thank the Senator from Idaho. I yield.

Mr. McCLURE. I thank the Senator for yielding.

Let me add this: We have yet a half day remaining this week, today, we have Thursday and Friday; that is 2½ days yet this week, and we are talking about coming back on Wednesday of next week in order to gain 3. I suspect if we had a unanimous-consent agreement entered into right now we would end up having no votes on Thursday and Friday, and we would have then given up 2 days in order to avoid giving up 3 next week. The 2 that are being given up this week are where every Senator had reason to expect that we would be here on legislative business. As to the 3 that are affected next week, every Senator had reason to believe we would not be here. So I really most sincerely request of the majority leader that he give sensitive concern to the needs of 99 Members of the Senate, many of whom have very grave commitments and commitments that are very difficult for us individually either to break there or to break here. It is a matter of extreme urgency as far as the Senator from Idaho is concerned because I think it is a part of our job to be there. If we do not have certainty

in scheduling we cannot be there. It goes to the credibility of our process. It goes to the credibility of assurances given to us by the leadership and of our assurances, in turn, to the people of the States that we represent.

I say that in all sincerity and with full recognition of the problems that the majority leader has in trying to expedite the legislative schedule here.

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

Mr. ROBERT C. BYRD. Mr. President, there is not a day, not a day, that I am not reminded of the sensitive concerns of the other 99 Senators. I am very well aware of those concerns and if there has ever been a majority leader who has attempted to bend over backward in order to accommodate the needs, problems, and concerns of the other 99 Senators any more than I have I would like for someone to speak up and say that name right here and now. I am aware of the concerns.

I get no satisfaction. I have been wrestling with this very question for several days, and I have been going back and forth to Senators who lead the opposition side, and they know that; and Senator LAXALT has reacted in a very splendid way. He has sought to get an agreement. But this brings me no satisfaction, not any, and I know my colleagues on this side of the aisle, I am sure, do not look upon an abbreviated recess with any joy or satisfaction.

So, let no one be under the impression that I have not already wrestled with this matter, and it has been quite tortuous to me, but I recognize where my duty lies, and I think my duty is right where I have stated.

I do not want to come back in the middle of next week, but if we could go out with an agreement that would say we would vote on April 18, which would be Tuesday, 2 weeks from next Tuesday, that would give Senators all of the recess in which to prepare their amendments. They would have all of the first 2 weeks after the Senate reconvenes on the 3d, and they would have Monday and Tuesday of the third week. It seems to me that is ample time, but we would at least know when the vote is going to occur. So do not hold me responsible alone in this bobtailing of the recess. I am simply trying to get the Senate to move on to other business.

We have been on this matter 27 days, and the arguments have been made and they have been repeated ad nauseam, and they will continue to be repeated. So let us all share this responsibility.

Mr. MUSKIE. Mr. President, will the majority leader yield?

Mr. ROBERT C. BYRD. Do not put the responsibility on the majority leader. The majority leader has to do what he thinks he has to do in order to keep the legislation moving.

So I would hope that the Senator from Nevada (Mr. LAXALT) and his colleagues on his side of the question would continue to discuss this today and tomorrow. We do not have to decide at the moment, but I have laid out a suggestion here that seems to me to be amply reasonable and which would give the opponents plenty of time. We know that the implementing legislation still has to come on. So, this treaty is not the end all. We are going to have implementing legislation in which the House of Representatives will have to vote.

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

Mr. ROBERT C. BYRD. I yield.

Mr. MUSKIE. Mr. President, I did not intend to say anything on this point. But given the number of Senators who have expressed concern about the majority leader's decision, I think he needs some support, and I must say I concur in his decision. I do not intend to repeat any of the reasons of the majority leader, but I wish to add one.

I have been around here many years in which an overriding issue that was very time consuming hit the session, and the result all too often was that we consumed and wasted so much time on that single issue that we gave inadequate attention to the issues that followed, that were thereby crowded into too few days and too few weeks. I have seen that happen too many times with time agreements becoming shorter and shorter and speeches on the floor more and more meaningless.

I understand the importance of these treaties and the importance of giving everyone adequate time to address the issue.

But we have other difficult issues coming down the pike and I for one wish to see those given the kind of adequate attention they have not always gotten when they have followed an issue of this kind that consumed a lot of time. I am concerned about that. I can see some of those issues down the road.

I do not like to give up an Easter recess either. It takes me a little longer to get around my State than it did when I was younger, so I like ample time. But I really think the majority leader is on target. He has indicated he is willing to go to the 13th, 14th, the 18th, and I suspect he would even give a couple more days on top of that in order to get certainty.

Mr. ROBERT C. BYRD. No question about it.

Mr. MUSKIE. And I think that is reasonable.

We are always crowded with legislation. We have to begin markup on the budget resolution on the 4th of April. We must finish that by the 15th. If we did not adopt some time-collapsing procedures we would never get that bill marked up, and we have to cover the whole range of Government programs, $500 billion worth, in a week or more.

But we recognize time is a constraint. We discipline ourselves to live within that constraint and we get our work done or at least we have never failed up to now. It may be more difficult this year. But I really think what the majority leader has been proposing provides ample time to do the kind of thing that the Senator from Nevada is describing as being necessary.

I want to join the majority leader in complimenting Senator LAXALT on his management of this side of the debate. I think he has been responsible, I think he has been decent, and I think he has been accommodating. So I am not being critical.

But I really think we have to discipline ourselves in this case to reach a date certain, and I do not care whether it is the 10th of April or the 20th of April. Certainty will enable us to address all the other problems that we have more effectively and with greater service.

So I join the majority leader, and I do not expect a response to these comments immediately, and I suspect the majority leader does not. But I would hope that all who are involved will take the next day-and-a-half to consider these matters, and this is why I rose to add this one other reason.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from Maine for his fine statement.

Mr. SCOTT. Mr. President, will the Senator yield briefly?

Mr. ROBERT C. BYRD. I yield.

Mr. SCOTT. Mr. President, I was not here when this colloquy began, and yet I believe I grasp the substance of the matter. Let me say for the benefit of the majority leader we have 100 not 99 Senators who need to be accommodated, and I think certainly our distinguished leader, the majority leader, should be included rather than just to refer to 99.

I have heard the objection made, the statement made, that we do not need more than 2 weeks, from among people on this side of the aisle, and some on the other side. I would believe, and certainly it is agreeable with this Senator, but more importantly, it is agreeable with a number of Senators, to have a time limitation if the matter was presented after the recess.

The resentment that I see—and I use the word "resentment" advisedly—is that we set a time that we are going to have recesses, and the schedule was made up a long time ago. The leverage is used of denying us some time off provided we will agree to something, a question of pressure being applied, saying, "You children are not going to get off for a period of time unless you agree to a time limitation."

That is where I see the opposition, and I say that in all candor and in a friendly manner to our distinguished majority leader.

I believe when we come back there will not be the slightest difficulty in a 2-week or thereabouts limitation on debate. I would hope that my distinguished friend from West Virginia might consider that because that is the complaint I have heard, and I am talking just candidly and frankly to the majority leader.

Mr. ROBERT C. BYRD. I appreciate the Senator's candid statement. But I do not think such resentment, if there is any, is justified.

The leadership has not attempted to keep the Senate in late. All Senators know that. The leadership has not attempted to bring the Senate in early day in, day in, and day in. The leadership has sought to give committees an opportunity to meet; did not come in on Saturdays. I have not pressed for Saturday meetings, and there has been no

effort to invoke cloture. As a matter of fact, I have tried to discourage any consideration of a cloture motion, and I do not think that is the way to go in this situation.

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

Mr. ROBERT C. BYRD. So the leadership, I think, should be given the benefit of the doubt in a situation like this.

I do not know how Senators can complain about the leadership utilizing what was originally laid out as nonlegislative periods as a threat or as a stick to get an agreement. I do not see how they can say that because, after all, this action that I feel bound to take brings me pain, even more pain than those Senators who have been speaking.

Stand in my shoes, wear my shoes, a little while, and see how you would feel about it.

I need a week off as much as anyone needs a week off. I need that time off as much as anyone needs it off. I also make appointments; I make speeches; I have to run for reelection. I have the same problems that any other Senator has here.

But I wish you would consider the position that the leadership, the joint leadership, is put in when we lay out a schedule.

If in the future we are going to have these kinds of problems—I can remember when we did not lay out nonlegislative periods. There were no periods set aside for Senators to count on. We went out on Thursday night before Good Friday, and we came back in on Monday or Tuesday. There were no nonlegislative periods.

I can remember, and the Senator from Louisiana can, when we did not have a month off every other year in August. Things have come a pretty long way, and I have made my contribution toward the fact that we now have nonlegislative periods.

But I think we are all going to have to share this responsibility. If we have to come back next week on Wednesday do not point to the majority leader. Just say, "Those of us who are opposing the treaties and who would not enter into an agreement, we will share it with him; we share that with him," because I think I would not be unfair in stating if we took that nonlegislative period, some of the opponents would be the very first to criticize the leadership of the Senate for not staying in. That would be the first thing they would say, "Well, they ought to have kept us there. We should have stayed on the job."

Well now, you cannot have it both ways. I am willing to bear the brunt of any criticism, but I will have to say to the American people who are listening that we all share responsibility here to reach a decision on these treaties in due time and get them behind us. I am willing to let the chips fall where they may. If the opposition has the votes, that is the end of it. If the proponents have the votes, that is the end of it, but we do have to get on to other things.

May I just say once again——

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

Mr. ROBERT C. BYRD. Yes. The Senator has been seeking the floor, and I will give him the courtesy of yielding.

I do not want to carry the argument any further. I have stated the condition I think the Senate is in. I have stated the reason why we ought to have a time agreement, and I have stated my hopefulness that we will take throughout today and tomorrow and obtain an agreement. I think reasonable men can certainly obtain an agreement by tomorrow that will give all Senators a certain target date.

I do not care—I said the 18th of April a minute ago. I say the 21st of April. That will give the Senate 3 full weeks, and we can come in on Saturdays if the opponents want more time. We can come in on Saturdays during that period. But 3 full weeks—just give us a date, that is all I am asking so that Senators will know how to plan.

You say that Senators—you point to the leadership and you say, "The leadership laid out a schedule. Now, if it bobtails it, it impairs our capabilities of making plans. We cannot make plans with certainty." That is what I am asking for now. Give us a target date so that we can all make plans with certainty, so that we will know the day and hour when we will reach a final decision on this treaty.

Mr. STENNIS. Mr. President, I do not want to reargue anything, but I do feel like perhaps I want to say just a word along this line. There has been no prior discussion with the leader. But as one of many who have been holding a lot of hearings on matters that are to follow this important matter, it seems to me that we ought to follow the leadership here. He has had cooperation from many others, but I think he has handled this thing very skillfully in keeping it going and getting it along. I think we are going to have to make a choice between changing our rules where we will not have the freedom of debate, and so forth, that we have now or tightening up on ourselves more with some self-discipline, and giving the benefit of the doubt to the leadership, if I may express it that way, when they so honestly feel that they should take this course.

I am frank to say I will not be making any sacrifice by staying here, I have a lot of appointments, but many others will. But this is our place of duty. This budget resolution has got to be met. Time is running out on that. There are a lot of matters coming following this. I expect in all other things we ought to follow the leader.

Mr. LAXALT. Mr. President, will the leader yield for just a moment?

Mr. ROBERT C. BYRD. I thank the distinguished Senator from Mississippi, as I thank the distinguished Senator from Maine.

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

Mr. ROBERT C. BYRD. I did promise to yield to Mr. ALLEN.

Mr. LEAHY. I wonder if Mr. ALLEN will yield to me for a couple of minutes.

Mr. ALLEN. Yes.

Mr. LEAHY. Go ahead. I will proceed after you complete your remarks. I am perfectly willing to wait.

Mr. ALLEN. I think the Senator.

Mr. President, I say to the distinguished majority leader, whom I admire and respect so much and whose leadership I enjoy following here in the Senate, that I am mindful of the duties and responsibilities and the burdens of the leadership, and even though the distinguished majority leader of necessity has to be in almost daily contact with each Member of the Senate, either directly or through the minority leader, yet I see that the majority leader's position is a lonely one, somewhat like the Presidency; it is a lonely position, and he does come in for criticism as well as praise. That is one of the burdens of the office.

I stated with respect to the other treaty that I felt we could agree on a time certain to vote, and we were able to reach a reasonable agreement that gave satisfaction on all sides, and certainly gave the leadership and the managers of the treaty, and the President himself, I am sure, the opportunity to get sufficient votes to obtain approval of the first treaty.

I believe that there would be no great difficulty in reaching a time agreement—a reasonable time agreement—after we come back from the recess; and I do feel that if we did not have the problem of the recess, we would have no difficulty today in reaching an agreement on a time limitation. But when you mix the two together, when you mix the recess with the demand or the request, shall I say, that we agree to a time limit, that is where we meet considerable difficulty; because if it is said to us that we must reach a time agreement or the recess is to be canceled, or half of it, that is not conducive to reaching an agreement.

I do not care about the recess myself; I would just as soon stay here. I have a full schedule of speeches down in Alabama; I would like to keep it, but that is not important. What is important is whether we are going to be called on, as I see it—others may not see it that way—to sacrifice a principle for the little comfort that is contained in a recess.

We need not have another day's recess, as far as I am concerned, if that is the way it is felt, but I do believe that we should not be called on to agree before we recess on a time limit, or else we will forfeit these days of recess; I just feel like that does not please Senators so very much.

I recognize that the Senate is going to go along with the majority leader; but I do hope that the majority leader will accept the assurances, the sincerity, and the good faith, the bona fides of Senators, and feel confident that when we return from the recess, good faith efforts will be made to come to a time agreement; and I would anticipate that the agreement that would be reached would not be greatly different from the time suggested by the majority leader, possibly well within that.

What is resented, I will say with all the deference, respect, and admiration that I have for the majority leader, is that coupling these together does not sit well, at least with the Senator from Alabama—possibly it does with others.

but I believe possibly it does not—that we are told, "Agree today or tomorrow on a time limit, or we are going to cancel half of your recess."

I just question whether the right course is being pursued, and I hope the majority leader will accept the assurances of those who do not want to be forced into a time limit that a good faith effort will be made.

Before I stop, I want to say that not only do I admire the distinguished majority leader, I admire the distinguished minority leader for the position that he is taking on this matter. I do not believe the fate of this treaty is at stake in permitting this recess. I do not give a rap about the recess personally. It does not make a bit of difference to me; I had just as soon consider this treaty for days on end. That suits me fine. But I do believe we can come to an agreement after the recess, and I hope we will not be put to this requirement that we reach an agreement before the recess.

I appreciate the majority leader's strong stand on this issue, and I thank the distinguished majority leader for yielding to me.

Mr. ROBERT C. BYRD. Mr. President, the Senator from West Virginia does not just indicate now that we must have an agreement today or tomorrow or the holiday will be bobtailed. I have indicated this for several days, and the majority whip, in his whip notice, I believe of last Friday, indicated that if an agreement were not reached we would probably have to shorten the holiday. This is not something that has just suddenly come up. Members have been put on notice for quite some time that this would be a distinct possibility.

Mr. ALLEN. Well, I would like to say to the distinguished majority leader and Senators that if this "agree or we cancel the recess" is the penalty that is being placed on the opponents of the treaties, it would seem to me that this penalty, like the rain that falls on the just and the unjust alike, is going to fall on the 68 Senators as well as the 32 Senators, because they are going to be inconvenienced also.

Mr. ROBERT C. BYRD. Mr. President, we all know that, and we know it is not a penalty being placed on the opponents, so let us clear the RECORD on that. It is a penalty being placed on all of us.

If we cannot sit down as reasonable men and agree on a time limit now, how does the Senator think he can assure the majority leader that when we come back on April 3 we can agree on a time limit and reach an agreement then, if it only takes one Senator at that time to object?

Mr. ALLEN. It only took one Senator the other time, I would remind the majority leader.

Mr. ROBERT C. BYRD. I am glad the Senator reminded me of that. But I am willing to work today and tomorrow to reach an agreement, and it seems to me that reasonable men should be able to reach an agreement today or tomorrow as easily as 10 days from now, and I hope we can.

But this is not a penalty on those opposing the treaty. It is a penalty on all of us. I guess I would be the one who would have the greatest whiplash of all, but that is a thing I have to contend with.

I yield to the Senator from Vermont.

Mr. LEAHY. Mr. President, I heard a thing or two that disturbed me somewhat when the distinguished Senator from Mississippi (Mr. STENNIS) was speaking earlier. I might say I know of no Member of this body I admire more than Senator STENNIS. I know of no one in this body who has more of a sense for the history and traditions of the Senate than Senator STENNIS. When I hear him saying that he is concerned that we either reach a point where we can make agreements on time limitations on some of these matters or we may be faced with a position where the rules of the Senate themselves will have to be changed, I think when someone of Senator STENNIS' caliber and background and known philosophy in this area would make a statement like that, it shows the amount of concern it has caused.

I think the Senate owes a tremendous debt of gratitude to our leaders, Senator ROBERT C. BYRD and Senator BAKER, for the amount of work they have done during the time they have been the leaders of the Senate in working out time agreements. As Senator BYRD knows, I am ordinarily one of the first to ask, "Can we not have some exact times when we will be here and we will not be here?" As the distinguished majority leader knows, I have, during the past 3 years, been back to my home State just about once a week, for one thing or another. The people of Vermont want to see me back there, and I want to be back there. But I support the majority leader on this matter very, very much.

Even though I have matters planned all of next week in every part of the State of Vermont, and which would begin well before dawn every day and extend past midnight, talking with the people of Vermont to find out how they feel about various issues, discussing among other issues the treaties, I know there will be one question I will be asked by every single person who has any question in Vermont. That is going to be: "You have been on this treaty now for a month and a half."

I might say, incidentally, Mr. President, that every reliable poll taken in Vermont shows the people there split right down the middle, half in favor of the treaty and half against.

All will say the same thing. We have been on this treaty now for a month and a half. When we ratified the NATO treaty, the treaty which set up the most significant alliance in recorded history, it took us 12 days. The people in Vermont know that we are facing energy problems, we are facing farm problems—and I believe we will have the farm bill coming back here—we are facing taxes, social security, and all the other issues which impact on them directly every single day of the year.

They say, "My God, is there anybody down there who can make up their mind at this point? We can certainly make up our minds." Every one of those Vermonters have made up their mind. They say, "Can you tell us, Pat, old boy, what day you will finish that up and get on to these other matters which are really necessary to us?"

Quite frankly, Mr. President, I would rather see the distinguished majority leader cancel the whole recess so I can tell the people in Vermont that we are down here working, trying to get this matter cleared up so we can get to the other things that are of far more importance. I support the majority leader.

Mr. ROBERT C. BYRD. I thank the Senator. I would like to read a note which was handed to me. I was supposed to make a speech today at 1:45, or something like that. It would have been a speech which would have been of benefit to me. I have been handed a note:

The speech was canceled as the people had to leave at 2 p.m.

So this cuts across all of us when we stand here and do our duty and have to cancel a few speeches. I thought it might be appropriate to indicate that I did not cancel this one; the people who were going to have me speak canceled it because of my having to be here to take a stand on what I think is in the best interest of the country.

Mr. LONG. Will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. LONG. I thank the distinguished majority leader.

The Senator from Louisiana all the time has been thinking that if we are going to pass this treaty we will have to enter a motion and limit the debate. We have a rule for that. Some of us did not enjoy setting a new precedent, when some of our Members were fully employing their rights under the rules and conducting, we might say, a filibuster after cloture. But they had a right, certainly. They had precedents on their side to do it. It would seem to me that from time to time we just have to live by the cloture procedure even though we prefer not to.

I honestly think it really serves no purpose to change the plans, to change the schedule. If the Senator has to do it, he can get it to a vote just as quickly by filing a cloture motion. I applaud the Senator for pleading with Senators to cooperate. I think he ought to do that. Before he comes out with a cloture motion, he definitely ought to plead with everybody, cajole, or just beg, just do anything he can to try to intrigue Senators to cooperate and bring the matter to a vote.

If the Senator cannot have the cooperation, it seems to me he ought to just face the fact that he can file a cloture motion and force the matter to a vote. We have a rule for that purpose. If he has to do it, he ought to just do it.

We do not like to tell people they cannot talk as long as they want to, but when we get down to it, does the Senator think the American people understand our sitting here for 3 solid months on something which is controversial, but where people do have the chance to make up their minds? It is pretty clear to this Senator most people know how they are going to vote.

In the end, do we not resolve the positions of Senators by calling the roll at some point?

Mr. ROBERT C. BYRD. Exactly.

Mr. LONG. It seems to me that the Senator, whether he likes it or not, will find himself forced into that rather unhappy position. I know he does not like to apply for cloture, but I think he will be forced to do it, unless he can bring Senators around to him.

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

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. MELCHER). The pending question is on the second division of the amendment by the Senator from Alabama. The Senator from Washington is recognized.

Mr. MAGNUSON. Mr. President, I have an emergency matter that I would like to take up with the leadership. It should not take over 2 minutes.

Mr. ALLEN. I yield to the Senator.

Mr. MAGNUSON. This is a rescission from the White House. The Senator from Maine should be interested in this. The President has requested that Congress rescind the expenditure of close to $60 million. It must be acted upon today because time will run out shortly.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senator from Washington may proceed as in legislative session for not to exceed 5 minutes.

Mr. ALLEN. Reserving the right to object and I shall not object, Mr. President, I would like to ask the majority leader if we are going to be able to return to the amendment this time which has been used.

Mr. MAGNUSON. Mr. President, I ask unanimous consent——

Mr. ALLEN. I am not talking about the House message. We have been talking for an hour and a half. Will that be taken from the time of the amendment or will it be added back to the time on the amendment?

Mr. ROBERT C. BYRD. Mr. President, there will remain something like an hour and 10 or 15 minutes after this. I am sure the proponents of the treaty will yield all but 5 minutes of that, or 10 minutes, so the Senator would still have his time.

Mr. ALLEN. I have no objection to the Senator from Washington proceeding.

Mr. HARRY F. BYRD, JR. Mr. President, reserving the right to object, if $60 billion is involved——

Mr. MAGNUSON. $60 million.

Mr. HARRY F. BYRD, JR. $60 million?

Mr. LEAHY. $60 million here and $60 million there would add up to a lot of money.

Mr. HARRY F. BYRD, JR. Even if it is only $60 million, we should have a little more time than just 5 minutes.

The PRESIDING OFFICER. Does the Senator from Virginia object?

Mr. HARRY F. BYRD, JR. No.

The PRESIDING OFFICER. Is there objection?

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

Mr. MAGNUSON. I yield.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the vote on Mr. ALLEN's amendment occur at 4 p.m. today, and when the Senator from Washington completes his action that a Senator may put in a quorum call so that those of us who are nearby can arrive and discuss these matters further.

The vote on the amendment will occur at 4 p.m.

The PRESIDING OFFICER. Without objection, both unanimous-consent requests are agreed to.

The Senator from Washington.

RESCISSION OF CERTAIN BUDGET AUTHORITY

Mr. MAGNUSON. Mr. President, there is being held at the desk, pursuant to unanimous consent, H.R. 10982, the first budget rescission bill of fiscal year 1978, and due to the fact that this measure has been cleared on both sides, the Senate must take action on this matter.

I ask that the Chair lay before the Senate a message from the House on H.R. 10982.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 10982) to rescind certain budget authority contained in the message of the President of January 27, 1978 (H. Doc. 95-285), transmitted pursuant to the Impoundment Control Act of 1974.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the bill shall be considered as having been read twice; that the Senate proceed to its immediate consideration, and that it be considered to have been read the third time and passed, and that a motion to reconsider as having been made and tabled.

Mr. HARRY F. BYRD, JR. Mr. President, I reserve the right to object.

The PRESIDING OFFICER. The Senator from Virginia reserves the right to object.

The Senator from Virginia.

Mr. HARRY F. BYRD, JR. May I ask the distinguished Senator what the $60 million——

Mr. MAGNUSON. I was going to explain that. I have to make this motion first.

Mr. HARRY F. BYRD, JR. How do I know whether I want to object or not.

Mr. MAGNUSON. Well, I will explain it.

Mr. HARRY F. BYRD, JR. I would like the Senator to explain it.

Mr. MAGNUSON. I will withdraw that motion and I will explain it.

The PRESIDING OFFICER. Without objection, the bill will be considered as read twice.

Mr. HARRY F. BYRD, JR. The objection is withdrawn.

The PRESIDING OFFICER. The Chair must point out that the bill must be before the Senate to be considered without objection.

The bill will be considered as having been read twice and the Senate will proceed to its immediate consideration.

Mr. MAGNUSON. Now, Mr. President, this is the first budget rescission bill reported by the Committee on Appropriations for the fiscal year 1978 under the Congressional Budget and Impoundment Control Act of 1974. It just passed the House of Representatives on March 10 by a vote of 318 to 0.

It involves three items and rescinds $55,225,000 representing the same amounts proposed by the President.

The three items are: $40,200,000 under the military assistance program, which they do not need; $10,055,000 for the Federal Home Loan Bank Board, that they do not need; and $5 million for contributions for international peacekeeping activities under the State Department that they do not need.

I know of nothing controversial about the proposed rescissions. They represent a portion of the funds provided in previous appropriations that were not required due to subsequent events and other circumstances.

The proposed rescissions have all been reviewed by the respective chairmen and the ranking minority members of both Appropriations Committees, House and Senate.

As I say, the rescission was agreed to by the House on a vote of 318 to 0.

Now, Mr. President, I renew my request.

The PRESIDING OFFICER. Is there objection?

Without objection, the bill is considered to have been read the third time and passed, and the motion to reconsider is tabled.

SENATE RESOLUTION 424—SUBMISSION OF A RESOLUTION RELATING TO A NEW CANAL CONNECTING THE ATLANTIC AND PACIFIC OCEANS

Mr. MAGNUSON. Now, Mr. President, while I am on my feet, I have another matter which will take only a moment.

I send to the desk a resolution on behalf of myself and many other Senators, I think, who will join me, dealing with a second transoceanic canal.

I must say that I have been interested in this issue for a long time, dating back to 1938, as I mentioned to the Senate some time back during this an earlier debate on the need for a second canal.

This is a sense of the Senate, resolution that the President of the United States should immediately begin negotiations with the Government of the Republic of Panama or with the government of any other appropriate country, if agreed to by the two parties, regarding the construction, the maintenance, the operation of a new canal connecting the Pacific and Atlantic Oceans.

I thank Senators for yielding.

Mr. GARN. 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. CHURCH. Mr. President, I ask that the order for the quorum call be rescinded.

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

Mr. CHURCH. Mr. President, I yield now to the distinguished Senator from Maine (Mr. MUSKIE).

INFLATION AND THE FARM BILL

The PRESIDING OFFICER. The Senator from Maine.

Mr. MUSKIE. Mr. President, yesterday the Senate rejected by overwhelming votes Senator BELLMON'S and my effort to keep the Nation's budget in perspective. By overwhelming margins the Senate voted to increase the rate of inflation by a full point. By overwhelming margins the Senate voted to increase the Federal budget deficit. And by overwhelming margins the Senate voted to reject the discipline that we imposed on ourselves with enactment of the Budget Act 4 years ago.

Mr. President, for whatever reasons the absence of a clear administration position on the legislation supported this erosion.

Mr. President, today in the Washington Post there is an article on the warning by the Saudi Arabians that continued decline in the value of the dollar will inevitably lead to an increase in oil prices. There is an inference in that article that the concern of the President with this potential has triggered renewed anti-inflation initiatives, and expanded efforts to shore up the dollar. I find this inference, in light of yesterday's results in the Senate, interesting at best.

President Carter and his Secretary of Agriculture had a unique opportunity to take a tough stand on inflation on the farm bills. They did nothing. They waffled. And it is this kind of waffling that is discrediting the value of the dollar.

In that same story, it is suggested that the administration is considering a major effort to increase exports as a means of offsetting the decline in the dollar and improving our balance of payments. I cannot, Mr. President, believe that this administration would, on the one hand, consider improving our balance of payments by increasing our exports when at the same time their silence supported passage of legislation which will significantly reduce production of the most significant exports this country has.

I will not repeat the statistics I cited on the floor yesterday, but a decline in farm production inevitably will lead to a decline in commodities available for export. Whether or not the increased price as a result of reduced output will offset that decline depends entirely on the ability of the world to pay what may become exorbitant prices for food and feed grains. In any event, a reduction of production at this time can only lead to a reduction of our capacity to meet the demands of the export market and thus could erode hoped-for increases in exports and the associated improvement in the balance-of-payments situation.

It may be that many of my colleagues, and apparently the President, do not understand the critical nature of the current economic situation. Another round of oil price increases would have a serious and perhaps disastrous impact on recovery. Another round in devaluation of the dollar will have an equally serious effect on the world economy and the growing deficit in the Federal budget can only lead to another round of double digit inflation.

Mr. President, it will take a team effort to control inflation, to reduce the budget deficit, and to shore up the dollar. I think it is well for us to recognize the importance of that fact. Those few Senators who yesterday put national interest ahead of special interest obviously cannot do it alone. The failure of the President and two leading Senate contenders for the Presidency to exercise this kind of responsibility suggests that the public should not anticipate increased confidence in the dollar, control of inflation, and reduced deficits.

Mr. President, I ask unanimous consent that that article be printed at the close of my remarks.

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

(See exhibit 1.)

Mr. MUSKIE. There is an inference in that article, Mr. President, that concern of the President with this potential has triggered renewed antiinflationary initiatives and has expanded efforts to shore up the dollar. I find this inference, in the light of yesterday's results in the Senate, interesting at best.

EXHIBIT 1

[From the Washington Post, Mar. 22, 1978]

SAUDIS LINK OIL PRICES TO A STABLE DOLLAR

(By Hobart Rowen)

King Khalid of Saudi Arabia has told President Carter that oil prices may have to be raised if the U.S. dollar continues its decline in world markets.

The Saudi leader said in a recent letter that his nation, in effect, has resisted several efforts within the Organization of Petroleum Exporting Countries (OPEC) to raise prices, but the United States could no longer be sure that the Saudi view would continue to prevail.

Authoritative sources stressed that Khalid's letter was not threatening, and that in fact, "it was very well reasoned." They said the anti-inflation program that President Carter now has under consideration had not been triggered by the Khalid letter.

The declining dollar, which contributes to inflationary pressures here by boosting the cost of imported goods, also has had an adverse impact on the oil cartel. For OPEC, which sells its oil for dollars around the world, a cheaper dollar amounts to a cut in their prices, and a loss of real revenues.

Officials conceded that a series of three government announcements of steps to shore up the dollar—most recently, an accord with West Germany—have not yet had the desired results, and that "some more definitive signal of a fundamental nature is going to be needed."

Congressional approval of an energy conservation bill is cited as the most important signal. But pressure has also been increasing on Carter for a stronger anti-inflation program that might give foreign exchange markets more confidence in the dollar.

Carter has been urged to take stronger anti-inflation steps by Federal Reserve Chairman G. William Miller, and by both Republican and Democratic members of the Joint Economic Committee. Additional anti-inflation measures have also been urged by the Government's own wage-price watchdog, Barry Bosworth, director of the Council on Wage and Price Stability.

As part of a new basket of actions dealing with inflation, the Administration reportedly is considering a Government task force to see how American exports might be stimulated.

An intensified export drive, some Administration officials believe, would cut down the U.S. trade deficit, which is one of the sources of pressure on the dollar.

An export program, officials said, could lead to some new form of tax incentives for exports, in effect reversing current Carter Administrative policy.

White House officials have been working on various anti-inflation options with the hope of making something public by tomorrow. But officials cautioned yesterday that that date might "slip," because final decisions have not been made by the President.

The idea of an export task force has been pushed by the Commerce Department, and endorsed by Special Trade Representative Robert S. Strauss.

"The answer to this nation's problems," Strauss said in an interview, "is not in restricting imports, and making the buying public pay more money when they're already choked by inflation, but the answer is a tremendous thrust from an export program."

But other officials, who concede that it would be useful to sweep away any artificial impediments to exports, caution that any benefits would not be gained in the short run, and certainly not quickly enough to ease current pressure on the dollar.

High on the list of potential actions to stimulate exports, according to informed sources, are tax incentives, even though the Carter Administration has rejected continuation of one form of export tax incentive, the DISC program, in its own tax bill now before Congress.

Other possible steps include beefed-up export financing, a bolstered export promotion drive, and an effort to persuade private businessmen that great export opportunities exist if they would put more effort into it. "We may have to act more like the Japanese do," one official said.

Not all Administration officials are sold on this approach, especially if it includes a politically embarrassing reversal on tax incentives for exports. "Besides," says one unconvinced official, "if the United States tries to pay its oil bills by pushing exports into the less-developed countries with the help of subsidies, that's hardly a contribution to global strategy."

Mr. MELCHER addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. MELCHER. Mr. President, I think some of the points that the Senator from Maine has raised I would agree with. But there are vital points that are not mentioned at all.

When we are talking about the Government of Saudi Arabia and their part in setting OPEC-priced oil, we have to admit that the oil sent through OPEC was set at a considerably higher price than had been the case prior to 1973. We have to admit that our balance of payments is seriously aggravated by the imports of OPEC oil.

But we cannot lose sight on that oil they produce, the exports they have, the OPEC countries protected the price of their export. They set high oil prices and that is their major export.

We have not done anything in setting the price for American grain that is exported. It is much too low.

Mr. MUSKIE. Will the Senator yield?

Mr. MELCHER. If the wheat that we export was not being sold at around $2.60, $2.85 a bushel, but was set at a price that would compare to OPEC oil, our balance of payments would be much better.

I am delighted to yield to the Senator.

Mr. MUSKIE. No. 1, I want to make it clear to the Senator that I was as indignant and am still indignant after 3 years about the action of the OPEC prices, in quadrupling oil prices at the time that it did. I did not try to cover the history of that situation in my brief remarks.

The point I wanted to make is a very simple one. The Budget Committee within the last 2 weeks held a hearing on inflation. The witnesses included the new Chairman of the Federal Reserve Board, and others. There is no question, based on the testimony we have had, not only in that hearing, but in the hearings throughout this budget season, that our No. 1 problem is inflation.

Why is it the No. 1 problem? Initially, of course, as the record of those hearings made clear, it was triggered by that escalation in energy prices.

But what sustains it? What sustains it, may I say to the Senator, according to the testimony of these experts—I am no economic expert—what sustains it is the determination of every individual in our economy, every group in our economy, to catch up.

The underlying catchup inflation has been steady at a 6 to 6½ percentage increase for the last 2 years.

This inflation is not some new inflationary input into the economy. It is a circular thing. Everybody is catching up with everybody else and chasing everybody else in a circle.

So, unless somebody at some point breaks out of the circle to go through the anti-inflation door, that circle is going to continue to turn.

We seem to reject every opportunity to take a deflationary action. We seem to embrace—and I am not talking about just yesterday—every attractive opportunity to help somebody catch up, refusing to recognize that that catchup effort is itself inflationary.

I do not know of any smooth, painless, nonsacrificial way for us to stop that circle from turning. But I do think, as chairman of the Budget Committee, I have a responsibility, which I am going to try to exercise more conscientiously than I have in the past, to identify those inflationary inputs that keep that inflation circle whirling at what everybody tells us, who knows anything about economics, is a faster and faster pace.

Now, Senators who made their vote yesterday, cast it as a matter of conscience, and my good friend from Montana did, as well. But to pretend, as I heard one speech on the floor yesterday pretend, that voting for that bill yesterday was in no way inflationary, is simply to ignore reality.

Mr. MELCHER. Mr. President, I voted for that bill, not just on the basis of helping farmers, not just on the basis of raising our loan rates on grains and cotton so farmers could get a higher price in the marketplace, and not just on the basis of raising target prices for these commodities so farmers could survive during this tough economic crunch, but I also voted on the basis of the long-range good for the United States.

There is no way that we can correct our balance of payments without selling American grain abroad. There is no way that we can catch up, as the Senator from Maine says that we should catch up, without recognizing that we have to have a price commensurate with our exports that will match the price of imports.

The OPEC price for oil is real. They did it for their own good. The prices set on other imports that we bring into this country are set by other countries for their own good.

We have to make sure that American grain farmers and cotton producers have some protection, too.

The long-range effect, if we do not do something to protect them, is that we lose these producers and we will be in worse shape on our balance of payments, our economy will be in worse shape. We simply cannot take it out of the hides of farmers to meet the rising costs of inflation and to assure a stability on those rising rates simply by holding down farm prices. The agriculture producers must survive or our balance of payment will worsen, the dollar will be weaker, and the American economy will be much worse.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.). The Senator from Kansas.

Mr. DOLE. Mr. President, I appreciate the comments just made by the distinguished chairman of the Budget Committee and also by the distinguished Senator from Montana.

The House in a vote less than an hour ago did agree to go to conference on the farm legislation, and in the process an effort was made to instruct the conferees on the so-called flexible parity bill, that was defeated, but I think the important thing is that I understand House conferees have been appointed and the Senate conferees will be appointed and they will go to conference.

I think they will overcome some of the real fears, I might add, expressed by the chairman yesterday, because it is not possible to judge the impact of the McGovern, the Dole, and the Talmadge amendments when we did not know about the one until midnight the night before.

Perhaps I am wrong in the eyes of the chairman, but I certainly do not criticize his efforts to call it to the attention of the Senate, and to point up the problem, so long as it is done with an even hand, and that is the way the Budget Committee has been operating—with an even hand—in the school lunch programs and the farm programs. I do not think we can quarrel about that.

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

Mr. DOLE. I yield.

Mr. MUSKIE. I express my appreciation to the Senator. He always applauds my efforts, even when he does not agree with them.

Does the Senator have any idea when the conference will meet before this weekend?

Mr. DOLE. I am not certain. Senator TALMADGE, I understand, may be in the process now of contacting Senators who may be appointed as conferees on the part of the Senate. We hope we can do it during the recess—perhaps not vote until after the recess, but at least assure the farmers that there will be something to vote on when we return, if there is a recess. I suppose that is another question.

Mr. MUSKIE. I assure the Senator that I will do my best to get the budget evaluation and the economic evaluation and all the other pertinent information that is was not possible for use to have yesterday, so that the conferees will have it at their disposal at the conference.

Mr. DOLE. I hope the staff of the Budget Committee will be available to some of us on the conference, because we should know what the impact will be so far as consumers are concerned and so far as inflation is concerned—not just the benefit, but also the other side.

Mr. MUSKIE. We will try to comply with the Senator's requests.

Mr. DOLE. Mr. President, I hope—as does the Senator from Montana (Mr. MELCHER)—that we can resolve the differences in conference in the next few days, either this week or next week. Whether or not there is a recess, the conferees can meet. It seems to this Senator that the need is that urgent, that the farmers need some assurance.

I also suggest that, notwithstanding certain White House pressures and other efforts to defeat the so-called flexible parity concepts, that concept is very popular with America's farmers. I was heartened today by the vote in the House of Representatives, when a motion to table, with instructions to the conferees to adopt the flexible parity approach, received 160 votes to some 230 votes—a difference of 47 or 57 votes. It indicates to this Senator the strong support of the voluntary flexible parity concept, which I believe many of my colleagues—Democrats and Republicans—believe would be the least costly. It would not be subject to the criticisms of paying farmers not to farm, and I think it has great appeal. I hope that when the conference does meet, this Senator and others who will be conferees can persuade the conferees to adopt that view.

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

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

The second assistant legislative clerk proceeded to call the roll.

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

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

PANAMA CANAL TREATY

Mr. HELMS. Mr. President, I ask unanimous consent that Mr. Nick Nonenmacher, of my staff, be accorded the privileges of the floor during consideration of and any votes thereon of the Panama Canal Treaty.

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

Mr. HELMS. I thank the Chair.

Mr. THURMOND. Mr. President, I rise in support of the Allen amendment. This is the second portion of the Allen amendment No. 86. It reads this way:

Nothing contained in the Treaty shall prevent the United States from negotiating with any other nation for construction, mainte-

nance, and operation of a transoceanic canal anywhere in the Western Hemisphere or from constructing, maintaining, or operating any such canal.

Article XII of the current treaty prevents the United States from negotiating with another country for the right to construct an interoceanic canal in the Western Hemisphere.

As stated in the debate earlier today this was supposedly a U.S. concession to obtain from Panama an exclusion that no other country build another canal in Panama.

The administration contends the concession is of no great significance since studies show Panama is clearly the best place for a future canal.

While this may be true, the concession was significant because it takes from the United States a strong leverage over Panama during the treaty period.

Since resort to military force, both legally and practically, would be no viable alternative to the United States, we would find it difficult to exert any real pressure on Panama in a dispute. However, if the United States were free to construct a sea-level canal elsewhere this would give the United States leverage on Panama not to take unreasonable actions.

The canal is of overwhelming economic importance to Panama, and the freedom of the United States to create a competitive and superior waterway elsewhere would form a most powerful incentive for Panama to come to reasonable accommodations in whatever disputes that might arise.

Although current studies indicate that Panama is the only place worth considering for a sea-level canal, I wonder why we felt compelled to sacrifice flexibility in taking advantage of unforeseen future developments which might open up a better solution in another location? When looking as far ahead as 22 years, one ought never say "never."

Mr. President, much has been said about what the United States had to give up to get an agreement from Panama that they would not allow another country to build a second canal in Panama. To keep what we already had in the original treaties it is claimed the United States had to offer a quid pro quo in the form of a provision preventing us from even negotiating to build another canal elsewhere.

The Senate must remember that the greatest giveaway of all is the treaty itself in which we are giving the canal to Panama. One would think that after that giveway we would not have to offer a quid pro quo to balance each provision of the treaty.

By surrendering the right to even negotiate with another country for another canal route, we not only surrender the canal, but surrender as well our leverage over Panama to keep the canal open.

Mr. President, this is the Western Hemisphere we are dealing with in these treaties. It is our national security and our economic health involved here. In case of war especially we would be forced to shuttle ships from one ocean to the other, and it could be done quickly through the canal. We are the ones who need minerals from other nations that have to be brought through the canal, otherwise they would have to go around the Horn and travel thousands of miles further, using a lot more fuel and costing much more each trip.

Once we act on these treaties it is final. When we pass a law and make a mistake we can do it over. If the Senate passes this treaty then the action is final, and we cannot do it over. We will have to live forever with the treaty that we have ratified.

Mr. President, I urge acceptance of the Allen amendment by the Senate.

Mr. President, on January 17, 1978 I wrote the Secretary of State and propounded some questions with regard to defense installations and matters of that nature.

On March 20, 1978, over 2 months later, a letter has come to me in answer to those questions. I am not altogether satisfied with the answer given to question 3 in this letter. It was answered by Lawrence W. Jackley, colonel, U.S. Army, special assistant, Panama Canal Treaty negotiations. In Question 3 the question I propounded to the Secretary was this:

Question 3. What use do the treaties give the United States of military installations, air bases, pipelines, forts and naval installations that go over to Panama upon ratification:

Answer. The few secondary, active military facilities transferred to Panama upon entry into force of the treaty include:

The troop area of Ft. Amador.

Albrook (East), which includes the light aircraft capable Army airfield and warehouse facilities.

The troop area of Ft. Gulick between three and five years after entry into force of the treaty. These facilities will be used by Panamanian Armed Forces which are assigned a Canal defense role. Under the terms of the Panama Canal Treaty, there are no naval installations or pipelines required to be transferred to Panama until December 31, 1999.

So, Mr. President, it can be seen that that answer is not completely responsive to the question I propounded. It does not address my question of what use the United States can make of these facilities should a requirement so develop.

Mr. President, I think it might be helpful to the Members of this body if these questions and answers are made available. They do provide for the Senate clarification of questions which the State Department could not or would not answer last fall. The listings in outline form are easy to read and should help clarify for the Senate what goes over to Panama, what may go over and what we keep during the treaty period. I ask unanimous consent that the letter dated March 20, 1978, addressed to me and signed by Col. Lawrence W. Jackley, with attachments, be printed in the RECORD following these remarks.

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

OFFICE OF THE
SECRETARY OF DEFENSE,
Washington, D.C., March 20, 1978.

Senator STROM THURMOND,
U.S. Senate,
Washington, D.C.

DEAR SENATOR THURMOND: The Department of State has asked the Department of Defense to respond to your letter of January 17, concerning the lands and waters arrangements of the proposed Panama Canal Treaty. I regret the delay, caused through administrative error, in responding to your questions.

Question 1. What title transfers will be made in the Ports of Balboa and Cristobal? Are these properties essential to the operation of the Canal?

Answer. Article XIII of the Panama Canal Treaty transfers to Panama all rights, title and interest of the United States in property, installations and equipment in the Ports of Balboa and Cristobal, the boundaries of which are set forth in the Map Atlas supporting Annex B, Agreement in Implementation of Article III of the treaty (attachments 1 and 2). The United States retains the use of specific port installations, required to carry out our responsibilities to operate the Canal, described in detail in various articles of Annexes A and B of the Implementing Agreement cited above and retains our existing titles to them.

Article V of the Agreement in Implementation of Article III of the Panama Canal Treaty sets out the guidelines and conditions under which Panama will be responsible for the operation and maintenance of the Ports of Balboa and Cristobal and the Panama Railroad, which will be transferred to Panama without charge upon the entry into force of the treaty. It also establishes a Ports and Railroad Committee which has certain decisionmaking authority and certain coordinating responsibility concerning these Ports and the Railroad activities developed as a balance of our needs to ensure the continuation of essential port and railroad services and Panama's desire to obtain the economic and commercial advantages connected with these facilities.

ANALYSIS OF PORT PROVISIONS

Panama will have jurisdictional rights over vessels in the ports and must approve vessel movement to and from the docks and piers. The United States, however, will control all vessel movement in Canal waters including those within the ports in order to maximize Canal efficiency and to continue the excellent safety record of Canal operations. In the exercise of this authority the Commission may require Commission pilots to be aboard any vessel for which it deems a pilot necessary.

Paragraph 2 (c) and (d) refer to paragraphs in Annex B which contain lists of port installations and equipment which Panama agrees to maintain and over which the United States has certain use rights.

With reference to those facilities listed in paragraph 3 of Annex B, the Commission will have a right to their use on a guaranteed basis in accordance with the normal schedule for maintenance of its equipment and in emergency situations. Under this scheme, facilities which are required from time to time as a necessary part of Canal maintenance but are not fully utilized at present can be made available for related commercial uses under Panama's authority without impairing our right to use them when needed.

In paragraph 2(e), Panama agrees to schedule port services on a priority basis for vessels transiting the Canal in order to avoid all possible delays in the scheduling of Canal transits.

Paragraph 2(f) contains a general undertaking by Panama to operate the ports in a manner compatible with Canal operation and to terminate any activity found to be incompatible.

Finally, the United States is authorized to use the Naval Industrial Reserve Shipyard in the Port of Balboa in the event of an emergency relating to Canal defense. Panama has agreed that the United States may retake those facilities transferred to Panama under the treaty which are included within the Naval Industrial Reserve Shipyard as it is defined in paragraph 20(b) of the Agreed Minute to this Implementing Agreement.

Question 2. Does the treaty include transfer of the installation and equipment of the Panama Railroad Company?

Answer. Yes. Details are as described above. The treaty also provides that the U.S. shall have the right to reassume management and operations of the railroad if Panama decides that its continued operation of the railroad at the minimum levels of service agreed upon is no longer viable (paragraph 4(e), Article V, Agreement in Implementation of Article III, Panama Canal Treaty).

ANALYSIS OF PANAMA RAILROAD PROVISION

Panama makes the commitment to maintain it in efficient operating condition with service necessary for effective Canal operation and defense. The United States has the following rights with respect to the railroad:

(a) to have access to, construct, use, and maintain utilities along the railroad right of way;

(b) to use the railroad on a priority basis for purposes of Canal operation or defense at costs no larger than those charged Panama's most favored customer on a commercial basis;

(c) to retain responsibility for spur tracks and sidings servicing installations in Canal operating areas; and

(d) to resume operation of the railroad if Panama decides it is not viable to continue the operation of the railroad at the agreed levels of service.

Paragraph 5 establishes the Ports and Railroad Committee and sets out its functions. The Committee will be the appropriate body to agree upon additions to the Ports or Railroad areas from areas made available under the treaty for the use of the United States. The Committee must approve any change in land use in the ports or railroad areas before it takes place as well as any initiation of, change in or termination of services relating to the ports or to the railroad. The level and frequency of railroad services scheduled for 1977 will be maintained until the Committee is able to establish new ones.

The Committee also will maintain adequate safety, fire prevention and oil pollution standards for these facilities. Again, those Panama Canal Company standards in effect immediately prior to the entry into force of the treaty will be maintained until the Committee is able to established new standards.

The Committee will also establish procedures to facilities the movement of vessels and coordinate the activities of the two governments in the port areas.

Finally, the principle is established that the Committee will be guided by the premise that the operation of the ports and the railroad shall be consistent with efficient Canal operation and defense. Detailed understandings related to the operation of the ports and railroad are specified in the Agreed Minute to the Agreement in Implementation of Article III.

Question 3. What use do the treaties give the United States of military installations, air bases, pipelines, forts and naval installations that go over to Panama upon ratification:

Answer. The few secondary active military facilities transferred to Panama upon entry into force of the treaty include:

The troop area of Ft. Amador.

Albrook (East), which includes the light aircraft capable Army airfield and warehouse facilities.

The troop area of Ft. Gulick between three and five years after entry into force of the treaty. These facilities will be used by Panamanian Armed Forces which are assigned a Canal defense role. Under the terms of the Panama Canal Treaty, there are no naval installations or pipelines required to be transferred to Panama until December 31, 1999.

Question 4. Please provide a list by name, location and size of military installations or facilities to be transferred to Panama upon ratification of the Treaty.

Answer. At Attachment A is an overall status of the military facilities and installations as reflected in the Implementing Agreement to Article IV of the Panama Canal Treaty. Information concerning the size of each installation will be available on completion of the boundary survey required by Paragraph (1) of Annex A to the above Implementing Agreement.

I trust that this information will be helpful.

Sincerely,

LAWRENCE W. JACKLEY,
Colonel, U.S. Army, Special Assistant, Panama Canal Treaty Negotiations.

TREATY DAY: STATUS OF MILITARY FACILITIES AND AREAS

I. Defense Sites: U.S. Control for Life of Treaty:

A Howard AFB and Ft. Kobbe.

B. Rodman Naval Base, Marine Barracks, Cocoli, Arrijan and Farfan areas.

C. Ft. Clayton.

D. Albrook AFB (West).

E. Corozal Army Industrial Support Area.

F. Ft. Davis.

G. Ft. Sherman.

H. Galeta Island Naval Communications Station.

I. Semaphor Hill Communications Link.

J. US Navy Transisthmian Pipeline.

II. Military Areas of Coordination (Green): U.S. Control for Life of Treaty, or, as Long as Required, Unless Otherwise Noted:

A. Ft. Amador;

Troop area to Panama Treaty Day.

Housing and Community Support Areas: Retained as long as required.

B. Quarry Heights:

Military and Communications Facilities Retained for Life of Treaty.

Site of Combined Board.

C. Curundu Heights Housing and Antenna Field:

To Panama (for Military Personnel) in three Years (Except BOQ's).

Antennas Relocated to Howard AFB.

D. Curundu Housing:

Contractor Portion of Housing Area Retained as Long as Required.

Remainder Retained for Life of Treaty.

E. Corozal Cemetary:

F. Ft. Clayton Training Area (Retained as Long as Required).

G. Empire Firing Ranges (Retained for Life of Treaty).

H. Summit Naval Radio Station:

Retained for Life of Treaty.

Special Regime, Only U.S. Access.

I. Pina Firing Ranges (Retained for Life of Treaty).

J. Ft. Sherman Training Area (Retained for Life of Treaty).

K. Ft. Gulick and Ammunition Storage Area:

Housing, Community Service Areas and Ammunition Storage Area Retained as Long as Required.

Troop Area for One Panamanian Rifle Company Transferred in Three Years.

Remainder of Troop Area Transferred to Panama in Five Years.

L. U.S. Naval Station, Panama Canal, Ft. Amador:

Retained for Life of Treaty.

Special Regime, only U.S. Access.

M. Coco Solo Hospital:

Retained for Life of Treaty.

Special Regime, Only U.S. Acess.

N. Coco Solo/France Field Housing:

France Field Housing to Panama in Five Years.

Coco Solo Housing Retained as Long as Required.

O. Schools and housing, medical/health facilities and miscellaneous facilities as described in par (3), Annex A, Agreement in Implementation of Article IV of the Panama Canal Treaty.

III. Areas and Facilities Transferred to Panama by the Agreement in Implementation of the Panama Canal Treaty:

1. Ft. Grant:

No Military Facilities.

FAA Site Retained Under Separate Agreement.

2. Vera Cruz Strip:

Panama to Construct Road (Location Subject to U.S. Agreement).

Will Replace Panamanian Access Through Howard AFB.

3. Empire Range Parcels:

Not Required by U.S.

Moves Boundary Away from Urban Area (Arrajan).

4. Albrook (East) and Warehouse Area:

Provide Helicopter Facility to Panamanian AF.

Enable Panamanian Commercial Development.

Warehouse Area Phased to Panama in Three Years (U.S. Facilities Relocated to Defense Sites).

U.S. Helicopter Facilities Relocated Howard AFB.

5. Ft. Clayton Training Area Parcel:

Parcels not Required by U.S.

Border on Panamanian Urban Areas.

6. Cerro Tigre:

Former Ammunition Storage Area.

Not Used by U.S.

Rail/Highway Ammunition Transfer Point Retained.

7. Cerro Palado:

Former Ammunition Storage Area.

Not Used by U.S.

8. Pina Training Area Parcel (Not Required for Ranges).

9. Sherman Training Area Parcel (Not Required for U.S. Training).

10. Ft. Gulick Reservation Parcels:

(Not Used for Military Facilities).

11. Coco Solo Area, North of the "Colon Corridor":

Contains several unused WWII Military Facilities.

Except for Facilities/Areas Noted in Sections I and II Area is not Required for Military Purposes.

12. U.S. Army Tropic Test Center Parcel:

Surveyed for data collection.

Primarily used for static environmental tests.

If area is used for other purposes by Panama, test sites will be moved to Empire Range.

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

Mr. HELMS. Mr. President, I wonder if the distinguished Senator from Alabama will yield to me.

The PRESIDING OFFICER. There is no time limit.

Mr. ALLEN. I yield such time as he may require to the distinguished senior Senator from North Carolina.

The PRESIDING OFFICER. There is no time involved. The Senator from North Carolina may proceed.

Mr. HELMS. I thank the Senator.

Mr. President, I apologize for the raspiness of my voice. I think I caught my cold from my grandson, and in that case I will say it was worth it. But, Mr. President, I rise in support of the amendment of the distinguished Senator from Alabama.

Mr. President, I am delighted to yield at this time to the distinguished majority leader, if he desires the floor.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from North Carolina.

Mr. President, the proponents and the opponents have had an opportunity to sit down and discuss the matter as to when the Senate will reconvene and as to when we might view with some certainty the prospect of a final vote on the treaty, and the method by which we could reach an agreed-upon final vote.

There seems to be a consensus of agreement among the floor managers on both sides of the aisle and between the minority and majority leaders and supporters of both positions anent the treaties that the final decision as to a date and time for a vote on the resolution of ratification of the Panama Canal Treaty would be placed in the hands of the majority leader, the minority leader, and Mr. HELMS; and that, further, the majority and minority leaders and Mr. HELMS would sit down no later than April 5 and agree upon a date and time certain for the vote on the resolution of ratification, with the understanding that such date and time certain would not be later than the date of April 26.

With that understanding, I am agreeable to proceeding with the recess as it was laid out originally, and also with the understanding that upon our return we can meet and have a method, a modus operandi, for reaching a definite date for a vote on the resolution of ratification, with the outside date being no later than April 26.

The meeting among the majority and minority leaders and Mr. HELMS would occur at 3 p.m. on April 5.

Mr. BAKER. Mr. President, will the Senator yield to me?

Mr. ROBERT C. BYRD. Yes, I yield to the minority leader.

Mr. BAKER. Mr. President, the proposal of the majority leader, as described, is one that I think is eminently fair, and was arrived at after extensive conversations with the distinguished Senator from Nevada (Mr. LAXALT), the distinguished Senator from Alabama (Mr. ALLEN), and others.

Mr. ROBERT C. BYRD. May I also say, Mr. SARBANES and Mr. CHURCH?

Mr. BAKER. And Mr. CHURCH.

Mr. ROBERT C. BYRD. And the minority leader and myself.

Mr. BAKER. And has been discussed with the distinguished Senator from North Carolina, who has agreed to serve on this committee. I think it is a good arrangement, Mr. President.

I would only say that the agreement does not say that the vote will occur on April 26. It says instead that the parties described, that is, the majority leader and minority leader and the distinguished Senator from North Carolina, will meet at 3 p.m. on April 5, which is two days after we return, and that we will consider and make a judgment at that time, by majority vote, with regard to when the Senate will proceed to final action on the Panama Canal Treaty.

Mr. ROBERT C. BYRD. With the understanding that that date will not be later than April 26.

Mr. BAKER. That is correct, but I think it very well could be earlier.

Mr. ROBERT C. BYRD. Could be earlier, yes.

Mr. BAKER. I would like to express my appreciation to the majority leader, who I know has worked hard and diligently to get to this point, to the Senator from Alabama, who has been a careful and energetic opponent of these treaties, but has been eminently fair in trying to get to a decision, to the Senator from Nevada, and to all others who have made it possible to get to this point at this time.

Mr. DOLE. Mr. President, reserving the right to object, is there a precedent for vesting that authority in a committee of this kind?

Mr. ROBERT C. BYRD. I do not know if there is a precedent, but I would not want this to be one.

Mr. DOLE. The point I make is that there are 100 Senators in this body, and there are about 15 present right now, and we are about to enter into some unanimous-consent agreement whereby three Senators—we know the vote would be 2-to-1 in any event—would make a decision on when we would have a final vote on the treaty. I just wonder if that is the right way to proceed. I understand the desire to reach a vote, but there are some of us who have questions about up-or-down votes on some of the important amendments. Would that be addressed at a later time, or would we be boxed in on a time limit, so that we cannot raise that question effectively?

Mr. ROBERT C. BYRD. This agreement would not waive the rights of any Senator under the rules.

Mr. DOLE. But there is no precedent for vesting this much authority in such a committee?

Mr. ROBERT C. BYRD. I know of no such precedent. I would not say that in the history of the Senate something like this has not been done before, but I certainly would not want this to be accepted as a precedent.

Mr. DOLE. Is the Senator from West Virginia satisfied that this a proper precedent and the proper way to handle it? I have great respect for the majority leader, which is the reason why I ask the question.

Mr. ROBERT C. BYRD. Well, I think it is about the best way of reaching an understanding here that would, I think, be acceptable to both sides of the question, and certainly the representations in the meetings that we have had talking about it have been by proponents and opponents.

I do not want to see this as a precedent any more than the Senator from Kansas wants to see it as a precedent. It seems to me it does allow ample time for further debate of the treaties and yet it assures the Senate and the people that the day of decision is not going to be held beyond a certain point.

Mr. SCOTT. Will the Senator yield at that point?

Mr. ROBERT C. BYRD. As far as I am concerned, that would be the understanding.

Mr. DOLE. So it would be that the vote would be on the 26th of April and it would not necessarily add this other factor? I am willing to vote on April 26, but I am wondering about the committee arrangement, perhaps voting earlier than the 26th. There is the fact that we ought not to be spinning our wheels here, but we ought to be voting.

Mr. ROBERT C. BYRD. May I say to the distinguished Senator that I hope we could reach an agreement on a final vote before the 26th. If such an agreement is reached, it would seem to me it would be one that would be entered into with the understanding of both sides and it would be a reasonable way of handling this matter.

I sought to get an agreement earlier today to vote by a certain date. If that agreement had been reached, it would have been entered into by no more Senators, not a greater number of Senators, than are now on the floor. Quite often unanimous-consent agreements are entered into establishing a date and time certain to vote with only a few Senators on the floor. But I do this because on my part I feel I am speaking for the majority, and if there is a Senator on my side of the aisle with an objection he would have lodged it with me and I would certainly protect him.

Mr. DOLE. Basically, the question would be if we decided to vote on the 12th. If that does not meet with the approval of someone, could there be a motion on the floor, or how would we fix the date? Is that it?

Mr. ROBERT C. BYRD. I think, as we always reach that stage, if before the time certain it is agreed to for a vote on a very controversial matter, the majority leader, the minority leader, and their respective managers of the measure on both sides of the aisle reach an agreement. Many times we put out on the hotline what the agreement is going to comprehend and if there is any objection we go in another direction. I do not particularly like this approach, but I think it is one which protects both sides and protects all Senators.

Mr. DOLE. It would seem to this Senator that the vote is already 2 to 1, which would make the decision. I do not know what protection those of us who have objections would have. We have great respect for the majority and minority leader. We also know they are probably anxious to get this matter behind the Senate. I have not tried to delay this, but I do have some amendments on which I would like to get up or down votes. If I am deprived of the ability to say to the treaty proponents that I intend to debate this at length unless I can have an up or down vote because of some time agreement, I will lose that leverage.

Mr. LAXALT. Will the Senator yield for an observation?

Mr. ROBERT C. BYRD. I yield.

Mr. LAXALT. In response to the concern of the Senator from Kansas, I share that concern. The majority leader, and he can correct me if I am wrong, will say that the only thing which has been settled by virtue of this understanding timewise is that the vote will be taken by the 26th of April.

Mr. DOLE. I agree with that.

Mr. LAXALT. Within that, whatever comes out of the so-called committee of three will be subject to a unanimous-consent agreement, and if it did not fall within the objection of the Senator from

Kansas, we would have to look for another solution. Is that correct?

Mr. ROBERT C. BYRD. The decision by the three Senators aforementioned would be the decision as to the date and time of the vote.

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

Mr. ROBERT C. BYRD. I yield.

Mr. SCOTT. Would it be the understanding of the distinguished majority leader that that would be a unanimous vote, that it would have to be a unanimous vote?

Mr. ROBERT C. BYRD. No.

Mr. SCOTT. Then there would be no protection at all. I would object. I do not object at this time, but I reserve the right to object. The distinguished Senator from North Carolina can very vigorously defend the position of those who oppose the treaty but be outvoted by those who favor the treaty, the majority leader and the minority leader. So we have no protection.

I was thinking that this would be coming back to the Senate and the Senate would probably agree to whatever final date was recommended. If it is this way, then the minority has no protection, if our minority leader and the majority leader, both proponents of the treaty, would vote one way and the distinguished Senator from North Carolina would be helpless, because his one vote would not outweigh the two votes.

Mr. ROBERT C. BYRD. What the Senator is asking is that the vote of the Senator from North Carolina outweigh the two votes of the minority and majority leaders. That is what he is suggesting.

Mr. SCOTT. No; I am not.

Mr. ROBERT C. BYRD. That is precisely what he is suggesting, that it would require a unanimous vote, which would mean that Senator HELMS, by objecting, would be binding the hands of the two leaders.

Mr. President, I hope the Senator would have confidence in the two leaders. We will be as accommodating as we can be and as considerate as we can be of the needs and desires of the opponents. They will be well represented, I say to the Senator.

Mr. SCOTT. If the Senator will yield further, Mr. President, I do not have any reservation about the distinguished Senator from North Carolina or the distinguished majority or minority leader. But I am saying if the will of the Senate is to be carried out, it would seem reasonable that whatever agreement would be reached would probably be ratified and would probably be pro forma. But I still think that the definite date agreed upon at the April 5 meeting should come back before the Senate. I would undoubtedly support it and I believe others would.

Mr. ROBERT C. BYRD. If the Senator will allow me, I am perfectly agreeable to doing that. I am stating that was not our understanding. That is perfectly all right with me. I would really prefer it that way, if I may speak for my personal preferences at this point. I would prefer that whatever date the three decide upon be brought back to the Senate and be subjected to a unanimous-consent agreement, with the condition that there be no date later than April 26.

Mr. ALLEN. That is a good modification. I think that is a good modification.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. Reserving the right to object, does the distinguished majority leader revise the unanimous-consent request?

Mr. ROBERT C. BYRD. I so revise it.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank all Senators for their cooperation in this matter.

ADJOURNMENT OF THE HOUSE AND RECESS OF THE SENATE

Mr. ROBERT C. BYRD. Mr. President, as in legislative session I ask that the Chair lay before the Senate a message from the House on House Concurrent Resolution 544.

The PRESIDING OFFICER. The resolution will be stated.

The assistant legislative clerk read as follows:

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on Wednesday, March 22, 1978, it stand adjourned until 12 o'clock meridian on Monday, April 3, 1978, and that when the Senate recesses on Thursday, March 23, 1978, it stand in recess until Wednesday, March 29, 1978 or April 3, 1978, as determined by the Senate on Thursday, March 23, 1978.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The concurrent resolution (H. Con. Res. 544) was considered and agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. ALLEN. I yield to the Senator from Georgia.

EMERGENCY AGRICULTURAL ACT OF 1978

Mr. TALMADGE. Mr. President, as in legislative session I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 6782.

The Presiding Officer (Mr. MELCHER) laid before the Senate a message from the House of Representatives announcing its disagreement to the amendment of the Senate to the bill (H.R. 6782) to permit marketing orders to include provisions concerning marketing promotion, including paid advertisement, of raisins and distribution among handlers of the pro rata costs of such promotion, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. TALMADGE. I move that the Senate insist upon its amendment and agree to the request of the House for a conference, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The PRESIDING OFFICER. Is there objection?

Mr. GARN. Mr. President, reserving the right to object, and I shall not object.

The PRESIDING OFFICER. The Senator from Utah reserves the right to object.

Mr. GARN. However, Senator DOLE wished to be present at the time this recommendation was made, and they are seeking his presence at this time.

Mr. TALMADGE. We are appointing the conferees recommended by Senator DOLE on the minority side.

Mr. GARN. All I know is that he did request to be on the floor. I did not say that he would disagree.

Mr. TALMADGE. I would never have requested the appointment of conferees without checking with the ranking minority member, and I am appointing conferees that he recommended, I can assure my friend from Utah.

Mr. GARN. I withdraw my reservation.

Mr. TALMADGE. I thank my friend from Utah.

I may say that Senator DOLE's relationship and mine has been extremely pleasant, and we get along together extremely well. I would never appoint the Republican conferees without clearing it with the ranking minority member.

Mr. GARN. Senator Dole is now here, and may I say I did not question the senior Senator at all, the chairman of the Agriculture Committee. It is just that in operating the floor for the minority I was instructed that he wanted to be here and that was the extent of my reservation. I have no question at all about the Senator's motives.

Mr. TALMADGE. I thank my friend from Utah.

The motion was agreed to; and the Presiding Officer appointed Mr. TALMADGE, Mr. EASTLAND, Mr. MCGOVERN, Mr. ALLEN, Mr. HUDDLESTON, Mr. DOLE, Mr. YOUNG, and Mr. CURTIS conferees on the part of the Senate.

APPOINTMENT OF SENATOR STAFFORD AS VICE CHAIRMAN OF THE U.S. DELEGATION TO THE INTERPARLIAMENTARY UNION CONFERENCE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. STAFFORD be designated the vice chairman of the Senate delegation attending the IPU Conference during the next few days.

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

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield? Once more, I beg his indulgence.

ORDER FOR RECESS TODAY UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, so that Senators may be on notice now that the nonlegislative period will extend to April 3, 1978, I ask unanimous consent that when the Senate completes its busi-

ness today, it stand in recess until the hour of 10 o'clock tomorrow morning.

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

ORDER FOR RECESS TOMORROW UNTIL 12 MERIDIAN ON MONDAY, APRIL 3, 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate recesses on tomorrow, it stand in recess, in accordance with the provisions of House Concurrent Resolution 544, until the hour of 12 noon on Monday, April 3, 1978.

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

Mr. ALLEN. Will the Senator yield?

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

Mr. ALLEN. I commend the distinguished majority leader for his fine spirit of compromise with respect to this resolution and the setting of the return from the recess at April 3, in accordance with the announced recess schedule early this year. I feel that his spirit of compromise has enabled this unanimous-consent agreement to be reached and I feel sure that there is going to be no disposition on the part of the opponents of the treaties to squeeze the last day out of this allotted time. Speaking for myself, I am hopeful that a much earlier date can be agreed upon. I believe that is the sentiment of all of the opponents of the treaty.

Mr. ROBERT C. BYRD. Mr. President, if the distinguished Senator from North Carolina will yield, I thank the distinguished Senator from Alabama. I am glad to receive those assurances. I know they are sincere and I know that the Senator will work with other Senators in attempting to reach a final conclusion prior to April 26. He indicated that to me in private; he has said that in public. I am grateful for it, and I respect him for it.

Mr. ALLEN. I thank the distinguished Senator.

Mr. HELMS. Mr. President, I, too, commend the distinguished majority leader. I think what we have seen here is a restoration of good faith which ought to prevail at all times in the Senate. I feel sure that the final vote on this treaty will occur much sooner than he has contemplated.

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

THE PANAMA CANAL TREATY

The Senate resumed the consideration of the treaty.

Mr. ALLEN. Mr. President, I yield to the distinguished Senator from North Carolina.

Mr. HELMS. Mr. President, I rise in support of the amendment of the Senator from Alabama. It is entirely possible that the United States may wish to build another canal, if the present canal becomes unavailable to us.

There have been some attempts on this floor to assert that the canal is of declining importance commercially and militarily. But the Senator from North Carolina believes that it is the consensus of expert opinion that the canal is growing in importance and will be of even more importance to us by the year 2000.

There are two issues here which must be distinguished very carefully. The first is the need to have an interoceanic canal between the Atlantic and the Pacific. The second is whether the present canal is sufficient in its present size and configuration to meet the needs of the United States and of world shipping. There is no question but that the experts agree on both points, particularly if major modernization is carried out by the addition of a third lane of locks.

Mr. President, frankly, there is only one situation that would justify the construction of a new canal: the circumstance that would arise if Panama were unwilling or unable to operate the canal efficiently and without discrimination. As a result of these treaties, ownership and control of the canal will pass to Panama. In other words, whoever controls Panama will control the canal. It is all very well to say that it is in Panama's interest to keep the canal open and efficient. By the same token, it was in Egypt's interest to keep the Suez Canal open and efficient. Yet Suez was closed twice, to the detriment of world shipping. International power pressures are often beyond the capability of small nations to resist.

Nor is there any guarantee that the Government of Panama will represent the interests of the people of Panama. Indeed, there is considerable doubt that Dictator Torrijos represents the interests of the people of Panama. Indeed, there is considerable doubt that Dictator Torrijos represents the interests of the people of Panama even today. Despite the fact that other governments of Panama have sought new treaties too, there is very little reason to conclude that the present dictatorship represents the interests of Panama.

When we consider the massive corruption of the Panamanian dictator and his family, their Swiss bank accounts, the lack of reliable accounting for public funds, the exploitation of the people through excessive state-controlled lotteries and gambling, the documented participation of the Torrijos family and Torrijos cronies in international narcotics trafficking, the gross mismanagement of governmental affairs and enterprises, the constant and gross violations of human rights—all of these things suggest that Torrijos does not have the interests of the Panamanian people at heart. For all practical purposes, we might as well be giving the canal to the Mafia. We are certainly not giving it to the Panamanian people, and that point ought to be clear to all. Torrijos is the only gangster in the world who issues his own postage stamps.

So there is no guarantee that the best interests of the people of Panama will prevail. It is far more likely that once Torrijos gets his hands on a $10 billion asset—to wit, the Panama Canal—it will be run for his benefit, not for the Panamanian people's benefit. Once the canal passes into Panamanian sovereignty, the United States will have no more say in the matter, if Panama chooses to ignore the treaty. We could only assert our rights through military force. And since there seems to be little disposition in this body to defend U.S. rights in the Canal Zone by military force, at a time when the assets belong to us and are administered as part of U.S. territory, we must assume that there will be even less disposition to invade Panama to enforce our interpretation of treaty rights.

Moreover, we cannot evade the political implications of the ideological orientation of the Panamanian Government. I do not know that Torrijos is a Communist in the technical sense. I do not even know whether he can be called a Marxist in the technical sense. To call him a Communist would impute a sense of discipline and obedience to orders. He is probably too self-seeking to be part of the disciplines of the international Communist movement. Nor, to my knowledge, has anyone ever accused him of being an intellectual able to spin out ideological theory.

Be that as it may, Mr. President, but the fact is that both his parents were Communist organizers and that, by choice, he chose a dedicated Marxist intellectual, Romulo Escobar Bethancourt, to negotiate this treaty. Just because he trots out some U.S.-oriented advisers to argue his case with visiting U.S. Senators does not tell us anything about the future. Those U.S.-oriented advisers may very well have to flee to the United States once these treaties are ratified.

Nor should we put any stock in supposed assurances General Torrijos gives to U.S. Senators who have visited with him. He gave assurances that he would never allow Communists in Panama. After all, we must remember that General Torrijos was doing a selling job when the Senators visited him. What was he supposed to tell those Senators in a sales talk? Was he supposed to tell us or them that he was waiting to turn everything over to a hostile power the minute the treaty is signed?

I have no idea whether he is going to do that or not, but I do credit the man with enough shrewdness not to tell us what he is going to do. So let us, regardless of all the rhetoric in this Chamber, let us not pretend to the American people that pronouncements of General Torrijos on Communism have any value whatsoever.

As a matter of fact, Mr President, I remember that in 1946 and 1947 Mao Tse-tung was not a Communist, to hear the way some experts explained it to us at that time. They told us that Mao Tse-tung was an agrarian reformer. And back in 1958, Fidel Castro was not a Communist either, to hear these same experts come back home and tell us what a great fellow he was. Well, we fought two wars in Asia, because too many people believed the former; that is to say, that Mao Tse-tung was not a Communist. We fought two wars because the American people had been misled on that point and now we are rapidly losing our influence in Africa because too many people believed all of these experts when they said that Fidel Castro was not a Communist.

Now, Mr. Castro, as soon as he took over Cuba at gunpoint, he declared, "I am a Communist now and always have been and always will be," but before he took over, the major news media of this country, the commentators, the political experts, went down and worshiped virtually at the shrine of Fidel Castro and came back and said he is an agrarian reformer.

Now if we look at the pattern of nationalization in Panama, the takeover of the Panama Light & Power Co., the takeover of the telephone company there, the pressures against the Chiriqui Land Co., that is, the banana plantations of United Brands, all of these betray that anti-U.S. nationalism which often becomes anticapitalism and alinement with nonmarket economies.

It is disheartening to see U.S. businessmen who have been taken to the cleaners by the Dictator Torrijos, businessmen pleading today on behalf of these treaties. Those businessmen who still retain some business interests in Panama, or hope to gain or retain the dictators' favor, are merely feeding the alligator, hoping that the alligator will eat them last.

Now we must not forget, Mr. President, that Panama is already a member of the bloc of nonalined nations, with Torrijos attending their meeting at Sri Lanka.

Now, Mr. President, neither is there any contradiction between Marxism and the development of Panama as a banking center. Marxism is basically opposed to private ownership of the means of production and the free market but not even communism is exempt from the need to raise and manage capital. The Communists are some of the best bankers in the world. They know the value of the dollar even better than we seem to know it in the United States. They speak the same language and they deal with the same money markets as do international banks in the free world. It is not surprising that the Red Chinese, for example, maintain one of the biggest banks in Hong Kong. It is not even surprising that, for their own purposes, they allow the existence of Hong Kong, which, like Panama, is an important offshore banking center.

And finally, Mr. President, I might point out that events often accelerate beyond the intentions or expectations of leaders, and that may be that the present dictator of Panama has no intention or inclination to go any further in anti-American actions. But the prelude to Castro and Cuba was Batista. And in some respects the comparison of Torrijos to Batista is even more appropriate, with regard to corruption and wholesale violations of human rights. By making ourselves the partner and guarantor of gangster rule in Panama, we are setting ourselves up to be the target of a Communist revolution there.

And let us make no mistake about it.

Now there is no attempt here by this Senator from North Carolina to prophesy. I do not have a crystal ball, Mr. President, and I doubt that any other Senator does. I am simply attempting to show that the development of a hostile government in Panama is a reasonable consideration. It is a contingency that prudence demands we be prepared for. It is reasonable to believe that the treaties may improve our relations with Panama. It is equally reasonable to believe that our relations might deteriorate.

The notion of some treaty proponents that only favorable circumstances can develop as a result of these treaties is pure fantasy. Life is full of surprises. We can hope for the best, but we should also be prepared to protect our interest if something less than the best happens.

Now the only leverage that the United States would have over Panama would be the threat to build a canal elsewhere. If Panama should become unreasonable, we must maintain the option to go somewhere else. In the judgment of the Senator from North Carolina, we probably would not have to go elsewhere; the threat to go elsewhere would probably be sufficient to bring Panama around.

But the one thing we would have no reason to do is to build another canal, a sea-level canal in Panama. The experts fully agree that there is no way to justify, on an economic basis, a sea-level canal. The cost would be too high to be self-supporting. The economics of it do not make any sense. The advantage of a sea-level canal over the present lock canal is too slight to justify the enormous expenditure that would be required. It is simply not cost-effective, particularly when we consider that the present canal could be modernized with a third lane of locks to handle larger ships at about one-fifth to one-third the cost of building a sea-level canal.

However, if the present canal were denied to us, if Panama became hostile, or became, unwillingly the puppet of a state hostile to us, then we would need a new canal, and obviously we would build it somewhere else.

The treaty gives us a right we do not need; namely, the right to build another canal in Panama; and at the same time, gives up a right that we do need, that is, the right to go somewhere else. And this is plainly, Mr. President, a bad bargain.

So, again, I would say that I enthusiastically support the amendment of the distinguished Senator from Alabama, and I urge its approval by the Senate, and I thank the distinguished Senator for yielding to me.

Mr. ALLEN. Mr. President, we have only 10 minutes before the vote on the amendment, and I shall use only 5 minutes, in order that the proponents of the treaty may have an equal amount of time.

I commend the distinguished Senator from North Carolina (Mr. HELMS) for his very fine speech on behalf of this amendment, and I commend the distinguished Senator from South Carolina (Mr. THURMOND) for his very persuasive speech in support of the amendment.

This is the second part of the amendment. The amendment has been divided into two parts, and a vote was had earlier today on the first part. The second part of the amendment knocks out, in effect, a provision of the treaty putting the prohibition on the United States that for the next 22 years we shall not have the authority to negotiate with another country for a transoceanic canal in the Western Hemisphere, connecting the two oceans; that we cannot even negotiate with another nation; that we cannot build, operate, or maintain a canal other than in Panama.

If a prohibition such as this had been sought to have been placed on Panama, we would hear all sorts of objections from the proponents of the treaties, saying that we should not place this indignity upon Panama, but it is all right to place an indignity on the United States and provide that we cannot, for 22 years, negotiate with another nation for another canal.

The negotiators said that is necessary in order to get the concession that we shall have the veto power over the construction of another canal in Panama. Well, we already have that right of veto, not only in the 1903 Treaty but also in the 1955 Treaty. This puts us in the anomalous position of having a right to say that no other nation can build a canal in Panama, while we have that right under both of those treaties. The treaties provide that we shall give up that right. Then, in order to get back that right—a right we already have, which the treaties have us do away with—we have to put in the humiliating provision that for the next 22 years, no matter what the need for another canal, no matter how dire the necessity for another canal might be, we cannot negotiate with another nation for such canal.

Who in the world would suggest that the United States build another canal in Panama, to cost us some $10 billion, and have Panama expropriate it or become so unhappy with the treaty that the United States would negotiate another treaty with them as to the second canal, giving them that canal?

So there is no danger of the United States wanting to build another canal in Panama; nor, as I see it, is there any danger of another nation spending some $10 billion to build another canal in Panama. How would they amortize that indebtedness? They could not possibly do it, because we have not even paid for the original canal. We still owe $319 million on it. Of course, under the treaty, that is going to be canceled. It is going to be given to Panama.

The amendment we have before us would merely eliminate the provision that we cannot negotiate with another nation for another canal. What is the reason for placing that prohibition on the United States? They say that we should not abuse the sovereignty of Panama. Well, we certainly should not abuse the sovereignty of the United States and place such a limitation upon the exercise of our right to negotiate with another nation.

Mr. President, I hope the amendment will be agreed to. I feel that this is going to be a test of whether the leadership is going to stonewall all amendments, whether they are going to call on the Senate to rubberstamp this treaty without amendments. I am going to be in-

terested in seeing whether the leadership comes forward with a leadership amendment to this treaty, as they did to the other treaty. Things are going to be very interesting. This is one of the major tests of the leadership's willingness to accept provisions that will benefit the United States of America.

I yield the floor, Mr. President.

Mr. SARBANES. Mr. President, we go to a vote at 4 o'clock on this amendment. Therefore, not only will I be very brief, but also, I must of necessity be very brief.

I do make the observation that in listening to the concluding remarks of the distinguished Senator from Alabama, I think it is fair to say that almost every amendment he puts forward is a major test of one thing or another. I notice that this was characterized in that way, and I notice that virtually every other amendment he has presented in the course of these treaties has been characterized in the same way.

The study that was referred to earlier, the very extensive study on which the United States spent $22 million, the Atlantic-Pacific Interoceanic Canal Study Commission, concluded that the only feasible place to build a sea-level canal if you were to build one—and there are a lot of questions involved as to whether one should or should not be built, whether it is economically feasible, what the environmental consequences of doing it would be—in any event, if it were to be done, the only feasible place to do it is in the Republic of Panama. That is the basis on which the arrangement contained in article XII of the treaty before us was arrived at.

This amendment, as I noted earlier in the day, is being proposed to article I of the treaty, which has absolutely nothing to do with this subject matter. It is not being proposed to article XII of the treaty, which is the pertinent and relevant article. It is being brought in here to article I of the treaty. I hope that as we proceed, we can get amendments offered to the pertinent articles of the treaty and not all brought in with respect to article I, with the possibility that they will be brought back again with respect to the article to which they are pertinent, and with the even further possibility that they will be brought back at the end.

What is embodied in the treaty constitutes a reciprocal arrangement between ourselves and Panama. As the executive director of this study indicated, we have really obtained something for nothing, and I think the provision should be seen in those terms.

The distinguished Senator from North Carolina made some reference to the regime in Panama and their treatment of United Fruit, in their operations. I simply want to underscore that the chief executive officer of United Brands Co., of which United Fruit, which operates the banana plantations in Panama, is a division, appeared before our committee and stated:

> We are convinced that ratification of the Panama Canal treaties is the only fair conclusion to the good faith negotiations conducted by our two countries over the last several years.

He went on to say:

> Our most important reason for urging ratification of the treaties can be stated simply and succinctly: We believe it is the right thing to do.

It is important to point this out, because this company's experience in Panama was cited as a reason not to support these treaties; yet, here is the chief executive officer of the company that is being cited for that proposition taking a very strong position in favor of these treaties. He also points out that it is his view that the Panamanian Government and the Panamanian people are capable of assuming the responsibility for managing the canal over the period of time set forth in the treaty documents.

He points cut that the company has a long history in Panama; that the United Fruit Co. Division, which is engaged in the production and distribution of tropical agricultural products, has operated in Panama for nearly 90 years; that they are the largest single user of the Panama Canal.

During 1977 their vessels transmitted the canal nearly 400 times, an average of 33 trips per month. They paid approximately $3 million in canal tolls and transit-related charges.

So here is a company with a very direct involvement which has been cited on the floor in terms of their experience as an argument against the treaties and here is this company on the basis of their experience urging, as strongly as they can, the ratification of the Panama Canal treaties as the only fair conclusion and as the right thing to do.

The PRESIDING OFFICER. Under the previous order the hour of 4 p.m. having arrived the Senate will now proceed to vote on division 2 of amendment No. 86.

Mr. SARBANES. Have the yeas and nays been ordered on the division?

The PRESIDING OFFICER. They have not.

Mr. ALLEN. I call for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SARBANES. Mr. President, I move to table division 2 of the amendment of the Senator from Alabama now pending before the Senate and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table division 2 of the amendment of the Senator from Alabama. On this question the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER (Mr. KENNEDY). The Senate will be in order. The clerk will withhold until the Senate is in order.

The Senate is not in order. Senators are requested to take their seats and take their conversations to the cloakroom, please. The clerk will continue to suspend until the Senate is in order.

The Senate is not in order. The Senate is still not in order.

Senators are requested to take their conversations to the cloakroom.

The clerk resumed and concluded the call of the roll.

Mr. CRANSTON. I announce that the Senator from Alaska (Mr. GRAVEL), the Senator from Hawaii (Mr. INOUYE), and the Senator from Vermont (Mr. LEAHY) are necessarily absent.

I further announce that the Senator from Colorado (Mr. HASKELL) is absent on official business.

I further announce that, if present and voting, the Senator from Alaska (Mr. GRAVEL) would vote "yea."

Mr. STEVENS. I announce that the Senator from Nebraska (Mr. CURTIS), and the Senator from Arizona (Mr. GOLDWATER) are necessarily absent.

The result was announced—yeas 52, nays 42, as follows:

[Rollcall Vote No. 75 Leg.]

YEAS—52

Abourezk	Hart	McIntyre
Anderson	Hatfield,	Moynihan
Baker	Mark O.	Muskie
Bayh	Hathaway	Nelson
Bentsen	Hayakawa	Pearson
Biden	Heinz	Pell
Bumpers	Hodges	Percy
Byrd, Robert C.	Hollings	Proxmire
Case	Huddleston	Ribicoff
Chafee	Humphrey	Riegle
Church	Jackson	Sarbanes
Clark	Javits	Sasser
Cranston	Kennedy	Sparkman
Culver	Long	Stafford
Danforth	Magnuson	Stevenson
Durkin	Mathias	Weicker
Eagleton	Matsunaga	Williams
Glenn	McGovern	

NAYS—42

Allen	Griffin	Randolph
Bartlett	Hansen	Roth
Bellmon	Hatch	Schmitt
Brooke	Hatfield,	Schweiker
Burdick	Paul G.	Scott
Byrd,	Helms	Stennis
Harry F., Jr.	Johnston	Stevens
Cannon	Laxalt	Stone
Chiles	Lugar	Talmadge
DeConcini	McClure	Thurmond
Dole	Melcher	Tower
Domenici	Metzenbaum	Wallop
Eastland	Morgan	Young
Ford	Nunn	Zorinsky
Garn	Packwood	

NOT VOTING—6

Curtis	Gravel	Inouye
Goldwater	Haskell	Leahy

So the motion to lay on the table division 2 of amendment No. 86 was agreed to.

Mr. ROBERT C. BYRD. I move to reconsider the vote by which the motion to lay on the table was agreed to.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Louisiana is recognized. The Senate will be in order; the Senator is entitled to be heard. The Chair requests the Senator to withhold until order is restored.

The Senator from Louisiana.

Mr. LONG. Mr. President, I ask unan-

imous consent to be recognized as in legislative session.

Mr. ROBERT C. BYRD. For how long?

Mr. LONG. Five minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

EXTENSION OF THE TEMPORARY DEBT LIMIT

Mr. LONG. Mr. President, there is at the desk a bill (H.R. 11518) to extend the present debt limit of $752 billion through July 31 of this year. This represents neither an increase nor a reduction in the debt limit; it simply leaves it the way it is, but it extends it through July 31. This is necessary if Congress is to recess even for a few days. I know of no objection, at least no serious objection, to its immediate consideration, Mr. President, and I ask unanimous consent that the Senate proceed to its consideration.

The PRESIDING OFFICER. The bill will be stated by title.

The second assistant legislative clerk read as follows:

A bill (H.R. 11518) to extend the existing temporary debt limit.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill? Without objection, the bill will be considered to have been read twice, and the Senate will proceed to its immediate consideration.

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

Mr. LONG. Yes.

REQUEST FOR COMMITTEE MEETING

Mr. ROBERT C. BYRD. Mr. President, I have been asked by the Senator from Mississippi (Mr. EASTLAND) to ask unanimous consent that the Committee on the Judiciary be authorized to meet in room 208 at this time, to report out the nomination of Mr. Civiletti.

The PRESIDING OFFICER. Is there objection?

Mr. THURMOND. Mr. President, reserving the right to object, I do object, while the Senate is in session.

The PRESIDING OFFICER. Objection is heard.

EXTENSION OF THE TEMPORARY DEBT LIMIT

The Senate continued with the consideration of H.R. 11518.

Mr. LONG. Mr. President, under present law, the debt limit is $752 billion which consists of a $400 billion permanent limit and a $352 billion temporary additional limit which expires on March 31, 1978. Without any action by Congress, the legal limit will fall to $400 billion on April 1.

Mr. HARRY F. BYRD, JR. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate is not in order. The Senate will be in order. Senators are requested to take their seats or to withdraw with their conversations to the cloakrooms.

The Senator from Louisiana may proceed.

Mr. LONG. Revised estimates of budget outlays were made available to the Finance Committee on Tuesday, March 14, 1978. These revisions indicate it will be possible for the administration to carry on for an additional 4 months without an increase in the present debt ceiling, because actual outlays continue to fall short of budget estimates. Legislation is necessary, however, to continue the present debt limit for the additional period.

The budget revisions attribute the shortfall to, first, a review of the fiscal year 1978 total outlays in view of the overestimate of actual spending in the first months of the year; second, policy changes enacted by Congress or proposed by the administration since the budget was submitted; and third, technical changes in several of the estimates.

As a result, the estimate of outlays was reduced by $8.7 billion from $462.2 to $453.5 billion, and estimated receipts were increased by $100 million. The new calculations reduce the budget deficit estimated for fiscal year 1978 from $61.8 to $53 billion.

A simple extension of the present limit for the additional 4 months appeared to be the most desirable choice at the present time. By July, Congress will have adopted the first budget resolution for fiscal year 1979 and several of the appropriations bills for that year will have been passed. There will be available then some congressional guidance with respect to the targets for budget totals and debt limit, and a debt limit bill at that time reflects the contents of the budget resolution.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield?

Mr. LONG. I yield to the distinguished Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, the Federal funds deficit for fiscal year 1979 is projected to be $74 billion. I point out that that is the largest Federal funds deficit in the history of our Nation. I ask unanimous consent to have printed in the RECORD at this point a table showing the national debt for each of the fiscal years beginning in 1900. This table will show that the national debt has doubled in the past 7 years.

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

The national debt in the Twentieth Century: Total at the end of fiscal years 1900–79

(Rounded to the nearest billion dollars)

1900	1
1901	1
1902	1
1903	1
1904	1
1905	1
1906	1
1907	1
1908	1
1909	1
1910	1
1911	1
1912	1
1913	1
1914	1
1915	1
1916	1
1917	3
1918	12
1919	25
1920	24
1921	24
1922	23
1923	22
1924	21
1925	21
1926	20
1927	19
1928	18
1929	17
1930	16
1931	17
1932	20
1933	23
1934	27
1935	29
1936	34
1937	36
1938	37
1939	40
1940	43
1941	49
1942	72
1943	137
1944	201
1945	259
1946	269
1947	256
1948	251
1949	252
1950	256
1951	254
1952	258
1953	265
1954	271
1955	274
1956	273
1957	272
1958	280
1959	288
1960	291
1961	293
1962	303
1963	311
1964	317
1965	323
1966	329
1967	341
1968	370
1969	367
1970	363
1971	410
1972	437
1973	468
1974	486
1975	544
1976	632 to 646
1977	709
1978*	778
1979*	866

*Estimated Figures.

SOURCE.—Office of Management and Budget (March 1978).

Mr. BARTLETT. Mr. President, I call up my amendment No. 89.

Mr. LONG. Is that on this bill?

The PRESIDING OFFICER. The Senate is still considering the debt limit bill. The question is on the third reading of the bill.

The bill (H.R. 11518) was ordered to a third reading, was read the third time, and passed.

THE PANAMA CANAL TREATY

The Senate continued with the consideration of Executive N, 95th Congress, 1st session.

AMENDMENT NO. 89

Mr. BARTLETT. Mr. President, I call up my amendment No. 89 as a substitute, revising the Panama Canal Treaty to a lease agreement between the United States and Panama.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oklahoma (Mr. BARTLETT) proposes an amendment numbered 89:

Strike paragraph 2 of article I and insert in lieu thereof the following:

2. Notwithstanding any other provision of this Treaty, the Republic of Panama hereby leases to the United States of America the areas and installations made available by the Republic of Panama for the use of the United States of America under this Treaty and related agreements, and agrees that the United States of America shall have the rights necessary to regulate the transit of ships through the Panama Canal, and to manage, operate, maintain, improve, protect, and defend the Canal, except that such lease and such agreement shall terminate at the close of a period of ninety-nine years beginning on the date of entry into force of this Treaty, unless the United States of America, at its option, renews such lease and such agreement for additional periods of ninety-nine years. The consideration for such lease and such agreement shall be the amount required to be paid under paragraph 4 of Article XIII of this Treaty to the Republic of Panama by the Panama Canal Commission, a United States Government agency provided for under this Treaty. The Republic of Panama guarantees to the United States of America the peaceful use of the land and water areas leased pursuant to this paragraph.

Mr. BARTLETT. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SCOTT. Will the Senator yield?

Mr. BARTLETT. I yield to the distinguished Senator from Virginia.

Mr. SCOTT. Mr. President, I appreciate the Senator yielding. I wanted to mention that when the Senate resumes after our recess next week, I intend to offer a further amendment to article I of the treaty. The principal amendment that I would offer relates to the United States retaining the ownership of the Canal Zone, but sharing the operations of the zone with other American countries. I believe that the American people are more concerned about the loss of ownership and control of this property than they are about anything else.

The preamble of the proposed Panama Canal Treaty says, "Acknowledging the Republic of Panama's sovereignty over its territory," and I believe that is intended to mean to include the Canal Zone. In any event, it says that upon "entry into force, this treaty terminates and supersedes the 1903 Treaty" and a variety of other treaties the United States has with Panama, and, in effect, would mean that we would lose the sovereign rights over the Canal Zone, we would lose proprietary rights, and we would lose control of the zone.

We have acquired proprietary rights not only from Panama under the 1903 treaty, but we have acquired them by purchase and condemnation from the private owners. We have acquired them from the French Company and also from Colombia.

It would appear, if we read only article I, that we would have a conflict as to whether the United States is giving up its proprietary rights. When we turn to article XXIII it says that we are going to turn over the canal property in operating condition and free of liens and debts except as the two parties may otherwise agree, and that the United States transfers without charge to the Republic of Panama all right, title, and interest the United States of America may have with respect to all real property, including nonmovable improvements thereon, as set forth.

Mr. President, I just wanted to make an announcement in advance of the recess, because we will be appraising the language during the recess period. The essence of this amendment, which will be offered when we reconvene after the Easter recess, is that the United States would retain title but that we would have the Board of Directors of the Panama Canal Company made up of one American citizen, one Panamanian, and citizens of five other Continental American countries to be selected by the respective governments of those states.

To me, that would eliminate the charge of colonialism, and yet the United States would maintain title and have a voice in the control. We could get rid of any suggestion of colonialism and we could protect the canal. As Admiral Moorer said, there is no substitute for ownership and control when we are thinking about a military situation.

I appreciate the distinguished Senator from Oklahoma yielding so I could make this very brief statement. I thank the Senator.

Mr. SARBANES. Will the Senator yield?

Mr. BARTLETT. I yield to the Senator from Maryland.

Mr. SARBANES. For the benefit and enlightenment of our colleagues, I wonder if we could reach a time agreement on when we will go to a vote on the amendment. I believe it would be very helpful to the Members. I suggest there be 90 minutes, equally divided. Is that satisfactory?

Mr. BARTLETT. That would be fine.

Mr. SARBANES. Mr. President, I ask unanimous consent that with respect to the amendment of the Senator from Oklahoma——

Mr. BARTLETT. Will the Senator yield? I will be happy to reduce that to 60 minutes.

Mr. SARBANES. Mr. President I ask unanimous consent that the vote with respect to the amendment of the Senator from Oklahoma which is pending at the desk, take place not later than 1 hour from now, with the time equally divided between the author of the amendment and the managers of the treaty.

The PRESIDING OFFICER. Is there objection?

Mr. BARTLETT. I have no objection.

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

Mr. BARTLETT. I yield to the Senator from Utah.

Mr. HATCH. Mr. President, I intend to call up an amendment immediately following the distinguished Senator from Oklahoma. Perhaps it would be well at this time, since we are getting some of the procedural problems set aside, to say that I would also agree to 1 hour on my amendment as well, to be divided equally, if that is satisfactory to the distinguished Senator from Maryland. I doubt if I will use the whole time, and I would hope the distinguished Senator from Maryland would not use his full time.

The PRESIDING OFFICER. Is the Senator from Utah propounding a separate request?

Mr. HATCH. Yes.

Mr. SARBANES. Mr. President, I make a further unanimous-consent request that following the vote with respect to the Bartlett amendment, Mr. HATCH be recognized to call up an amendment, and that the vote with respect to the amendment called up by the Senator from Utah occur no later than 1 hour thereafter, with the time to be equally divided with respect to that amendment.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Mr. SARBANES. Will the Senator yield for a further moment?

Mr. BARTLETT. I yield.

Mr. SARBANES. In view of the unanimous-consent requests which have been entered, I think we ought to advise Members of the Senate to anticipate a vote at 5:30, or thereabouts, perhaps somewhat earlier, on the Bartlett amendment, and a vote about 1 hour later, or somewhat less than that, on the Hatch amendment.

I thank the Senator from Oklahoma.

Mr. BARTLETT. Mr. President, after many years of public discussion and official negotiation, during four administrations, after weeks of debate here in the Senate, concluding in the ratification of the treaty of neutrality, the treaty ratification process now advances to the very heart of the Panama Canal issue.

Article I of the Panama Canal Treaty terminates all previous treaties between the United States and the Republic of Panama, redefines the rights and responsibilities which are delegated to the United States and Panama for the management, operation and defense of the canal, and affirms the goal of uninterrupted, efficient operation of the canal.

In a sense, however, the real essence of this article, and of the entire treaty issue, is the recognition of Panama as territorial sovereign over the canal and Canal Zone.

Both in Panama and in the United States, the debate over the present treaty is virtually as old as the treaty itself. The focus of this debate has been the matter of sovereignty, a circumstance which has regrettably made discussion of the treaty far more emotional and complex than it might have been, had the new agreement conformed to the treaty precedent the United States had established a half century earlier.

The United States and Colombia, Panama's former sovereign, had long enjoyed a mutually beneficial commercial arrangement under the Bidlack-Mallarino Treaty of 1846. The treaty, while guaranteeing Colombia's sovereignty over the Isthmus of Panama, granted the United States "the right of way or transit across the Isthmus of Panama upon any modes of communication that now exist or that may be, hereafter, constructed."

With the treaty, the United States acquired the right to preserve the neutrality of transportation routes across the isthmus. Thus, America's Panama Canal policy was truly formulated 65 years before the canal became a reality. In the exercise of that policy, the United States built the highly successful Panama railroad across the isthmus. It was also in the legitimate exercise of that policy that the United States deployed military forces and warships to Panama on occasions when transportation across the isthmus was jeopardized.

These principles were reaffirmed on January 22, 1903, when U.S. Secretary of State John Hay signed a treaty with Colombian Minister Tomas Herran. The Hay-Herran Treaty, while granting the United States the right to construct a canal across the isthmus, acknowledged Colombian sovereignty of the Canal Zone. The treaty established U.S. jurisdiction and control over the canal and Canal Zone by leasing the property to the United States for a period of 100 years. The lease was to be renewable indefinitely at the option of the United States.

This precedent was followed again by Secretary of State John Hay in treaty negotiations with the new Republic of Panama. The treaty originally drafted by Hay appropriately avoided the question of sovereignty and proposed instead a simple 100-year lease of the Canal Zone by the United States, renewable indefinitely by our country. Under Hay's proposal, it is quite possible that the matter of renegotiation of the treaty might never have arisen until the year 2003.

Fortunately, in the opinion of the Senate and the Roosevelt administration, the Hay proposal was substantially revised by Panama's own Envoy, Phillipe Bunau-Varilla. Rather than simply leasing the Canal Zone, the revised treaty granted the United States "sovereign rights" over the Canal Zone "in perpetuity."

Thus, the new treaty was undermined from the beginning, as John Hay would later confess in a letter to Senator John C. Spooner of Wisconsin, champion of a Panamanian route versus a Nicaraguan route for the canal. Hay described the new treaty as "very satisfactory, vastly advantageous to the United States, and we must confess, with what face we can muster, not so advantageous to Panama. . . . You and I know too well how many points there are in this treaty to which a Panamanian patriot could object."

In negotiating a new treaty with the Republic of Panama, the United States should have been guided by the precedents which existed before the Hay-Bunau-Varilla Treaty. We might have also been guided by another international agreement, negotiated, ironically, in the same year as the Panama Canal Treaty. The agreement, entered into force February 23, 1903, renewed in 1934, and remaining in effect indefinitely, provides for the lease to the United States by the Republic of Cuba of an area of land and water known as Guantanamo Bay.

The treaty is entitled "Lease of Lands for Coaling and Naval Stations," and, while its provisions are not precisely analogous to the issue of the Panama Canal, the language of article III of the agreement is indeed relevant to our current dilemma. Article III states:

> While on the one hand the United States recognizes the continuance of the ultimate sovereignty of the Republic of Cuba over the above described areas of land and water, on the other hand the Republic of Cuba consents that during the period of the occupation by the United States of said areas under the terms of this agreement the United States shall exercise complete jurisdiction and control over and within said areas . . .

It is extremely important to note the manner in which the separate concepts of sovereignty and jurisdiction and control were addressed in this agreement. This distinction is, perhaps, the primary reason the Guantanamo Bay lease remains in effect and undisputed today. Likewise, the absence of such a distinction is a principal defect, not only of the 1903 Panama Canal Treaty, but the proposed new treaty before us.

Mr. President, as I outlined in detail in a statement of February 23, 1978, the weight of evidence before the Senate affirms once again that the Panama Canal is vital to America's economic and national security interests, and that these interests will be secured only by continued U.S. administration and control of the Panama Canal.

It is clear that "America's Panama Canal policy," formulated a half century before the canal was constructed, remains valid today. I believe the course we must take to preserve that policy is equally clear.

The necessary revisions in the 1903 treaty between the United States and Panama will be achieved most appropriately and effectively through a lease agreement—an agreement similar in principle to those in force or proposed by the United States prior to the 1903 treaty, and to the existing treaty covering Guantanamo Bay, Cuba. Such an agreement would surely have appealed to the Republic of Panama. Within the framework of an international lease, every reasonable demand of Panama could be met.

First, the complex and emotional issue of sovereignty could finally be resolved in Panama's favor. At the same time, more tangible concessions could be made to address the justified resentment Panamanians have held for the U.S. presence, not only as a sovereign power, but a superior one in their own country. Dual economic, social, and legal standards would, and should, be dissolved.

Other appropriate concessions could include:

A substantial reduction of the land and water area of the Panama Canal Zone.

A substantial reduction in the number of U.S. military bases in Panama.

A substantial reduction in the level of U.S. forces in Panama.

A substantial increase in Panamanian employment in the operation of the canal and participation in higher levels of management of the canal.

A substantial increase in the share of the canal revenues for Panama.

A substantial increase in the U.S. annuity to Panama.

It should be noted that these provisions are not inconsistent with the terms of the Panama Canal Treaty before us. However, the proposed new treaty goes far beyond these generous concessions to phase out and eventually relinquish completely U.S. administration and control over the canal and Canal Zone.

During the recent debate over the treaty of neutrality, many Senators, perhaps even a majority, expressed serious misgivings about the loss of the U.S. rights to assure the continued effective operation of the canal. My amendment, revising the proposed new Panama Canal Treaty as a legitimate international lease agreement, reaffirms those rights. Unlike the 1903 treaty, however, it would do so in a fair and just manner, in good faith and without apology.

I would explain to my colleagues that if the Senate agrees to the provisions of my amendment, I would then at a later time introduce another amendment of paragraph 2 of article II, which would deal with the termination provisions in that paragraph.

There could be other minor changes that would be necessary in the body of the Panama Canal Treaty required because of the adoption of this amendment.

I think that this amendment is particularly important because it does put to rest, once and for all, the sovereignty issue, the issue which has been the burning area of debate over the last several months, several years, several decades.

It is the issue that has caused the real problem. It is the issue that the Panamanians want redressed.

So I hope that my colleagues in the Senate will seriously consider this proposal and will see fit to pass it as an amendment to the Panama Canal Treaty.

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

Mr. SARBANES. Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator from Oklahoma has 15 minutes remaining. The Senator from Maryland has 30.

Mr. SARBANES. Mr. President. I hope not to use the full 30 minutes.

The amendment which the distinguished Senator from Oklahoma has offered, in effect, reestablishes a perpetuity arrangement with respect to the American presence in Panama. It calls for, and I quote now from the amendment:

> A lease which shall terminate at the close of a period of 99 years beginning on the date of entry into force of this treaty unless the United States of America, at its option, renews such lease and such agreement for additional periods of 99 years.

I want it very clearly understood what the amendment calls for is not only a 99-year lease at the outset, but renewals

for further 99-year periods—and I stress the word "periods" in the plural— additional periods of 99 years, at the option of the United States—not by agreement between the United States and the Republic of Panama, but at the option of the United States.

So, in other words, what this amendment would do is establish the principle of perpetuity with respect to the American presence in Panama.

Mr. President, it should not take much elaboration on the amendment for everyone to perceive that this runs directly counter to and contrary to the premises on which the treaties before us have been negotiated. There is absolutely no possibility that the other party to the agreement, the Republic of Panama, would accept a relationship which established in the United States the right, at its own option, to renew such lease and such agreements for additional periods—and again I underscore "periods"—of 99 years.

Now, earlier in considering the Neutrality Treaty, the permanent Neutrality Treaty, which governed the situation after the year 2000 and preserved to the United States important rights to take action and maintain the neutrality of the canal, efforts were made to amend that treaty to either give the United States a perpetual right to remain in Panama or to give it a right over a period of years.

Those proposals were rejected by the Members of the Senate by rather large margins in each instance, and the proposal which the Senator from Oklahoma has now submitted is not only a renewal of those proposals, but really goes much further than most of the ones that were presented before this body.

The whole question of perpetuity has been one of the issues of contention between the United States and Panama.

There are many countries in which we have American bases or some other American presence, but there is no country in which the United States has the right for such a presence in perpetuity—perpetually. Under the treaty before the United States has the right to have a continuing presence both in terms of the military and in terms of operating and managing the canal until the end of this century.

This amendment is not only a 99-year lease, but has the provision, and I want to read these words again:

> The United States of America, at its option, renews such lease and such agreements for additional periods of 99 years.

Now, I ask anyone who engages in making anything that approaches an even-handed bargain whether they would characterize any agreement with another party whereby the other party had the right to continually extend it, not with your agreement, but of their own volition, as constituting an even-handed agreement.

Obviously, the amendment, which attacks the entire basis of the treaty negotiation, really goes back to an approach that was embodied in the 1903 treaty which has been one of the difficulties in contention between the United States and the Republic of Panama.

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

Mr. BARTLETT addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BARTLETT. Mr. President, I yield to the distinguished Senator from Wyoming.

Mr. HANSEN. Mr. President, I thank my distinguished colleague from Oklahoma for yielding to me.

It seems to this Senator that the Senator from Oklahoma has hit upon a very workable, practical solution to what, obviously, is becoming an extremely difficult problem.

I can understand, as I am certain all Senators do, the concern that Panamanians feel over the issue of sovereignty. That seems to be one of the most difficult of all the problems that we have been trying to address in working out a treaty that will be workable, that can be counted upon to give the kind of assurance that the United States must have and, indeed, upon which a significant part of the world depends in order to assure the accessibility to the canal that is obviously in the interests of all people.

A treaty which would recognize this lease arrangement successfully resolves the issue of sovereignty. We do not challenge the sovereignty of Panama but we, by virtue of a lease arrangement, again will have the advantages that sovereignty, for such a period of time, might provide.

I think it should be observed that the lease arrangement has worked well in Guantanamo Bay in Cuba, a country that has certainly been hostile in recent years to the United States. We have in that Communist-controlled country a very important naval base. If it can work in Cuba, it most certainly could work in Panama.

I think we can find other illustrations throughout the world where the United States has had military bases and has occupied land under a lease arrangement. That argues well for the implementation of this same concept in the nation of Panama.

Furthermore, this amendment would keep intact the major provisions of the proposed Panama Canal Treaty. There are other advantages that could be pointed out.

The Senator from Oklahoma has said that these are concessions which certainly could be considered and might very well be included in a lease arrangement: a substantial reduction of land and water area of the Panama Canal Zone; a substantial reduction in the number of U.S. military bases in Panama; a substantial reduction in the level of U.S. forces in Panama; a substantial increase in Panamanian employment in the operation of the canal and participation in higher levels of management of the canal; a substantial increase in the share of the canal revenues for Panama.

And lastly, he calls attention to a concession which would be in the interests of Panama; namely a substantial increase in the U.S. annuity to Panama.

I think the Senator from Oklahoma has come forward with a very excellent suggestion. We had difficulty with these treaties and almost every Member of this body has participated at one time or another in trying to resolve the extremely complex and difficult issues in there two treaties before the Senate.

The efforts to which the White House and the executive have gone in trying to secure a sufficient number of votes to assure ratification of this treaty, I think underscores the difficulties that fair-minded people have had in trying on the one hand to state that we cannot amend the treaty and turning around and amending the resolution of ratification; thus, assuring Senators who were deeply concerned and disturbed that we have in fact accomplished through indirection that which we would be denied accomplishing in a straight-forward manner.

I have been one who does not believe that we can have it both ways. I do not think that it makes sense to say that if the Panama Canal Treaty is amended it will automatically constitute a rejection of the treaty, as indeed I believe it will, and then to find assurance and comfort in the device that has been put forward by three proponents in saying that, despite the fact that we cannot amend the treaty, we can amend the resolution of ratification. We must adopt reasonable tenable positions and explain our actions to our constituents. Otherwise, Americans who later look at what we have done here today will wonder how on earth we could have arrived in a rational way at the conclusion that seemingly we have reached.

I salute the distinguished Senator from Oklahoma. I hope that his amendment will be given serious consideration and the support that I think it deserves. It would resolve many of the issues that I think need to be resolved. It will resolve them in a way that will not disrupt the whole process that is taking place here and yet would accomplish and would secure for the United States those important operational rights that we know and recognize are important.

I thank my colleague from Oklahoma for yielding, Mr. President.

Mr. BARTLETT. I thank the distinguished Senator from Wyoming for those very important, interesting, and pervasive remarks in favor of this proposal. I appreciate his taking the time to address himself on this support matter.

I would say to the distinguished Senator from Maryland that the treaty with Cuba on Guantanamo Bay provides that the United States has a lease on the land and water as long as it is occupied by the United States. So, in effect, it has a very similar provision to that in this lease proposal.

This lease proposal is nearly identical with the proposal that the Secretary of State, John Hay, had prepared for negotiation with Panama. I think it erases the basic problem that exists in the 1903 treaty that was executed and ratified between the two countries.

It replaces the 1903 treaty with a much more workable agreement that provides for a long-term lease which can be renewed indefinitely at the option of this country.

It permits the opportunity for the

United States to manage the Panama Canal. I think this, along with the sovereignty issue, is a basic issue in the minds of many of the people in this country. They know that this country has done a good job of managing the canal. It has kept the fees at a reasonable level. It has kept the Panama Canal open and available to ships of all nations, and it has provided a deterrent for anyone who might have had in mind mischief in or around the canal. It has provided very capably for the defense of the canal.

I think we have this responsibility to continue as a leader of the Western Hemisphere including effective management of the Panama Canal. It is vital that the world be assured that the canal will continue to be operated.

There are so many severe questions about the Panama Canal under the Panama Canal Treaty and the Treay of Neutrality, under the management of Panama and even during the period up to 1999, when the management of the Panama Canal will be more or less a joint effort between the two nations. There is danger of the canal becoming a white elephant economically. There is a good possibility that it will be brought out in this debate after the year 1999 that the Panama Canal will have severe economic difficulties. There is not the assurance of continued operation and management with Panama as the manager, as compared with that of the United States.

So I hope my colleagues will join me in supporting this amendment. I am prepared at this time, if the distinguished Senator from Maryland is prepared, to yield the remainder of my time.

Mr. SARBANES. Mr. President, I will take just a moment.

I think it must be clearly understood that the proposed amendment would not only eliminate the day which is now set at the end of the century, 22 years away, which is almost a generation for ending an American presence in Panama but would substitute for it not only a 99-year lease duration period, but that such period, is renewable for successive 99-year periods at the sole option of the United States. So, in essence, the proposed amendment would provide for an in perpetuity arrangement.

After many years of negotiations between the United States and the Republic of Panama the parties have agreed upon an extended period for U.S. operation of the canal and U.S. military base rights in Panama.

That period is 22 years, until the end of the century. Moreover, the United States obtained in the Permanent Neutrality Treaty rights of indefinite duration with respect to the use of and defense of the Panama Canal.

This amendment, therefore, is totally contrary to the premises of the negotiations. It is obviously completely unacceptable to the other party, and it would really mean that we would lose the opportunity to conclude these agreements.

Feeling strongly as I do that these agreements serve American interests, our defense interests, our economic interests, and our foreign policy interests, I urge my colleagues to reject the amendment.

Mr. President, I am prepared to yield back my time and go to a vote if that suits the Senator from Oklahoma.

Mr. BARTLETT. Mr. President, I have just a word to say and then I will be prepared to yield back the remainder of my time.

I think, from the debate that has taken place so far, and the amendments, reservations, and understandings which have been adopted, that the majority of Senators of this Senate are not pleased with the agreement that is so strongly supported by the distinguished Senator from Maryland.

This amendment is a new means of approaching a treaty, one that has precedent in this country and one that eliminates the difficulty that has been created down through the years over the sovereignty of the Panama Canal.

So this is done in a way that I believe leads to a solution of the problems that exist between our Nations regarding sovereignty and yet permits the continued management and operation of the canal and the waters and area around it by this Nation. In my opinion, it is so important to assure the people of this country that the Panama Canal will be properly maintained, equipped, and protected as well as managed.

I am ready to yield and do yield the remainder of my time, along with the Senator from Maryland.

Mr. SARBANES. Mr. President, I yield the remainder of our time.

The PRESIDING OFFICER (Mr. ZORINSKY). All time having been yielded back the question is on agreeing to the amendment of the Senator from Oklahoma.

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

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alaska (Mr. GRAVEL), the Senator from Hawaii (Mr. INOUYE), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Tennessee (Mr. SASSER) are necessarily absent.

I further announce that the Senator from Colorado (Mr. HASKELL) is absent on official business.

I further announce that, if present and voting, the Senator from Alaska (Mr. GRAVEL) would vote "nay."

Mr. STEVENS. I announce that the Senator from Nebraska (Mr. CURTIS), the Senator from Arizona (Mr. GOLDWATER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 15, nays 76, as follows:

[Rollcall Vote No. 76 Ex.]

YEAS—15

Allen	Hatch	Schmitt
Bartlett	Helms	Scott
Eastland	Laxalt	Stevens
Garn	Lugar	Thurmond
Hansen	McClure	Tower

NAYS—76

Anderson	Brooke	Cannon
Baker	Bumpers	Case
Bayh	Burdick	Chafee
Bellmon	Byrd, Harry F., Jr.	Chiles
Bentsen	Byrd, Robert C.	Church
Biden	Cranston	Clark
Culver	Danforth	Huddleston
DeConcini	Dole	Humphrey
Domenici	Durkin	Jackson
Eagleton	Ford	Javits
Glenn	Griffin	Johnston
Hart	Hatfield, Mark O.	Kennedy
Hatfield, Paul G.	Hathaway	Leahy
Hayakawa	Heinz	Long
Hodges	Hollings	Magnuson
Mathias	Matsunaga	McGovern
McIntyre	Melcher	Metzenbaum
Morgan	Moynihan	Muskie
Nelson	Nunn	Packwood
Pearson	Pell	Percy
Proxmire	Randolph	Ribicoff
Riegle	Roth	Sarbanes
Schweiker	Stafford	Stennis
Stevenson	Stone	Talmadge
Wallop	Weicker	Williams
Zorinsky		

NOT VOTING—9

Abourezk	Gravel	Sasser
Curtis	Haskell	Sparkman
Goldwater	Inouye	Young

So Mr. BARTLETT's amendment was rejected.

Mr. SARBANES. Mr. President, I move to reconsider the vote by which the amendment was rejected.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Utah (Mr. HATCH) is recognized.

UP AMENDMENT NO. 14

Mr. HATCH. Mr. President, I call up my unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Utah (Mr. HATCH) proposes an unprinted amendment numbered 14:

At the end of Article I, add the following:

"5. The Republic of Panama agrees that, for the duration of this Treaty, it shall not nationalize, expropriate, seize ownership, or control of any property owned by the Panama Canal Commission, or any property owned by any United States citizen, or owned by any corporation, partnership, or association in which United States citizens have an interest or interests, situated in Panama or in any area made available to the United States of America by the Republic of Panama, pursuant to this Treaty and related agreements.".

The PRESIDING OFFICER. On this amendment there is a time limitation of 1 hour, to be equally divided between the Senator from Utah (Mr. HATCH) and the Senator from Maryland (Mr. SARBANES).

Mr. HATCH. Mr. President, while we have enough Senators present, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HATCH. Mr. President, I have agreed to keep my remarks brief, so that we can consider this amendment with expedition. I intend to conclude my remarks in less than 10 minutes.

During the course of this debate——

Mr. CHURCH. Mr. President, will the Senator yield? I apologize for interrupting.

Mr. HATCH. Yes.

Mr. CHURCH. Will the Senator be able to make his unanimous-consent agree-

ment conform, with a total of 20 minutes, 10 minutes to a side?

Mr. HATCH. Mr. President, I ask unanimous consent that the time for consideration of this amendment be limited to not more than 20 minutes, the time to be equally divided between the parties.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HATCH. Mr. President, during the course of this debate I have discussed many of the serious ambiguities contained in these treaties. Today I would like to draw attention to a fatal omission. Nowhere in this treaty is there a provision which protects the United States should Dictator Torrijos decide to nationalize the canal. Indeed, the language of the treaty contains no guarantee that the Republic of Panama will not expropriate the property made available to the Panama Canal Commission, and is silent as regards the property rights of American citizens and corporations or other business enterprises in Panama.

Perhaps the proponents of the treaty wish to argue that Panama would have no reason to nationalize the canal or sell it to a third party because such action would jeopardize Panama's right under the treaty and related agreements to millions of dollars in the form of payments and credits.

At first glance, this would appear to be a reasonable response. But upon reflection we must ask ourselves why the Panamanians might not be encouraged to seek greater profits through a nationalization scheme involving payments from a third party, such as the Soviet Union or one of its satellites.

What I am suggesting, Mr. President, is that the payment provisions are not an iron-clad guarantee that the Panamanians will not, at some future date, nationalize the canal or turn over the facilities to a regime hostile to the United States.

Furthermore, I think that Senators should be mindful of what took place regarding the Suez Canal. Suppose Panama flagrantly violates either the letter or the spirit of the treaties and puts the Panama Canal Commission out of business or at the mercy of a hostile power? Would that justify the use of force to secure our rights and to maintain neutrality?

We did not think so with Suez. In 1954, Egypt made a treaty with Great Britain whereby Great Britain would withdraw its troops from the Suez Canal by 1956. In return, Egypt agreed that Great Britain would retain installations and technicians at Suez for 7 years. The British troops were withdrawn on June 13, 1956. In July, Egypt seized the canal, breaking the treaty with Great Britain.

Moreover, in the 1954 treaty, Egypt had agreed to observe the Convention of Constantinople of 1888, upon which the present neutrality treaty is based. The treaty of 1888 required the Suez Canal to be open to commercial passage in time of war as well as in time of peace to vessels of all nations. But from 1950 to 1956, Egypt denied Israeli ships and cargo passage through the canal. Israel appealed to the U.N. and the Security Council under article 25 ordered Egypt to fulfill its obligations. Egypt as a signatory to the U.N. Charter was bound to obey; yet she refused.

Egypt had thus violated the 1888 treaty, the 1954 treaty, and the U.N. Charter. And yet when Israel, Great Britain, and France attacked Egypt, the United States joined the Soviet Union at the U.N. in using threats and pressure against Israel, Great Britain, and France for violating the U.N. Charter. Egypt had violated three treaties, yet the aggrieved nations could not use force against her under international law.

To prevent a similar situation from developing in Panama, it seems to me, Mr. President, that this treaty requires some specific guarantees with respect to the possibility of nationalization. I recognize that these would be only paper guarantees, but at least they are better than what we now have—which is no guarantee at all.

Accordingly, I am offering an amendment to article I of the treaties which states simply that the Republic of Panama guarantees that, for the duration of this treaty, it will not nationalize, expropriate, seize ownership, or control of any property owned by the Panama Canal Commission, or any U.S. citizen, corporation, partnership, or association in which U.S. citizens have an interest. I might add that the Foreign Assistance Act of 1961, as amended, contains similar provisions in order to discourage countries receiving foreign aid from nationalizing or expropriating American property.

Mr. President, in the interest of expedition, I reserve the remainder of my time. Might I ask how much time is remaining to the Senator from Utah?

The PRESIDING OFFICER. Four minutes.

Mr. HATCH. I thank the Chair. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. CHURCH. Mr. President, this amendment is directly contrary to our national policy. In our relations with other sovereign governments, we have always recognized that those governments have the right of eminent domain, even as our Government possesses that right. We have only insisted, when other governments exercise the right of eminent domain as to us, taking over private property and converting it into public ownership, that the private owners, if they be American citizens, are fairly compensated.

This amendment would deprive the Republic of Panama from exercising the right of eminent domain. It is thus clearly contrary to the established policy of the United States with respect to our dealings with all other governments in the world.

If we read through the amendment carefully, it goes even further. The first sentence reads:

> The Republic of Panama agrees that for the duration of this treaty it shall not nationalize, expropriate, or seize ownership or control of any property owned by the Panama Canal Commission.

Let us stop there.

Since the Panama Canal Commission, under the treaty, is an agency of the U.S. Government, any effort by the Government of Panama to nationalize, expropriate, or seize ownership or control of any property owned by the Panama Canal Commission would be an act taken directly against the United States. It thus would be a violation of the treaty and, in turn, release the United States from any of its obligations under the treaty.

Therefore, the first part of this amendment is totally unneeded. But the amendment continues:

> or any property owned by any United States citizen, or owned by any corporation, partnership, or association in which United States citizens have an interest or interests, situated in Panama.

In other words, the amendment reaches out beyond the Canal Zone and now imposes upon the entire Panamanian nation a protection which would prohibit the Government of Panama from exercising the right of eminent domain against any privately held property or any business if any part of that business was owned by an American citizen.

Let us assume that a Mexican company was the object of an eminent domain proceedings. If we were to adopt this amendment, that Mexican company having holdings in Panama would be protected as long as one American citizen owned one share of stock in the company.

So the amendment not only goes further than any such proposition that I have ever seen before in attempting to handcuff another government and prevent it from exercising eminent domain against legitimate American business interests, but it would cover foreign business interests as well, as long as one stockholder was an American citizen.

The amendment, Mr. President, is effectively wrong even from the standpoint of those who would depart from American national policy and establish a unique rule in our dealings with Panama, because it obviously extends its umbrella not only to American companies but to foreign companies as long as there was any form of participation, even a single share of stock owned by an American citizen.

For all these reasons, Mr. President, it would be a grave mistake to adopt such an amendment. At the appropriate time it is my intention to move to table this amendment.

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

Mr. HATCH. Mr. President, I appreciate the comments of the distinguished Senator from Idaho. I would like to call his attention to the fact that my interest in this amendment is the interest of protecting American citizens, American companies, American business interests, as well as the Panama Canal Commission against expropriation and/or nationalization by Panama. I think there is a distinctly different law in both countries between the right of eminent domain and the expropriation of American property, or the nationalization of Amer-

ican property. I think our citizens deserve to have this kind of protection.

I want to protect American citizens as well as our country, even those citizens who own as little as one share of stock in a Panamanian company or in some Pan-American interest or in some American company in Panama which might otherwise be expropriated.

The problems of expropriation and nationalization are not new to the United States of America. We are in a tremendous bind right now from an oil and energy standpoint as a result of these very same problems.

We understand that this is a unique situation. It is one thing to always protect the wonderful feelings of the Panamanians. I cannot see any way that this would be offensive to those feelings. This amendment would benefit U.S. citizens, this country, and Panama in the process because we would both know where we stand. Therefore, I urgently urge my colleagues to support this amendment. It is meritorious. If it is not supported, I will have to conclude that the same stonewalling as has taken place in the past is continuing.

Mr. President, I reserve the remainder of my time, but I am prepared to yield the remainder of my time back and have a vote up or down.

Mr. President, if I could make one further comment, the Foreign Assistance Act has the same language as we have here. It is an act which has governed foreign relations of this country for many years. This amendment has been artfully drafted to protect the U.S. interests and this country, and I think it does no harm to Panama other than to let them know where we stand on this issue. I yield back the remainder of my time.

Mr. CHURCH. Mr. President, as I have already explained, the amendment, as drafted, does not represent American policy toward any other country. If the Senator from Utah cannot see how it would be regarded by the people of Panama, then I really think he should take off his blinders. Suppose Panama were to say to us that the Government of the United States might not, for the duration of the treaty, exercise the right of eminent domain in the language of this amendment, which would then extend not only to Panamanian property but to any property in the United States in which a Panamanian held any interest, even a single share of stock.

The amendment reaches much further than I think even its sponsor intends and on that basis alone should be rejected.

Mr. HATCH. Will the Senator yield?

Mr. CHURCH. I am happy to yield.

Mr. HATCH. I appreciate the distinguished Senator yielding. Basically, all we are doing is incorporating the language of the Foreign Assistance Act of 1961, pursuant to which almost all foreign policy of this country is based. The language is very similar. Incidentally, if the distinguished Senator from Idaho is concerned about the fairness in the United States, I would be willing to grant the same privilege to Panama, that we will not expropriate or nationalize any of their interests in our country.

Mr. CHURCH. The Senator's argument does not correspond with the language of the amendment. I know the provision in the Foreign Aid Act to which he refers, but we have never taken a position, under that act or any other, that foreign governments may not exercise a right of eminent domain. You can use other words. You can say "confiscate," you can say, "expropriate;" but those are just other words for the right of eminent domain by which a government takes private property. Our policy has always been to recognize the right of other governments to exercise the power of eminent domain, even as we insist upon our right to exercise that power. But, in cases where private businesses owned by American citizens are seized by foreign governments, we have always insisted that the owners be fairly compensated. That is the policy of the United States. It is not reflected in the language of this amendment. Indeed, this amendment contradicts that policy.

For that reason, Mr. President, I move to lay the amendment on the table.

Mr. HATCH. Will the Senator yield?

Mr. CHURCH. Yes. I do not know how much time we have.

The PRESIDING OFFICER. The motion is not debatable.

Mr. CHURCH. I withhold my motion, if there is time for me to do so.

Mr. HATCH. It was my understanding that we were going to vote up or down on this. I talked to both Senators on the other side.

Mr. CHURCH. No, the only understanding we had was as to the 20-minute limitation, divided half and half.

Mr. HATCH. I talked to both of you and said, "Let's have an up and down on this." You must not have heard me, then.

I respectfully request that we vote up or down.

Mr. SARBANES. Will the Senator yield on that?

Mr. HATCH. Yes, I am delighted.

Mr. SARBANES. I simply want to state for myself—Senator CHURCH will have to answer for himself—but I say to the Senator that at no time do I recall that question being put to me by the Senator, and I certainly did not respond.

Mr. HATCH. It was, but obviously, you did not hear it, so I shall have to accept it.

Mr. CHURCH. I did not hear it, either.

Mr. HATCH. That was one reason I offered to cut down on the time. But I did ask it and perhaps you did not hear it.

I would like to ask you to consider having a vote up or down on this. It certainly would not hurt anything. Since I remember mentioning it, even though I accept the fact that you did not hear it, I think it would be only fair.

The PRESIDING OFFICER. All time on the amendment has expired.

Mr. SARBANES. Well, Mr. President—has all time expired?

The PRESIDING OFFICER. Yes; it has.

Mr. SARBANES. I ask unanimous consent to proceed for 2 additional minutes.

Mr. CHILES. I object.

The PRESIDING OFFICER. The objection is heard. The question is on agreeing to the amendment.

Mr. LEAHY. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. LEAHY. What is the situation on the amendment? Has it been tabled?

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The yeas and nays have been ordered.

Mr. CHURCH. Mr. President, the Senator from Maryland would like to have an additional minute. I ask unanimous consent that he may have that additional minute.

The PRESIDING OFFICER. Is there objection?

Mr. HATCH. If the Senator from Utah may have the same unanimous consent for an additional minute, which I shall probably not use.

Mr. CHURCH. I have no objection.

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

Mr. SARBANES. I want to say that a motion to table is a standard and respected parliamentary procedure. The Senator from Utah did not make that request of me and the Senator from Idaho said he did not make it of him. I, frankly, do not respond positively to the tactic that says, "Well, I will do it in a certain amount of time if you will do it my way, but you are not going to do it my way, I am not going to do it in a certain amount of time." We have not asked that with respect to the parliamentary rights of the opponents to the treaty as they propose crippling amendments. It seems unreasonable to me that they should seek to place us in this position. Given where we are right now, I frankly think we ought to move to table because I do not think we should be dealt with in this unfair fashion.

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

The Senator from Utah has 1 minute.

Mr. HATCH. In my 1 minute, I would like to say this: I have already acknowledged that the two Senators on the other side probably did not hear me, but I did say, "If we cut this down, we will go back-to-back with Senator BARTLETT's. I will try to cut it down to an hour." Then we cut it down to 20 minutes.

It was right here, at the head table, that I said I would like to have a vote up or down. I thought you both said yes. Apparently, you did not hear me. I accept that. Now I am asking you, in fairness, let us have a vote up or down. If you do not want to, that is your right and privilege, and I shall have to consent to it.

Mr. SARBANES. Does the Senator have time he could yield to me?

The PRESIDING OFFICER. All time has expired.

Mr. SARBANES. I am happy to go to a vote up or down, but I want it understood that this tactic is not accepted by me.

Mr. HATCH. Now, wait a minute.

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

The PRESIDING OFFICER. All time

has expired. The yeas and nays have been ordered. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Alaska (Mr. GRAVEL), the Senator from Hawaii (Mr. INOUYE), the Senator from Tennessee (Mr. SASSER), the Senator from Alabama (Mr. SPARKMAN), the Senators from Mississippi (Mr. STENNIS and Mr. EASTLAND) are necessarily absent.

I further announce that the Senator from Colorado (Mr. HASKELL) is absent on official business.

Mr. STEVENS. I announce that the Senator from Nebraska (Mr. CURTIS), Senator from Arizona (Mr. GOLDWATER), and the Senator from Maryland (Mr. MATHIAS) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 26, nays 62, as follows:

[Rollcall Vote No. 77 Ex.]

YEAS—26

Allen	Hansen	Randolph
Bartlett	Hatch	Roth
Brooke	Hatfield,	Schmitt
Cannon	Paul G.	Schweiker
DeConcini	Helms	Scott
Dole	Laxalt	Stevens
Domenici	Lugar	Thurmond
Ford	McClure	Tower
Garn	Nunn	Wallop

NAYS—62

Abourezk	Griffin	Metzenbaum
Anderson	Hart	Morgan
Baker	Hatfield,	Moynihan
Bellmon	Mark O.	Muskie
Bentsen	Hathaway	Nelson
Biden	Hayakawa	Packwood
Bumpers	Heinz	Pearson
Burdick	Hodges	Pell
Byrd,	Hollings	Percy
Harry F., Jr.	Huddleston	Proxmire
Byrd, Robert C.	Humphrey	Ribicoff
Case	Jackson	Riegle
Chafee	Javits	Sarbanes
Chiles	Johnston	Stevenson
Church	Kennedy	Stone
Clark	Leahy	Talmadge
Cranston	Long	Weicker
Culver	Magnuson	Williams
Danforth	Matsunaga	Young
Durkin	McGovern	Zorinsky
Eagleton	McIntyre	
Glenn	Melcher	

NOT VOTING—12

Bayh	Gravel	Sasser
Curtis	Haskell	Sparkman
Eastland	Inouye	Stafford
Goldwater	Mathias	Stennis

So the amendment was rejected.

Mr. SARBANES. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. ROBERT C. BYRD. I move to lay the motion on the table.

The motion to lay on the table was agreed to.

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, not to extend beyond 30 minutes, with statements limited to 5 minutes each.

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

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF THE U.S. ARMS CONTROL AND DISARMAMENT AGENCY—MESSAGE FROM THE PRESIDENT—PM 156

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

One year ago, in my inaugural address, I pledged "perseverance and wisdom in our efforts to limit the world's armaments to those necessary for each nation's own domestic safety." The report which I am transmitting is an account of the actions taken in 1977 by the U.S. Arms Control and Disarmament Agency towards the fulfillment of that pledge.

The Arms Control and Disarmament Agency is the focal point of my Administration's efforts to reach arms control agreements through negotiations and to develop policies which will lead to reduced worldwide reliance on weaponry. This central role was legislated by the Congress seventeen years ago, and it is entirely in keeping with my concept of how these objectives should be pursued.

The arms control policy and goals set forth in this report reflect my own commitment to the achievement of these important objectives. In the nuclear age, when war could bring catastrophic consequences, our national security policy must include efforts to control arms, as well as to provide for our military defense. The two are complementary activities, both necessary to achieve our overall objectives—peace and security for this Nation and the world.

When necessary, we will maintain our security and protect our interests by strengthening our military capabilities. Whenever possible, however, we seek to enhance our security through arms control. Our security and the security of all nations can be better served through equitable and verifiable limits on arms than through unbridled competition. The United States has chosen arms control as an essential means of promoting its security. As we pursue this continuing course, we must convince other nations that arms control is in their interest as well. Their cooperation is vital if balanced arms control agreements are to be achieved.

Ensuring the stability of the nuclear relationship between the United States and the Soviet Union is the most urgent arms control task today. In the longer term, however, I believe that preventing the worldwide proliferation of nuclear weapons may be of equal significance. Other pressing problems, such as the worldwide traffic in vast quantities of sophisticated conventional arms and regional arms buildups, have far-reaching implications for our own peace and security and that of the rest of the world. As such, I have taken steps to restrict U.S. arms transfers and to gain the cooperation of other suppliers in curbing worldwide sales.

The challenge of preventing war—and redirecting resources from arsenals of war to human needs—is the greatest challenge confronting mankind in this last quarter of the twentieth century. It is a challenge I accept.

JIMMY CARTER.

THE WHITE HOUSE, *March 22, 1978.*

REPORT OF THE NATIONAL ADVISORY COUNCIL ON ADULT EDUCATION—MESSAGE FROM THE PRESIDENT—PM 157

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Human Resources:

To the Congress of the United States:

I transmit herewith the Annual Report of the National Advisory Council on Adult Education for Fiscal Year 1977, as required by Section 311(d) of the Adult Education Act of 1977 (Public Law 89-750), as amended.

JIMMY CARTER.

THE WHITE HOUSE, *March 22, 1978.*

PRESIDENTIAL APPROVALS

A message from the President of the United States stated that on March 13, 1978, he had approved and signed S. 838, an act to amend the Indian Claims Commission Act of August 13, 1946, and for other purposes.

The message also stated that on March 14, 1978, he had approved and signed S. 2076, an act to authorize the Secretary of the Interior to make payments to appropriate school districts to assist in providing educational facilities and services for persons living within or near the Grand Canyon National Park on nontaxable Federal lands, and for other purposes.

MESSAGES FROM THE HOUSE

At 10:59 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 544. A concurrent resolution providing for an adjournment of the House from March 22 to April 3, 1978 and a recess

of the Senate from March 23 to March 29 or April 3, 1978.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1396 An act for the relief of Mrs. Sun Pork Winer;

H.R. 1751. An act for the relief of Lucy Davao Jara Graham;

H.R. 1779. An act for the relief of Gilberto Taneo Gilberstadt;

H.R. 1938. An act for the relief of Santos Marquez Arellano;

H.R. 2291. An act for the relief of Carmen Cecilia Blanquicett;

H.R. 2555. An act for the relief of Michelle Lagrosa Sese;

H.R. 4607. An act for the relief of William Mok;

H.R. 5230. An act for the relief of Jung In Bang;

H.R. 5933. An act for the relief of Jonathan Winston Max;

H.R 6801. An act for the relief of Hye Jin Wilder;

H.R. 6934 An act for the relief of Donna Marainne Benney;

H.R. 7795. An act for the relief of Veronica Judith Hudson;

H.R. 8192. An act for the relief of Andree Marie Helene McGiffin; and

H.R. 8308. An act for the relief of Jac Keun Christianson.

ENROLLED BILLS SIGNED

At 12:53 p.m., a message from the House of Representatives delivered by Mr. Berry, announced that the Speaker has signed the following enrolled bills:

S. 833. An act for the relief of Ah Yong Cho Ewak;

S. 1135. An act for the relief of Youngsoon Choi; and

H.R. 3813. An act to amend the Act of October 2, 1968, an Act to establish a Redwood National Park in the State of California, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore.

At 2:45 p.m., a message from the House of Representatives delivered by Mr. Hackney, announced that the House disagrees to the amendments of the Senate to the bill (H.R. 6782) to permit marketing orders to include provisions concerning marketing promotion, including paid advertisement of raisins and distribution among handlers of the pro rata costs of such promotion; asks a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. FOLEY, Mr. POAGE, Mr. DE LA GARZA, Mr. JONES of North Carolina, Mr. JONES of Tennessee, Mr. MATHIS, Mr. BOWEN, Mr. ROSE, Mr. RICHMOND, Mr. WAMPLER, Mr. SEBELIUS, Mr. JOHNSON of Colorado, and Mr. MOORE were appointed managers of the conference on the part of the House.

At 6:13 p.m., a message from the House of Representatives delivered by Mr. Hackney, announced that the House has passed the joint resolution (H.J. Res. 796) making an urgent supplemental appropriation for disaster relief for the fiscal year ending September 30, 1978, in which it requests the concurrence of the Senate.

HOUSE BILLS REFERRED

The following bills were read twice by their titles and referred as indicated:

H.R. 1396. An act for the relief of Mrs. Sun Pok Winer; to the Committee on the Judiciary.

H.R. 1751. An act for the relief of Lucy Davao Jara Graham; to the Committee on the Judiciary.

H.R. 1779. An act for the relief of Gilberto Taneo Gilberstadt; to the Committee on the Judiciary.

H.R. 1938. An act for the relief of Santos Marquez Arellano; to the Committee on the Judiciary.

H.R. 2291. An act for the relief of Carmen Cecilia Blanquicett; to the Committee on the Judiciary.

H.R. 2555. An act for the relief of Michelle Lagrosa Sese; to the Committee on the Judiciary.

H.R. 4607. An act for the relief of William Mok; to the Committee on the Judiciary.

H.R. 5230. An act for the relief of Jung In Bang; to the Committee on the Judiciary.

H.R. 5933. An act for the relief of Jonathan Winston Max; to the Committee on the Judiciary.

H.R. 6801. An act for the relief of Hye Jin Wilder; to the Committee on the Judiciary.

H.R. 6934. An act for the relief of Donna Marainne Benney; to the Committee on the Judiciary.

H.R. 7795. An act for the relief of Veronica Judith Hudson; to the Committee on the Judiciary.

H.R. 8192. An act for the relief of Andree Marie Helene McGiffin; to the Committee on the Judiciary.

H.R. 8308. An act for the relief of Jac Keun Christianson; to the Committee on the Judiciary.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, March 22, 1978, he presented to the President of the United States the following enrolled bills:

S. 833. An act for the relief of Ah Young Cho Kwak.

S. 1135. An act for the relief of Youngsoon Choi.

ORDER FOR COMMITTEE REPORT ON S. 1264

Mr. CHILES. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs have until midnight, Friday, March 24, 1978, to report S. 1264, a bill to provide policies, methods, and criteria for the acquisition of property and services by executive agencies.

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

ORDER FOR STAR PRINT OF S. 2525

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a star print of S. 2525. I make the request on behalf of Mr. HUDDLESTON.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent on behalf of Mr. HUDDLESTON that 500 extra copies of the star print be printed.

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

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JACKSON, from the Committee on Governmental Affairs, without amendment:

S. Res. 423. An original resolution to authorize a staff investigator of the Senate Permanent Subcommittee on Investigations to present himself and give executive session testimony before the Select Committee on Assassinations of the United States House of Representatives. Ordered placed on the calendar.

By Mr. PELL, from the Committee on Rules and Administration, without amendment:

H.R. 5981. An act to amend the American Folklife Preservation Act to extend the authorizations of appropriations contained in such act (Rept. No. 95-712).

By Mr. LONG, from the Committee on Finance, without amendment:

S. 2779. An original bill to authorize additional appropriations for the work incentive program established by title IV of the Social Security Act (Rept. No. 95-713).

By Mr. LONG, from the Committee on Finance, with an amendment:

H.R. 8423. An act to amend titles II and XVIII of the Social Security Act to make improvements in the end stage renal disease program presently authorized under section 226 of that act, and for other purposes (Rept. No. 95-714).

By Mr. CHILES, from the Committee on Governmental Affairs, with an amendment:

S. 1264. A bill to provide policies, methods, and criteria for the acquisition of property and services by executive agencies (together with additional views) (Rept. No. 95-715).

By Mr. CRANSTON, from the Committee on Banking, Housing, and Urban Affairs, without amendment:

S. 2790. An original bill to amend the Renegotiation Act of 1951 (together with additional views) (Rept. No. 95-716).

S. 2791. An original bill to amend the Renegotiation Act of 1951 (together with additional views) (Rept. No. 95-717).

● Mr. CRANSTON. Mr. President, I am filing on behalf of the Committee on Banking, Housing, and Urban Affairs, reports on the Renegotiation Abeyance Act of 1978 and the Renegotiation Exemption Act of 1978.

The Renegotiation Act of 1951 was originally intended as a temporary statute to meet the emergency procurement situation existing at the time of the Korean war. The act has been amended and extended 13 times in the past 24 years. I do not know whether this sets some sort of record for long-lived temporary agencies, but the 94th Congress did finally allow the authority of the Renegotiation Board to expire on September 30, 1976.

The Board, of course, continues to exist, living off the stored up fat of its accumulated backlog of filings.

The Banking Committee, however, by a vote of 8 to 6 adopted the Lugar-Cranston proposal to put the Renegotiation Act in mothballs until such time as the President determines, during a national emergency, that authority to renegotiate contracts would be in the best interests of the United States. And, we make specific that the Board is to cease existence when its backlog is completed.

I think many will agree that under

emergency conditions when careful procurement practices and hard negotiations with contractors are not feasible renegotiation is called for, as provided in the committee bill.

Since 1970, the defense procurement process has been under a major overhaul and strengthening process. The Truth-in-Negotiations Act has been a good policeman on the beat in protecting the taxpayer against faulty pricing information.

Under that act, contractors must permit the Defense Contract Audit Agency to perform a defective pricing audit at any time including 3 years after completion of the contract. The Defense Contract Audit Agency has the power to adjust downward retroactively the price of the contract, including any profit derived from inaccurate, incomplete or noncurrent data. Ten million dollars were recovered in fiscal year 1976 by the Agency.

Placing the Renegotiation Act in mothballs will not deprive the taxpayer of these protections.

Profits are not the problem in defense costs. The Renegotiation Board last year reviewed some $40 billion in contracts. It could find only $19 million in excessive profits. That figure is almost equal to the monthly cost overruns on the Trident submarine.

Costs and overruns are serious problems in defense procurement. Much is being done to control costs and to improve the Government's procurement program. The Cost Accounting Standards Act, under which mandatory, uniform cost accounting standards are promulgated, is aiding this process.

The profit incentive is the mainspring of our economic system. The belief that people will work willingly and hard for reward lies at the heart of economic and contractual relations, whether these be business contracts or collective-bargaining agreements.

The Government should bargain hard. The losses sustained by defense contractors are proof that the Department of Defense is not necessarily a pushover.

The committee believes that stripping away profits earned through efficiency, good management—and sometimes good luck—by means of a subjective determination of what constitutes an "excessive" profit is not in the best interests of Government contracting policy or the efficiency of our economic system. In fact, many suspect, as I do, that when so-called excessive profits result from other than efficiency and good management, the fault is more than likely the Government's for failing to bargain knowledgeably and responsibly prior to signing the contract.

That is why I support all efforts to improve the performance of Government procurement officials and contract managers. With the skills, knowledge and legal tools already in hand, I am willing to risk letting the profit-incentive system do its part to produce more efficiencies in the defense procurement field.

The second bill being reported today is the Renegotiation Exemption Act. This bill, which is taken from a provision of S. 1594, as introduced by the distinguished chairman, Senator PROXMIRE, raises the threshold for exemption from the act from $1 million to $5 million, retroactive to 1972. The committee was informed by the Renegotiation Board that this would eliminate about 58 percent of the Board's current backlog. This action, together with the Renegotiation Abeyance Act, would hasten the day that the Renegotiation Board, a relic of the Korean war, is finally mothballed.●

● Mr. BROOKE. Mr. President, today I join with my colleagues on the Banking, Housing, and Urban Affairs Committee in reporting S. 2791, the Renegotiation Abeyance Act of 1978.

The current act—the Renegotiation Act of 1951—was allowed to lapse on September 30, 1976. But there is a great deal of uncertainty as to the future of the Renegotiation Board, which is currently working on a 5-year backlog of contracts completed prior to the expiration of its authority. The bill which the Banking Committee is reporting today would settle, in a definitive manner, the question of the future status of the Renegotiation Board. S. 2791 would put the Renegotiation Board into abeyance until such time as the President determines, during a national emergency, that it would be in the best interests of the United States to reconstitute it. The Board's authority to make determinations in cases which came before it during its authorized period would remain in force. But in view of the overwhelmingly negative evidence which was presented to the Banking Committee during its 4 days of hearings, and thereafter, the committee felt that this was an appropriate time to let the sun set on this anachronistic bureaucracy.

Let me briefly recapitulate the reasoning behind our decision.

Few would argue that the renegotiation process is not a vital element of procurement in times of national emergency, when normal orderly procurement processes are inadequate to cope with demands. Such was the case in 1951, when the current Renegotiation Board was conceived to deal with the unusually high demands on the procurement process of the rearmament program during the Korean War. The Board served our Nation well during that period and in the decade which followed, when the procurement process was still in a rather inchoate stage. But during the 1960's and early 1970's, a number of improvements to the process were made, both by legislation and regulation. I might note these changes came under the leadership and prodding of our chairman, Senator PROXMIRE. It was the opinion of the majority on the committee that these reforms, such as the greatly improved government contracting and audit capacity (which currently has more than 54,000 employees, including 9,000 auditors), the Truth-in-Negotiations Act, and the imposition of cost accounting standards, do much to create a fair and equitable contracting process and significantly reduce the probability that contractors will earn excessive profits.

Recent studies by the Department of Defense, the Conference Board, and the Renegotiation Board's own statistics indicate that defense contractors are not reaping excessive profits on Government contracts. Quite the contrary; they are averaging a lower return on sales than those engaged in commercial business. Over the last few years, the investment community's valuation of firms heavily involved in defense contracting has reflected a generally low level of expectation based on profits which have been spotty and unspectacular during the 1970's. The claim by proponents of a strengthened Renegotiation Board that hundreds of millions of dollars in excess profit determinations could be realized if only the loopholes in the legislation were closed does not appear to be verified by the stock market performance of the defense industry during recent years.

Among the arguments which were most telling against the Renegotiation Board were the following: With its focus on profits rather than costs, renegotiation is actually counterproductive to the goal of keeping defense costs down. Because of the uncertainty it creates, it aggravates the serious problem of capital shortfall in the defense industry. Worst of all, it may actually deter new or additional contractors from entering competition for defense production, thus stifling competition and most probably increasing costs to the Government.

Moreover, there was strong evidence that the Renegotiation Board was not cost effective. A General Accounting Office study confirmed that there were indeed significant incremental costs associated with compliance with the Renegotiation Act. For Hewlett-Packard, the firm most closely audited, the costs associated with compliance amounted to one-half of one percent of renegotiable sales. If one were to assume that compliance costs on an industrywide basis were only half that of Hewlett-Packard, the costs would still amount to over $100 million annually. Excluding Justice Department and court costs, which are substantial in view of the fact that the vast majority of excess profit determinations since 1971 have been appealed to the Court of Claims where they are heard de nova; and excluding the actual operating costs of the Renegotiation Board itself ($6 million last year), it has been costing the Government in the range of $5 to $10 for every dollar recovered by the Board in excess profit determinations over the past 2 years. Needless to say, it was the feeling of the majority of the committee that it simply does not make good sense for the Government to be engaged in such a losing enterprise.

In sum, the case for terminating the authority of the Renegotiation Board seemed incontrovertible. It was clearly a counterproductive and unnecessary bureaucracy which had become not only superfluous but destructive in its effect on our defense industrial base. I urge my colleagues to support the Banking Committee in its effort to streamline the Federal bureaucracy by getting rid of the anachronism which is the Renegotiation Board.●

● Mr. LUGAR. Mr. President, today the Banking, Housing, and Urban Affairs Committee is reporting S. 2791, the Renegotiation Abeyance Act of 1978, which would suspend the authority of the Renegotiation Board to review defense contracts until such time as the President deems it necessary to reconstitute the Board to cope with procurement needs during a national emergency. This bill was reported out of the Banking, Housing, and Urban Affairs Committee as a substitute for S. 1594, which would have extended and broadened the authority of the Renegotiation Board.

The simple fact is that the Renegotiation Board is a bureaucracy which has outlived it usefulness. During the 1950's, the Board was an important part of the procurement process, serving as a watchdog that saved the taxpayers millions of dollars. In recent years, however, it has become a superfluous and counterproductive bureaucracy, which spends more money auditing defense contractors than it collects in the form of excess profits. It also has frustrated efforts to administer our defense industrial base in an efficient and effective manner. Recent studies by the General Accounting Office and others have indicated that the Renegotiation Board costs the taxpayer between $3 and $5 for every $1 which it returns to the Treasury as a result of actions taken by the Board.

The current act—the Renegotiation Act of 1951—was passed in response to the abnormal procurement situations associated with the Korean war. That the Renegotiation Act was intended as a temporary, emergency measure is evidenced by the fact that its expiration date was set for 2 years from the date of enactment. However, this "temporary legislation" has been amended and extended 13 times in the past 25 years. The authority of the Renegotiation Board, which administers the act, was finally allowed to expire on September 30, 1976. Without authorizing legislation, the Board has no authority to review contracts concluded after that date. It is, however, currently working on a 5-year backlog of contracts concluded prior to the expiration.

In recent years, almost all of the Board's determinations have been against smaller firms, producing low technology products. This does not mean that larger defense contractors have been escaping the renegotiation process through subterfuge. Rather, it indicates that, on the whole, the procurement process has been working and the Government has been driving hard bargains.

Low levels of profitability have been verified by recent studies of defense and defense-related industries and by the published statistics of the Renegotiation Board itself relating to overall renegotiable earnings. In fact, there is compelling evidence that profits in the defense industry may be inadequate for the maintenance of an effective and efficient defense industrial base and for assuring competition within that base.

The Profit '76 Department of Defense study analyzed a 5-year period of defense industry profits. That study found that, when measured on the basis of sales, defense contractors' profits on the average were lower than those in commercial business. During the 1970–74 period, pretax profits of defense contractors averaged 4.7 percent on sales, while the profits of commercial producers of durable goods averaged 6.7 percent.

If the Congress wishes to improve the procurement process to protect against undue profits and inefficiency, it seems reasonable that we attack this problem at the heart, at the beginning of the process, through better contracting and auditing procedures. Renegotiation was conceived as a safety net to guard against hasty or faulty procuring techniques. That it is no longer needed is evident. Indeed, in recent years it has only compounded the problem it was designed to ameliorate. I urge my colleagues to join with me in ridding our Government of this archaic bureaucracy.●

By Mr. ABOUREZK, from the Select Committee on Indian Affairs, without amendment:

H.R. 2540. An act pertaining to the inheritance of trust or restricted lands on the Umatilla Indian Reservation (Rept. No. 95–718).

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

S. 1633. A bill to provide for the extension of certain Federal benefits, services, and assistance to the Pascua Yaqui Indians of Arizona, and for other purposes (Rept. No. 95–719).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. JACKSON, from Committee on Energy and Natural Resources:

H. William Menard, of California, to be Director of the Geological Survey.

(The nomination from the Committee on Energy and Natural Resources 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.)

● Mr. JACKSON. Mr. President, the Committee on Energy and Natural Resources today approved the nomination of Dr. H. William Menard to be Director of the Geological Survey.

Dr. Menard is a distinguished marine geologist who has been for many years professor of geology at the Scripps Institute of Oceanography.

The committee held a hearing on this nomination last Friday. I ask unanimous consent that Dr. Menard's statement to the committee and his sworn financial statement be printed in the RECORD at this point.

I also ask unanimous consent that letters from Robert J. Lipshutz, Counsel to the President, and from William L. Kendig, Acting Interior Department Ethics Counselor, to Dr. Menard be printed in the RECORD. These letters deal with the actions to be taken by Dr. Menard to comply with conflict-of-interest statutes and regulations.

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

STATEMENT OF DR. H. WILLIAM MENARD

Mr. Chairman and distinguished Senators, it is an honor to appear before you as the President's nominee for Director of the United States Geological Survey. My nomination has been unusual in the sense that, unlike eight of the nine previous Directors, I am not a member of the Survey itself. However, I assure you that I share the universal view that the Survey is one of the greatest scientific agencies in the Government and, indeed, in the world. Likewise, I assure you that, if confirmed, I shall be as devoted and diligent to protect and enhance the legitimate interests of the Survey as were those Directors who matured within it. At the same time, I shall be as concerned as they were that the Geological Survey shall continue to serve the Nation's needs for reliable, credible, scientific information of the highest quality. I believe that these needs are growing rapidly because of the increasing difficulties we encounter in finding adequate resources while protecting the environment.

If confirmed I shall be the tenth Director and shall serve in the hundredth year of an organization that is characteristically vigorous rather than venerable. I hope to lead the Survey into a century that will outshine the first. The Survey is not an organization that does science for science's sake but it cannot fulfill its mission of service unless it is staffed by the best scientists and they cannot be the best unless they sometimes pursue knowledge wherever it leads. For example, it is science at its limits that allows us to hope we can predict earthquakes. Thus it is important to the Survey's mission that the Earth sciences have just entered a golden age brought on by the unifying theory called "plate tectonics." The new technology of satellites and computers is enabling us to develop these great scientific advances and at the same time to enhance enormously our ability to serve the Nation.

If the Geological Survey is to serve the Nation best, it will need some of the best young scientists in the Nation. Fortunately these young men and women are challenged by the problems of resources and the environment and I believe that we can attract them to careers of service through science.

As to my qualifications to be the Director of the United States Geological Survey, my education, service, career, achievements and finances have been bared for your inspection. The procedure does credit to the openness of our form of Government but offers little scope for elaboration on my part. Instead, please allow me to answer any questions about my background which may remain.

Thank you.

FINANCIAL STATEMENT

Provide a complete, current financial net worth statement which itemizes in detail all assets (including bank accounts, real estate, securities, trusts, investments, and other financial holdings) and all liabilities (including debts, mortgages, loans, and other financial obligations) of yourself, your spouse, and other immediate members of your household.

ASSETS

Cash on hand and in banks, $191,000.

U.S. Government securities—add schedule,[1] $150,000.

Listed securities—add schedule,[2] $331,708.

Accounts and notes receivable: Due from others, $6,200.

Real estate interests, including mortgages—add schedule,[3] $400,000.

[1] $100,000 U.S. Treasury, 20 July '78. $50,000 U.S. Treasury, 20 April '78.

[2] See attachments.

[3] 7337–39 Eads Ave., La Jolla, $140,000. 7948 Roseland Dr., La Jolla, $260,000.

Personal property, $37,000.
Other assets—itemize: Vested interest in retirement fund, $42,100.
Total assets, $1,158,908.

LIABILITIES

Accounts payable

Unpaid income tax, $150,000.
Real estate mortgages payable—add schedule,[4] $144,300.
Other debts—itemize: Building contract, $20,000.
Total liabilities, $314,300.
Net worth, $843,608.

1. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous relationships, professional services and firm memberships or from former employers, clients, and customers.

I have four older books in print that may yield $1000/yr.

In addition I have just edited a book for W. H. Freeman & Co. that, perhaps, may yield $2000–$4000/yr. for a while.

2. Are any assets pledged? No.

3. Are you currently a party to any legal action? No.

4. Have you ever declared bankruptcy? No.

H. WILLIAM MENARD.

ATTACHMENT 2

Listed securities held separately or jointly by H. William and Gifford M. Menard.

Values, unless otherwise indicated, as of December 10, 1977

59	American Brands	$2,603
43	American Cyanamid	1,118
506	American Telephone (25 Jan. '78)	30,083
59	Armco Steel	1,586
100	Atlantic Richfield	4,913
59	Chesapeake and Ohio	1,888
113	CPC International	5,283
77	Exxon	3,561
101	Firestone Tire	1,566
100	Florida Power and Light	2,675
73	General Foods	2,373
37	General Motors	2,313
40	Long Island Lighting	755
40	Mobil Oil	2,520
400	National Gypsum	6,450
20	Niagara Mohawk Power	315
121	Norfolk and Western	3,086
500	Potomac Electric Power	8,000
500	Public Service Colorado	9,375
320	San Diego Gas and Electric	4,960
300	Middle So. Utilities (25 Jan '78)	5,418
200	Municipal Investment Trust Fund (25 Jan '78)	205,006

PREFERRED STOCKS

7	General Motors	499
37	General Telephone, Fla	583
37	Pacific Gas and Electric	614
7	Public Service Electric and Gas	350
17	Niagara Mohawk Power	655
18	Celanese Corp	914
	Total	331,708

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Henry William Menard.
Position to which nominated: Director, U.S. Geological Survey.
Date of birth: October 12, 1920.
Place of birth: Fresno, Calif.
Marital status: Married.
Full name of spouse: Gifford Merrill Menard.
Name and ages of children: Andrew Ogden Menard, 29; Elizabeth Merrill Menard, 27; Dorothy Merrill Menard, 25.

Education—
California Institute Technology, 1938–42, B.S., 1942.
California Institute Technology, 1946–47, M.S., 1947.
Harvard University, 1948–49, Ph. D., 1949.

Honors and awards: List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement—

Bronze Star Medal, Navy Commendation Ribbon; Teaching Fellow, Cal Tech and Harvard and Woods Hole Ocean. Inst.; Guggenheim Fellow; Overseas. Fellow, Churchill College, Cambridge Univ.; Member National Academy Sciences; Am. Academy Arts and Sciences; Shepard Medal of Soc.

Economic Paleontologists and Mineralogists.

Memberships: List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations—

National Academy Sciences, 1968-date.
Amer. Assoc. Adv. Sciences, 1948?-date.
Geological Soc. America, 1948?-date.
Amer. Assoc. Petroleum Geologists, 1948?-date.
Amer. Geophysical Union, 1952?-date.
Royal Astronomical Soc., 1972?-date.
Cosmos Club, 1966-date.
Explorers Club, 1975-date.
Federation Amer. Scientists, 1970-date.
Authors Guild, 1970-date.
Amer. Academy Arts Sicences, 1975-date.

Employment record: List below all positions held since college, including the title and description of job, name of employer, location, and date—

1942–46, U.S. Navy, Ensign to Lt., Photo Interpretation, Pacific & European Areas.

1946–49, Graduate schools, with temporary employment as a geologist with So. Calif. Edison Co. (3 months) and Amerada Oil Co. (5 months).

1949–55, Marine geologist, U.S. Navy Electronics Lab., San Diego, Calif.

(1953–56), President, director and diving geologist, Geological Diving Consultants, Inc., San Diego, CA (A collaterial activity during leave and with the permission of the Director U.S.N.E.L.)

1956-date, Associate Professor to Professor, and sometimes acting director, Institute of Marine Resources, and Scripps Institute of Oceanography, Univ. of Calif., La Jolla, CA.

(1965–66), Technical Assistant (GS–18) (for oceanography and geology) Office of Science and Technology, Exec. Office President, Washington, D.C.

(See attached biography for additional information).

Government experience: List any experience in or direct association with Federal, State, or local governments, including any advisory, consultative, honorary or other part-time service or positions—

In addition to those listed under employment, I have frequently been a consultant to the Federal government through committees of the National Academy of Sciences. I have also advised the Office of Technology Assessment, the National Science Foundation and the Navy directly.

Published writings: List the titles, publishers and dates of any books, articles, or reports you have written—

See attached bibliography of about 100 publications including four books.

Qualifications: State fully your qualifications to serve in the position to which you have been named (attach sheet)

Future employment relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate—

I shall be on a leave of absence without pay as is customary with the University of California.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization—

See above.

3. Has anybody made you a commitment to a job after you leave government?

See above.

4. Do you expect to serve the full term for which you have been appointed?

Yes, although there is no specified term.

Potential conflicts of interest:

1. Describe any financial arrangements or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated—

None.

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated—

My wife and I have minor holdings of oil company common stocks.

3. Describe any business relationship, dealing or financial transaction (other than tax-paying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated—

None.

4. List and describe any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation at the national level of government or for the purpose of affecting the administration and execution of national law or public policy—

During the years 1975–76 I provided depositions as an expert witness in an action of the State of California vs. the Department of the Interior, i.e. People v. Kleppe et al. 50041335–LA75CV2203, which was dismissed on 19 July 1976. It was concerned with the adequacy of environmental impact statements.

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the above items—

I expect to sell the oil stocks.

Qualifications:

The U.S. Geological Survey consists of a large group of professional scientists of the highest quality and reputation. The Director has been and should be a scientist of stature whom these professionals will respect and follow. I have been recommended for the position by the National Academy of Sciences. My qualifications include a doctorate in geology, and I am a professor of geology. In addition, I am a registered professional geologist, and have been a consultant to government, universities and large corporations. I have published about a hundred professional articles and books, based on original research, which are widely cited by other scientists. My efforts have been rewarded by election to the National Academy of Sciences and other honorific societies and by awards of fellowships and prizes.

It might be questioned whether the career of a prospective Director has been narrowly focused or whether it has been broad enough so his leadership will be in directions that are important and useful for the nation. As to this, my career for about fifteen years concentrated on the exploration of the deep sea on oceanographic expeditions. My scientific reputation derives largely from this type of research which still continues. However, in 1965–66 I served a year in the Office of Science and Technology and became concerned with

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[4] La Jolla Federal Savings and Loan, $54,874. Bank of America, $89,426.

the sociology of science, governmental institutions for science, and environmental versus resource problems. Since then I have participated in many environmental and resource studies and have been a member of the Committee on Science and Public Policy and also the Commission on Natural Resources of the National Academy of Sciences. I have also published a book, "Science, Growth and Change," that analyzes both scientific careers, in sociological terms, and the factors that influence the growth of federal scientific agencies including the USGS. In another book, "Geology, Resources and Society," I have attempted to relate geological education to the basic problems of resource depletion, environmental preservation and geological hazards. I have also published research papers on oil exploration and deep sea mineral resources.

Another question is whether a prospective Director is experienced at, or capable of, managing a large organization. I have no such experience. I have studied organizational history and management, however, and I have been offered managerial jobs including, a decade ago, a position as Assistant Director of the USGS. I am familiar with the management of small, complex organizations. I have organized and led numerous multiship, multi-institution, and multi-national oceanographic expeditions. I conceived and co-organized a highly successful business doing underwater geology. I also developed and led a group that produced one of the first computerized data-management systems for marine geophysical observations.

THE WHITE HOUSE,
Washington, D.C., March 15, 1978.

MR. HENRY W. MENARD, Jr.,
Director-Designate, U.S. Geological Survey, Department of the Interior, Washington, D.C.

DEAR MR. MENARD: I acknowledge receipt of your Response to the Outline of Information Requested of Prospective Nominees. I also acknowledge receipt of your letter of commitment to the President and congratulate you on your pending appointment as Director, U.S. Geological Survey, Department of the Interior.

You indicate in your submission that you are a Professor at the University of California and intend to take an unpaid leave of absence from the University upon your confirmation as Director of the U.S. Geological Survey. Under the Carter-Mondale Guidelines on Conflicts of Interest your retention of a professorship in a leave of absence status is entirely appropriate. In view of your continuing relationship with the University of California, however, this disqualification should continue throughout your period of government service, unless you completely sever your relationship with the University at some future date. I remind you, however, that pursuant to 18 U.S.C. 208(a), you should disqualify yourself from acting on any particular matter affecting the interests of organizations you have served for financial gain in the 12 months prior to taking office. This disqualification should be for such limited period of time as you, in your discretion, determine necessary to remove the appearance of the possibility of prejudice on your part.

You also indicate that you have an interest in the University of California retirement plan and that you will continue to make payments into this plan while you are on leave of absence. I understand that you will receive no disbursement from the University of California into your retirement plan while you are employed at the Department of Interior. Your participation in an established retirement fund of this sort is permissible under the applicable federal statutes.

Your submission notes that you have a substantial portfolio of securities. In addition, your wife has stock interests in several companies. As you know, the Carter-Mondale Guidelines on Conflicts of Interest impute the interests and assets of one spouse to the other. Accordingly, as Director of the U.S. Geological Survey, you must disqualify yourself to act on any particular matter, as defined in 18 U.S.C. 208(a), which would affect the interests of any of the companies in which you or your wife hold a security or other form of financial interest.

You advise in your submission that your wife is unemployed. Should she decide to accept employment while you are at the Department of Interior, you should disqualify yourself to act on any particular matter which would affect her employer.

Based on our review of the materials submitted by you and assuming you take the actions you have indicated you will take and those that are suggested in this letter, it appears that you will have complied with the Carter-Mondale Guidelines on Conflicts of Interest.

I wish you every success in the undertaking you are about to assume in the interest of the people of the United States.

Sincerely,

ROBERT J. LIPSHUTZ,
Counsel to the President.

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., March 16, 1978.

Dr. H. WILLIAM MENARD,
Director-Designate, U.S. Geological Survey, Department of the Interior, Washington, D.C.

DEAR DR. MENARD: I have reviewed the list you have provided to the Senate Energy and Natural Resources Committee showing securities held by you and Mrs. Menard. My review concentrated on matching your financial interest to the specific prohibitions which apply to U.S. Geological Survey employees, and to the general conflict of interest provisions which apply to all Department of the Interior employees.

As you know, you are not officially required to file the Confidential Statement of Employment and Financial Interests required by the Department of the Interior until you are confirmed by the Senate and you enter on duty. However, I have reviewed your voluntary submission and I am presenting my findings as I would if you were, in fact, Director of the U.S. Geological Survey. I have concentrated my review at this time totally on your security holdings.

The Organic Act of March 3, 1879 (43 U.S.C. 31) which established the U.S. Geological Survey imposes the following specific restriction on Survey employees:

"The Director and members of the Geological Survey shall have no personal or private interests in the lands or mineral wealth of the region under survey, and shall execute no surveys or examinations for private parties or corporations."

This prohibition is incorporated into Department of the Interior conduct regulations as 43 CFR 20.735–12(b)(3). This prohibition is all encompassing and does not allow consideration of the substantiality of the financial interest. Any financial interests held by Survey employees in companies having extensive acreages of leased Federal lands under exploration for oil, gas and mineral development would violate the Organic Act restriction. Five companies shown on your financial interest statement come within the restrictions imposed by the Organic Act. They are Atlantic Richfield, Exxon, Mobil Oil, Public Service Company of Colorado, and Pacific Gas and Electric.

By regulations contained in 43 CFR 20.735–13(b), the Survey has implemented a policy which imposes another restriction specifically on Survey employees, as follows:

". . . Members of the Geological Survey shall not hold substantial personal or private interests, direct or indirect, in any private mining enterprise doing business in the United States. . . ."

This prohibition does allow consideration for the substantiality of the financial interest. The basis for judgment of substantiality is to view substantiality in terms of what we believe the average citizen would consider to be a material dollar interest. This means that substantiality is a factor to be judged apart from the percentage of ownership it represents. The most important aspect of determining substantiality is to relate job duties to the investment. Duties presenting frequent opportunity for the employee to deal in matters related to his financial interests mean that even low dollar value financial investments may create a problem. Substantial financial interests held by Survey employees in companies whose revenue is generated in large part by mining activities would violate the Survey's regulatory policy restriction. Of the stocks you list, four companies come within the restrictions imposed by the Survey's regulatory policy. They are Armco Steel, Chesapeake and Ohio (Chessie System), National Gypsum, and Public Service Electric and Gas Company. It is my opinion that virtually any interest in these companies by the Director would be considered substantial.

Two other major restrictions are pertinent. One, the Surface Mining Control and Reclamation Act of 1977, applies to certain Federal employees and the second, 43 CFR 20.735–15(a) applies to all Interior employees.

The Surface Mining Act (P.L. 95–87 sections 201 (c) and (f)), and the implementing regulations in 30 CFR 706 prohibit Federal employees who perform functions or duties under the Act from having any direct or indirect financial interest in underground or surface coal mining operations. The position of Director, U.S. Geological Survey, is identified as a position which requires performance of functions or duties under the Surface Mining Act and, therefore, the position is subject to the financial interest restriction. One company you listed, Norfolk and Western, wholly owns Pocahantas Land Corporation (PLC). PLC has 1.4 billion tons of coal reserves. Because PLC contributes a relatively small amount to Norfolk and Western's revenue, your interest does not violate the Survey's regulatory policy. As discussed subsequently, your interest in Norfolk and Western is nevertheless of concern in terms of the Surface Mining Act restrictions.

The Department's Employee Responsibilities and Conduct regulations in 43 CFR 20.735–15(a) state that:

"No Department employee shall have a direct or indirect financial interest that conflicts substantially, or appears to conflict substantially, with his or her Government duties and responsibilities."

In view of the Geological Survey's involvement in matters related to the mineral industries, it is essential that your financial interests be reviewed in terms of the appearance of conflict of interest. It is my belief that as Director of U.S. Geological Survey the financial interests you have in the companies I have listed above would, in addition to violating the restrictions mentioned, each create an appearance of a conflict of interest and would therefore be prohibited holdings.

The restrictions imposed by Departmental regulations and by the Surface Mining Act apply to the interests of the employee, his spouse, minor child, or any other relative living in the employee's home.

In summary, when you are confirmed by the Senate you will be required to file a Confidential Statement of Employment and Financial Interests with me as Acting Department Ethics Counselor. Assuming your security interests are the same as shown on the listing you provided to the Senate Com-

mittee and based upon the principles stated previously, I would counsel you to divest of the financial interests in Armco Steel, Atlantic Richfield, Chesapeake and Ohio (Chessie System), Exxon, Mobil Oil, National Gypsum, Norfolk and Western, Public Service Company of Colorado, Pacific Gas and Electric, and Public Service Electric and Gas.

I am returning herewith the copy of your financial statement provided to me. I trust this information will be helpful and I extend my best wishes for a swift and early confirmation.

Sincerely yours,

WILLIAM L. KENDIG,
Acting Department Ethics Counselor.●

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. BAKER (for himself, Mr. BELLMON, Mr. DANFORTH, Mr. RIBICOFF, Mr. MARK O. HATFIELD, Mr. STEVENS, and Mr. YOUNG):

S. 2777. A bill to establish a family security program, to provide public service jobs for certain public assistance recipients, to provide a voucher program for private sector employment, to increase the earned income credit, and for other purposes; to the Committee on Finance.

By Mr. BENTSEN:

S. 2778. A bill to provide for increased criminal penalties for the unauthorized manufacture or distribution of PCP and to provide for piperidine reporting; to the Committee on the Judiciary.

By Mr. LONG (from the Committee on Finance):

S. 2779. A bill to authorize additional appropriations for the work incentive program established by title IV of the Social Security Act. Original bill placed on the calendar.

By Mr. HATHAWAY:

S. 2780. A bill to amend the Public Health Service Act to provide for grants and contracts for projects to provide health and dental care to medically underserved rural populations, and for other purposes; to the Committee on Human Resources.

By Mr. JACKSON (for himself, Mr. MAGNUSON, Mr. PACKWOOD, and Mr. MARK O. HATFIELD):

S. 2781. A bill to amend the Federal Unemployment Tax Act so as to exclude from coverage thereunder agricultural hand-harvest labor performed by a full-time student under the age of sixteen (16) years; to the Committee on Finance.

By Mr. PELL:

S. 2782. A bill to protect consumers from misrepresentative advertising of gold and silver jewelry, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. MATHIAS:

S. 2783. A bill for the relief of Mary Motamen; to the Committee on the Judiciary.

By Mr. SCOTT (for himself, Mr. HELMS, and Mr. LAXALT):

S. 2784. A bill to amend the Immigration and Nationality Act, and for other purposes; to the Committee on the Judiciary.

By Mr. MATHIAS:

S. 2785. A bill to amend the Federal Aviation Act of 1958 in order to require the Administrator of the Federal Aviation Administration to prepare and put into effect comprehensive noise abatement plans for airports operated by the Administrator; to the Committee on Commerce, Science, and Transportation.

By Mr. HANSEN:

S. 2786. A bill for the relief of Hanna-Luisa Heck; to the Committee on the Judiciary.

By Mr. CHILES (for himself, Mr. DECONCINI, and Mr. HEINZ):

S. 2787. A bill to provide for the resolution of claims and disputes relating to Government contracts awarded by executive agencies; to the Committee on the Judiciary and the Committee on Governmental Affairs, jointly, by unanimous consent.

By Mr. LONG (for himself, Mr. MAGNUSON, and Mr. STEVENSON):

S. 2788. A bill to amend section 216 of the Regional Rail Reorganization Act of 1973 to authorize the purchase of an additional $600,000,000 of the series A preferred stock of the Corporation, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. LONG:

S. 2789. A bill to provide authorization for appropriations for the Office of Rail Public Counsel, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. CRANSTON (from the Committee on Banking, Housing, and Urban Affairs):

S. 2790. A bill to amend the Renegotiation Act of 1951. Original bill placed on the calendar.

S. 2791. A bill to amend the Renegotiation Act of 1951. Original bill placed on the calendar.

By Mr. JAVITS (for himself, Mr. WILLIAMS, Mr. PELL, Mr. RANDOLPH, Mr. EAGLETON, Mr. CHAFEE, Mr. RIEGLE, Mr. HATCH, and Mr. HATHAWAY):

S. 2792. A bill to revise and extend the program for Gifted and Talented Children in order to provide a consolidation of that program with other educational programs, and for other purposes; to the Committee on Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BAKER (for himself, Mr. BELLMON, Mr. DANFORTH, Mr. RIBICOFF, Mr. MARK O. HATFIELD, Mr. STEVENS, and Mr. YOUNG):

S. 2777. A bill to establish a family security program, to provide public service jobs for certain public assistance recipients, to provide a voucher program for private sector employment, to increase the earned income credit, and for other purposes; to the Committee on Finance.

(The remarks of Mr. BAKER when he introduced the bill appear earlier in today's proceedings.)

By Mr. BENTSEN:

S. 2778. A bill to provide for increased criminal penalties for the unauthorized manufacture or distribution of PCP and to provide for piperidine reporting; to the Committee on the Judiciary.

(The remarks of Mr. BENTSEN when he introduced the bill appear earlier in today's proceedings.)

By Mr. HATHAWAY:

S. 2780. A bill to amend the Public Health Service Act to provide for grants and contracts for projects to provide health and dental care to medically underserved rural populations, and for other purposes; to the Committee on Human Resources.

RURAL HEALTH ASSISTANCE ACT OF 1978

● Mr. HATHAWAY. Mr. President, it is my great pleasure today to introduce the Rural Health Assistance Act of 1978. This legislation is intended to improve access to quality health and dental care in medically underserved rural areas.

That greater Federal attention must be focused on health care in rural areas cannot be denied. This became clear during the hearings of the Senate Subcommittee on Health which I chaired in Bangor last summer and in Washington last month. Sixty percent of the medically underserved population in this country live in rural areas. Many indicators of health status indicate a serious and growing disparity in the health of rural Americans in contrast to the Nation as a whole. Experts in rural health have indicated that low population density creates special problems since the critical mass of people in an area is often far less than that usually required for services, resources, or facilities. There are more elderly poor people and more elderly residents in rural areas, often requiring more care than the general population. In addition, fewer rural residents are covered by health insurance than their urban counterparts.

The need for services is great, yet the availability of services is sorely limited. There is still a critical shortage of physicians, dentists, and other health care professionals in rural areas. Emergency medical services are less available, and accessibility to the limited care that is available is restricted by long distances, geographic barriers, and inadequate transportation services.

Congress has been taking steps to improve the availability of health care in rural locales. For example, the Rural Health Clinics Act was recently passed to extend medicare and medicaid coverage to nurse practitioners and physician assistants in rural health clinics. I was pleased to cosponsor this measure as I believe it will make care accessible to communities which lack adequate coverage by doctors. There are 70 such communities in Maine alone.

While some progress is being made, we still have a long way to go. The level of Federal attention to the problems of rural America is still inadequate. This is particularly true where the health of our citizens is concerned. While more than one-half of the medically underserved Americans live in rural areas, they receive less than 25 percent of the available Federal funds. Testimony at the Health Subcommittee hearings revealed that HEW currently spends more than $7.50 for every medically underserved urban resident, but only about $2.25 for each rural person in a medically underserved area.

The legislation which I am introducing today is an attempt to rectify this imbalance. The Rural Health Assistance Act of 1978 recognizes the need for improved rural health care and authorizes grants and contracts for projects to provide health and dental care to medically underserved rural areas.

The bill is designed to encourage innovative approaches to the delivery of

care, drawing on existing resources as well as identifying and attracting new ones. It is intended to allow for maximum flexibility without imposing administrative requirements such as those required of community health centers, which might be difficult or impossible to meet. Furthermore, it will replace the health of underserved rural areas project with a permanent statutory authority.

The Rural Health Assistance Act also amends section 330 of the Public Health Service Act relating to community health centers to increase the assistance to rural areas. To date, the community health centers program has been largely directed to urban areas. Testimony from the Health Subcommittee hearings, citing a report prepared by Rural America, Inc., indicated that approximately 75 percent of the comprehensive community health centers, accounting for more than 80 percent of the funds, were located in cities. To correct this inequity, the final provision of the bill I am introducing today will require that a minimum of 40 percent of community health center funds be used for grants to centers in medically underserved rural areas.

I am hopeful that this legislation will receive favorable consideration as it progresses through the legislative process.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 2780

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

SECTION 1. This Act may be cited as the "Rural Health Assistance Act of 1978."

SEC. 2. (a) The Congress finds that—

1. there is a shortage of health and dental manpower in rural areas;

2. there are proportionately more poor people and more elderly people in rural areas, requiring more medical and dental care than the general population;

3. fewer rural residents are covered by health insurance than non-rural residents;

4. access to health and dental care services is impeded in rural areas due to distance and geographic barriers;

5. the health and dental care planning and service delivery needs and capabilities of rural areas to address those needs are different from those of urban areas.

(b) It is the policy of the United States and the purpose of this Act to encourage and support the development and demonstration of innovative methods for delivery of health and dental care to medically underserved rural populations.

SEC. 3. Title III of the Public Health Service Act is amended by inserting after section 328 the following new section:

"HEALTH AND DENTAL CARE PROJECTS FOR MEDICALLY UNDERSERVED RURAL POPULATIONS

"SEC. 329(a). The Secretary is authorized to make grants to and enter contracts with public and non-profit private entities to conduct projects for the development and demonstration of innovative methods for the delivery of health and dental care to medically underserved rural populations.

(b) For the purposes of this section, "medically underserved rural population" means—

1. an area that is not an urbanized area (as defined by the Bureau of the Census) and is designated by the Secretary as an area with a shortage of personal health services; or

2. a population group located in an area that is not an urbanized area (as defined by the Bureau of the Census) and designated by the Secretary as having a shortage of such services.

(c) Grants and contracts may be made pursuant to this section to examine—

1. methods of attracting and retaining physicians, dentists, physician assistants, nurse practitioners, and other allied health professionals to practice in medically underserved rural areas;

2. different organizational models tailored to meet the unique needs of rural settings;

3. methods of identifying, coordinating, and integrating existing facilities, services, and programs to maximize use of available resources, avoid duplication of effort, and ensure a coordinated, comprehensive care system. Projects under this subsection may include development and demonstration of a regional approach to the delivery of health care linkages between health care, social, and supplemental services;

4. programs of prevention and health education to gain full utility from resources available;

5. specific services or mixture of services appropriate for a given area, including ambulatory care, home health care, environmental health services, community outreach services, transportation services, and other supplemental services;

6. effect of availability of primary care and home health services in rural areas in terms of reduction of emergency room visits, hospitalizations, and long term care facilities;

7. management and technological improvements to increase productivity, effectiveness, efficiency, and financial stability of health and dental care providers, including new or improved methods for biomedical communication, medical and financial record-keeping and billing systems;

8. identification and development of potential funding sources for health and dental care; and

9. other innovative approaches designed by the applicant and approved by the Secretary to improve the availability of quality health and dental care in medically underserved rural areas.

(d) The Secretary shall submit an annual report to Congress which shall include a description of actions taken, services provided, and funds expended under this section, and evaluation of the effectiveness of such actions, services and expenditures of funds, and such other information as the Secretary considers appropriate.

(e) An application for a grant under this section shall be in such form, submitted to the Secretary in such manner, and contain such assurances, as the Secretary may require.

(f) The amount of any grant under this section shall be determined by the Secretary, but shall not exceed the amount that the Secretary determines is needed to carry out the purposes of the grant.

(g) The Secretary may make payments under this section in advance or by way of reimbursement, and at such intervals and on such conditions as the Secretary finds necessary.

(h) There are authorized to be appropriated for the purpose of making grants and contracts under this section $20,000,000 for the fiscal year ending September 30, 1979, $25,000,000 for the fiscal year ending September 30, 1980, and $30,000,000 for the fiscal year ending September 30, 1981.

SEC. 4. Section 330 of the Public Health Service Act is amended by adding at the ends of subsection (g)(1) and subsection (g)(2) the following sentence:

"No less than 40 percent of the funds appropriated under this subsection shall be used for grants for community health centers in areas that are not urbanized areas (as defined by the Bureau of the Census).●

By Mr. JACKSON (for himself, Mr. MAGNUSON, Mr. PACKWOOD, and Mr. MARK O. HATFIELD):

S. 2781. A bill to amend the Federal Unemployment Tax Act so as to exclude from coverage thereunder agricultural hand-harvest labor performed by a full-time student under the age of sixteen (16) years; to the Committee on Finance.

FEDERAL UNEMPLOYMENT TAX ACT AMENDMENTS

● Mr. JACKSON. Mr. President, on behalf of myself and Senator MAGNUSON, I am introducing legislation which will amend the Federal Unemployment Tax Act (FUTA) so as to exclude from coverage thereunder agricultural hand-harvest labor performed by full-time students under the age of 16 years; provided that such labor is not accorded unemployment benefits under existing State law.

This legislation is designed to rectify a situation whereby farmers are required under FUTA to pay Federal unemployment taxes on labor performed by youngsters who are not eligible to receive unemployment compensation benefits under State law. Farmers throughout the State of Washington have brought this situation to the attention of Senator MAGNUSON and myself, and have stressed the need for positive congressional action to relieve them of the burden of this unjust and inequitable Federal requirement that, quite simply, sweeps too broadly.

Furthermore, the amendment will relieve to a significant degree much of the attendant excessive paperwork and recordkeeping which is required by FUTA. Many of the farmers affected by this legislation hire more than 1,000 children for just a few weeks work in the summertime, and it is almost impossible for them to meet these stringent bookkeeping requirements during the hectic pace of the harvest season.

While serving to relieve the individual farmer of these tax and recordkeeping burdens, this legislation will also bolster the valuable berry farming and processing industries of the State of Washington. The berry crop provides summertime employment for thousands of youngsters in the fields and hundreds of adults in the processing plants. Since 1974, however, the State of Washington has witnessed a 30-percent decline in total acreage devoted to berry farming, and thousands of jobs have been lost as a result. To help counter this trend, and to enable youngsters to return to the fields for an educational and traditional summertime experience, Senator MAGNUSON and I were instrumental in gaining Senate approval of an amendment to the Fair Labor Standards Act which permits youngsters between the ages of 10 and 12 to pick hand-harvest crops. The FUTA amendment Senator MAGNUSON and I are sponsoring will, in addition to the Fair Labor Standard Act amendment, further help to assure farmers that berry crops are profitable and a worthwhile agricultural endeavor, and one which will not

tie them down with needless paperwork and an unjust tax.

The legislation, however, is also designed to protect youngsters ages 10 to 16 in the event that State law provides unemployment benefits for them. In States where such benefits are available to these individuals, this exclusion shall not apply and farmers will be required to pay the required FUTA tax.

The entire Washington delegation in the House of Representatives has endorsed legislation (H.R. 11305) which will provide the necessary relief. However, I must stress the fact that this inequitable and discouraging situation is not peculiar to Washington State. Oregon has a large number of berry farming and processing concerns employing thousands of youths, and has also experienced a drastic reduction in employment and total acreage devoted to this particular type of agricultural operation. Given these circumstances, Senators PACKWOOD and HATFIELD have joined in cosponsorship of this measure to provide sufficient relief so that berry farming and processing in the Northwest States can remain viable and productive industries.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 2781

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 3306(c)(1) of the Internal Revenue Code of 1954 is amended—

(1) in subparagraph (A)—

(A) by striking out "subparagraph (B))" in clause (i) and inserting in lieu thereof "subparagraph (B), but taking into account labor excluded in subparagraph (C)",

(B) by striking out "subparagraph (B)" in clause (ii) and inserting in lieu thereof "subparagraph (B), but taking into account labor excluded in subparagraph (C))", and

(C) by striking out "and" at the end thereof, and (2) in subparagraph (B), by adding "and" at the end thereof, and

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

"(C) such labor is performed by an individual other than a full-time student under the age of sixteen years as a hand-harvest laborer in an agricultural operation; provided, however, that this subparagraph (C) shall not apply if such labor is covered by the state unemployment compensation law of the state in which such labor is performed."

(b) The amendments made by subsection (a) shall be effective in the case of services performed after December 31, 1977.●

By Mr. MATHIAS:

S. 2785. A bill to amend the Federal Aviation Act of 1958 in order to require the Administrator of the Federal Aviation Administration to prepare and put into effect comprehensive noise abatement plans for airports operated by the Administrator; to the Committee on Commerce, Science, and Transportation.

NOISE ABATEMENT AT AIRPORTS

● Mr. MATHIAS. Mr. President, many who live in the Washington metropolitan area, including a number of my constituents, are subjected daily to the thundering noise of aircraft approaching and taking off from Dulles and National Airports. Interrupted conversations, and disrupted sleep are among the petty annoyances that those who live within earshot must endure on a continuing basis. Of a more serious nature, however, is the fact that many medical authorities maintain that sustained noise pollution has a detrimental effect on health. And structural damage to buildings is another serious and costly side effect of aircraft noise.

Our modern aerospace technology has provided us with fast, sleek planes capable of carrying large numbers of passengers. However, the technology has not yet conquered the side effect of noise, which many people in metropolitan areas must endure.

The bill I am introducing today directs the Federal Aviation Administration (FAA) to develop and implement a comprehensive noise abatement program for the two airports it operates—National Airport in Arlington, Va., and Dulles Airport in Chantilly, Va.

The FAA has been studying the problem of aircraft noise for many years now. In fact, in November of 1976 the FAA produced an "Aviation Noise Abatement Policy." The bill I am introducing today would require the FAA to implement this policy at National and Dulles. Specifically, my bill directs the FAA to tailor a noise abatement plan for Dulles and National that would deal with several important areas: Aircraft operating procedures on landings and takeoffs; reduction of incompatible land uses adjacent to the airports; and cooperation with State and local governments to help devise land-use programs. Once implemented, the FAA plan will serve as a model for other airport proprietors around the country.

I have circulated a draft of this bill to 38 citizen and civic associations along the Potomac River flight path from National Airport. Many of them endorsed the language of this bill or its concept. None expressed opposition. I ask unanimous consent that a letter endorsing this legislation from Judith Toth, a Maryland House delegate, appear at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection.

(See exhibit 1.)

Mr. MATHIAS. The Citizens Coordinating Committee on Friendship Heights, Inc., a group of 13 citizen associations representing 6,000 families, also endorses the bill I am introducing today. In a letter to me, the committee states:

Not enough has been said about Secretary Coleman's splendid paper called, "Aviation Noise Abatement Policy" published on November 18, 1976. We are pleased that your bill proposes that its comprehensive approach be reflected in the Airport Noise Abatement Plans that will be required under the new law.

The Potomac Valley League, which represents 23 civic associations of Montgomery County along the National Airport flight path, has also formally endorsed this bill at its meeting of September 20, 1977. As the league so aptly pointed out in their letter to me:

The Potomac Valley League believes that the biggest legislative "gap" is the absence from the Federal Aviation Act of any Congressional demand that the FAA itself, where it is "proprietor and operator" of an airport (i.e., National and Dulles), devise, implement and monitor a "comprehensive noise abatement plan" for either airport. The EPA has suggested the FAA can require such plans of other airport operators. We believe the Congress should require FAA to take the lead in bringing all of its expertise to bear on National and Dulles Airports.

Such a legislative approach fills a gap in the Federal Aviation Act, accords with the DOT's "Aircraft Noise Abatement Policy" dated November 1, 1976, and avoids picking-and-choosing among the strategies now being urged by various civic groups. For example, we enclose for your consideration the recently adopted "noise" positions of—

(a) The Montgomery County Council (accepted by the County Executive);

(b) The Montgomery County Civic Federation;

(c) Representative Newton Steers; and

(d) Representative Joe Fisher of Virginia.

From these varying documents, three fundamental conclusions emerge: first, the problem is real and needs correcting, second, various corrective strategies need truly expert technical evaluation in a comprehensive context, and three, the FAA needs Congressional direction if any substantial improvement is to be made in the local aircraft noise environment.

The Potomac Valley League believes that the proposed bill amending section 611 of the Federal Aviation Act realistically takes all of these fundamentals into account, and can result in real benefits if adopted by the Congress. The Potomac Valley League therefore strongly urges that the proposed bill be introduced in both Houses of Congress, hopefully co-sponsored by the Maryland and Virginia delegations.

We believe it can be strengthened by providing for formal participation by citizens and local governments. For example, the FAA might be required to publish a draft plan in the Federal Register and receive public comments before making it final, and the FAA adoption of implementing procedures and regulations should be done after notice and hearing.

Aircraft noise intrudes, unwelcomed, into the lives of 7 million Americans. It need not be so. The tools are at hand to reduce this problem significantly and alleviate the general psychological stress created by noisy airplanes. And I believe the responsibility for initiating measures to reduce aircraft noise lies with the Federal agency responsible for controlling commercial airport operations, the FAA.

The introduction to the FAA's Aviation Noise Abatement Policy made this point succinctly:

The scope of the noise problem, the interrelationship and special responsibilities of the many parties concerned with it, and the general confusion and prevalent uncertainty about what it is possible to achieve and who is resppnsible have led us to conclude that the federal government should address the overall noise problem with a more comprehensive approach than mere promulgation of a new regulation . . . As the federal officials principally concerned with aviation noise, it is our duty to provide leadership in a national effort to reduce aircraft noise.

I would hope that the Committee on Commerce, Science, and Transportation will schedule early hearings on this bill to provide a forum for the many parties concerned with aircraft noise.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD.

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

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

S. 2785

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 611 of the Federal Aviation Act of 1958 is amended by inserting at the end thereof the following new subsection:

"(f) The FAA shall, for each airport which he operates, after consultation with the EPA—

"(1) prepare a comprehensive aircraft noise abatement plan, which shall (A) be based on an integrated approach to his proprietary and air traffic control functions, (B) take into consideration all measures discussed under the heading of 'Additional Federal Action' and 'Protecting the Airport Environment' as Subsections C and D of Section III of Part Two of the Department of Transportation's 'Aviation Noise Abatement Policy' published November 18, 1976, and (C) be designed to minimize the aircraft noise impact of such airport's use, consistent with safety.

"(2) publish such comprehensive aircraft noise abatement plan in the Federal Register not later than 450 days after such date.

"(3) within 545 days of such date, after notice and evidentiary hearing, adopt for each such airport procedures and regulations, mandatory on all concerned including Federal Aviation Administration personnel, implementing such aircraft noise abatement plan,

"(4) establish and maintain an aircraft noise monitoring program at each such airport, publishing the results thereof at least semiannually, and

"(5) review annually thereafter each aircraft noise abatement plan in light of its monitored results and any technological or other relevant developments, and, after consultation with the EPA and with the affected local governments, adopt such changes in the plan and in the mandatory procedures and regulations implementing it as the FAA determines, after notice and hearing, to be in the public interest, bearing in mind his responsibilities as set forth in subparagraph (1) hereof.".

ANNAPOLIS, MD.,
September 27, 1977.

HON. CHARLES MCC. MATHIAS, Jr.,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR MATHIAS: I want to add my voice to those of the many citizens of Potomac Valley who are in support of the bill that would amend Section 611 of the Federal Aviation Act so as to require the FAA, as the operator of National Airport and Dulles Airport to (a) develop a comprehensive noise abatement plan for each airport, taking into consideration all strategies and its responsibilities as "proprietor" as well as air traffic controller, (b) adopt mandatory implementation measures, (c) monitor the results, and (d) adjust the plan annually in light of actual results.

I can not overstate the need of the citizens of the area from the air traffic noise along the Potomac corridor.

As you know, I live in Cabin John and can speak from first hand experience. There are times when all the windows are closed that it is impossible to hear the television, let alone normal conversation. If that doesn't connote excessive noise I don't know what does.

I appreciate all you can do in pushing the proposed legislation through Congress. Please let me know what I can do to be of assistance.

Very truly yours,

JUDITH C. TOTH.●

By Mr. CHILES (for himself, Mr. DECONCINI, and Mr. HEINZ):

S. 2787. A bill to provide for the resolution of claims and disputes relating to Government contracts awarded by executive agencies; to the Committee on the Judiciary and the Committee on Governmental Affairs, jointly, by unanimous consent.

CONTRACT DISPUTES ACT OF 1978

Mr. CHILES. Mr. President, I am today introducing a bill which would reestablish principles of equitable treatment for both the Federal Government and Government contractors in contract disputes and claims.

The present means for resolving disputes under Government contracts is a mixture of contract provisions, agency regulation, judicial decisions, and statutory coverage. Basically the methods and forums for handling such disputes exist by executive branch fiat—that is, by the insertion of contract terms specifying how disputes in specific areas will be resolved—and by agency regulations governing the procedural and substantive adjudication of disputes. The agency boards of contract appeals are appointed by, report to, and are paid by the agency involved in the dispute. Their subpena power is limited. Often they must decide cases concerning action by high-level agency officials. The contractor has as long as 6 years to initiate an appeal of an agency board decision under the provisions of the Tucker Act. The availability of such review is limited by the Wunderlich Act and subsequent judicial interpretation of it.

Direct access to the courts is limited to so-called breach of contract claims, and the agencies can, and do, circumscribe such access by terms and conditions in contracts that are not, in general, subject to negotiation. In other words, a contractor has little choice in the matter.

In large part, the present Government contract remedies system has developed in an unplanned manner. Many of the rules and requirements that govern the system are the result of knee-jerk reactions to various events and decisions. The predilections of different agencies to boards of contract appeals and court decisions bring forth new provisions and procedures that are restrictive and uncoordinated. There is a continuing power struggle between the boards and the courts, abetted to a degree by the astuteness of some practicing attorneys in looking after their clients' interests.

The problems are further compounded by the sporadic and ambivalent characterization of agency contract appeal boards by the Supreme Court and by the inappropriate application of Administrative Procedure Act philosophy to the contract dispute adjudicatory process. Although the boards have evolved into trial courts, as the result of S. & E. Contractors, Inc., against United States the Government may be barred totally from appealing adverse findings and conclusions of law by these boards. Furthermore, the present system is often too expensive and time-consuming for the efficient and cost effective resolution of small claims and, on the other hand, often fails to provide the procedural safeguards and other elements of due process that should be the right of litigants.

The existing dispute system, as we know it, may have been satisfactory in earlier years, but Government procurement has grown too important and too complex for the disputes-resolving machinery to operate in a horse and buggy mode. How procurement functions has a far-reaching impact on the economy of our society and on the success of many major Government programs. Both can be affected by the existence of competition and quality contractors—or by the lack thereof. The way potential contractors view the disputes-resolving system influences how, whether, and at what prices they compete for Government contract business.

One cannot dispute the almost universal expressions of opinion by industry and the practicing bar that the system needs change. A good remedies system is a major element in good procurement, and a good system depends not only on fairness and justice, but also on whether the people who are subject to the system believe it is fair and just.

Most, if not all, of the Procurement Commission's recommendations in the disputes and remedies area have been proposed and debated before. Each recommendation traditionally has had its proponents and its opponents. Each group generally has been for or against particular recommendations, depending on whether they would serve his interest group, whether it be the Government, the private bar, or industry. Since no single group has generated enough support to get its favorite recommendations adopted, the present system remains, while the debates continue.

I believe the time has come for the Congress to take positive action to bring order out of this chaos. This bill would achieve the objectives sought by the Commission on Government Procurement:

Induce resolution of more contract disputes by negotiation prior to litigation.

Equalize the bargaining power of the parties when a dispute exists.

Provide alternative forums suited to handle the different types of disputes.

Insure fair and equitable treatment of contractors and Federal agencies.

When considering the individual sections of this remedies bill, it is important to understand that they were designed to complement one another in order to accomplish this set of objectives.

Mr. President, competition, minimal Government regulation, the fair and swift resolution of disputes, these benefits can hardly be measured in dollars, yet they form an important part of the foundation on which this country prospers.

Mr. President, I ask unanimous con-

sent that an analysis of the bill be printed in the RECORD.

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

ANALYSIS OF MAJOR SECTIONS OF "THE CONTRACT DISPUTES ACT OF 1978"

CLAIMS AND DISPUTES SETTLEMENT AUTHORITY

Section 4 embodies recommendation #5 of the Commission on Government Procurement to enable each executive agency to decide, settle and make payment on all disputes and claims arising out of the contract entered into between the agency and a contractor apart from any boards of appeal. This would include those disputes arising out of claims under the contract, as well as those of breach of contract.

At the present time, the lack of an "all disputes" clause leads to fragmentation of claims and remedies between those under the contract and those in breach. If a contracting officer denies a claim there must be a determination as to which course of action to take. It is often difficult to differentiate between claims under the contract and breach claims. If the contractor decides to press his claim as breach of contract in a court of law and this appeal is denied, he has often lost recourse to an administrative remedy because a 30-day appeal time has been exhausted while the claim was being decided in court. He has no further recourse and his claim must then be forfeited.

This consolidated disputes authority for the agencies should strengthen and simplify the contractors' business relationship with the Government and the Government's ability to deal directly with contractors. It is more efficient for both parties if this artificial division of remedies can be simplified by statute. This increased agency jurisdiction is balanced by the provision of optional direct access to judicial forums (Section 10(a). Otherwise the contractors opportunity for complete justice would be severely curtailed.

DECISION BY THE CONTRACTING OFFICER

Section 5 would require that decisions by the contracting officer be prompt within sixty days from written request, thus insuring prompt and definitive rulings on claims. This would eliminate many problems contractors now have with obtaining decisions at the contracting officer level.

INFORMAL ADMINISTRATIVE CONFERENCE

Section 6 deals with the Procurement Commission recommendation #2 to provide an informal administrative conference to explore the possibility of settlement of the dispute between the contractor and the agency. Under this provision the contractor may request an informal conference on a decision by the Contracting Officer for the purpose of satisfactorily disposing of the claim before it goes on to litigation.

The Commission felt that if contracting officers knew their decisions could be informally reviewed it would give them additional confidence in making decisions that they felt to be controversial or unpopular with their superiors. There is the added benefit in giving the agency the opportunity to review a decision that it may basically not agree with.

Emphasis is placed on the possibility of settlement rather than merely reviewing the decision of the contracting officer. This informal conference must be held or waived by the contractor before any further proceedings take place. Many agencies now provide for formal and informal review of a contracting officer's findings prior to board or court proceedings. However, as of now, the contractor does not normally participate.

CONTRACTORS' RIGHT OF APPEAL TO BOARD OF CONTRACT APPEALS

Section 7 would extend the period from the current thirty days to ninety days and would insure that contractors will not be shut off from the appeals opportunity due to clerical errors, mistakes, or the need to obtain legal advice.

AGENCY BOARDS OF CONTRACT APPEALS

Section 8 implements parts of the Commission's recommendation #3 and would place agency boards of contract appeals on a statutory footing providing independence and giving board members appropriate salaries needed for recruitment and retention.

The statutory minimum of five person boards would eliminate inefficiencies now exhibited in some of the smaller boards. The role of the Administrator of Federal Procurement Policy will insure uniformity of rules and procedures between the boards and will act as a central clearing point to insure that the boards meet the guidelines for establishment. The inclusion of increased subpoena, discovery and other judicial-type powers will insure the board's capability to give fair and equitable treatment to all parties.

SMALL CLAIMS

Section 9 sets into motion the establishment of rules and regulations for expedited resolution of claims of $25,000 or less. By giving the Government no judicial review and allowing the contractor to go to the court with a de novo trial upon receiving an adverse decision, the opportunity for resolution of small claims is increased considerably.

SUIT IN COURT: JUDICIAL REVIEW OF BOARD DECISIONS

Section 10 implements the Commission's recommendations Nos. 6, 7, 8, and 9. Contractors would now be able to go to court directly if they chose.

Such direct access has been called the keystone of the entire reform system recommended by the Commission. It will provide the flexibility that the Commission saw as essential to a fair and workable system. Direct access would permit questions that ultimately must go to court because of their size, importance or nature to go there directly and without delay. It would further assure contractors of their fundamental rights to a full judicial trial.

This recommendation restores to a contractor the right to a day in court, a right which has been eroded by the creation of administrative regulation and subsequent court interpretations of such regulations. Thus, intent of the Tucker Act, which limited the doctrine of sovereign immunity is reaffirmed.

At present, a trial on the merits is afforded to all other plaintiffs filing actions where sovereign immunity has been relinquished and was in this field until the enactment of the Wunderlich Act in 1954 (repealed by this Act).

Time limits are established in this section which give the contractor twelve months to appeal an adverse decision as opposed to the six years presently allowed. This 6-year time period often results in the government being called on to present a defense many years after personnel with knowledge about the case are available and documents or records important to the case have been destroyed.

The government is given 90 days in which to appeal an adverse decision. This stricter time limit has been placed on the government because until a final decision is made in his favor, a contractor cannot get paid for the work in dispute. Contractors must, under government contract requirements, continue work pending a final decision of the claim.

The Attorney General may appeal an adverse decision for an agency when he concurs with the request for appeal from the head of an executive agency. The Administrator of Procurement Policy must also approve this request.

Also included in this section is a new remand policy whereby the court reviewing a board decision may receive additional evidence as may be necessary to make final disposition of the case.

SUBPOENA, DISCOVERY AND DEPOSITION

Section 11 embodies part of the Commission's recommendation No. 3 and gives the administrative boards greater subpoena powers by compelling the attendance of witnesses and requiring the submission of evidence through deposition and discovery techniques. These procedures will, in turn, aid the contractor in developing his case.

INTEREST

Section 12 implements the Commission's recommendation No. 11 and provides for the payment of interest to the contractor upon winning his appeal.

REPEALS AND AMENDMENTS

Section 14(a) implements the Commission's recommendation No. 12 and raises the jurisdictional limit for the district courts from $10,000 to $100,000. This would provide the opportunity for more contractors to appeal cases in their home locale.

Section 14(g) gives the district courts jurisdiction to give injunctive and declaratory relief to contractors in government contract cases.

Mr. CHILES. Mr. President, I ask unanimous consent that the bill be jointly referred to the Committee on the Judiciary and the Committee on Governmental Affairs. I have discussed this action with the chairman of the Judiciary Committee.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Florida? The Chair hearing none, it is so ordered.

By Mr. LONG (for himself, Mr. MAGNUSON, and Mr. STEVENSON):

S. 2788. A bill to amend section 216 of the Regional Rail Reorganization Act of 1973 to authorize the purchase of an additional $600 million of the series A preferred stock of the Corporation, and for other purposes; to the Committee on Commerce, Science, and Transportation.

U.S. RAILWAY ASSOCIATION AMENDMENTS ACT OF 1978

Mr. LONG. Mr. President, there has been increasing concern and much discussion over the Federal funding role in the field of rail transportation in recent years. More recently the subject has been raised with the submission of the Consolidated Railroad Corporation's 5-year plan to the U.S. Railway Association.

As most of my colleagues are aware, it has been a little less than 2 years now since ConRail, capitalized with $2.1 billion of Federal money, went into business by merging parts of six bankrupt northeastern railroads. Since beginning operations in April of 1976, ConRail has been struggling to rehabilitate its revenue car and locomotive fleet which was in poorer physical condition than anticipated by the U.S. Railway Association in its final system plan. The predecessor railroads, especially the Penn Central, did not ade-

quately maintain their physical plants and equipment during the period from bankruptcy to conveyance date. Therefore, the age and condition of ConRail's car and power fleets adversely affected the railroad's performance and manpower during its first 2 years of operations. In addition, many of the yard and shop facilities were in poor condition, requiring substantial repair and modernization.

ConRail's current problems are not entirely due to the inheritance of a deteriorated plant and equipment. ConRail expended over $750 million, excluding depreciation in roadway and track rehabilitation programs during its first year of operation. Although many of these programs were ahead of final system plan projections, the net benefit to the railroad's financial performance was negligible during this period. During the first quarter of 1977 the railroad was adversely affected by the severe winter weather. Losses of over $100 million have been attributed mainly to lost revenues and increased maintenance and labor costs. ConRail continues to refer to this situation as the reason for its poor performance in certain operational and financial areas.

In conclusion, Mr. President, ConRail's operations during its first 2 years have exceeded expectations in some areas, but have lagged behind final system plan projections in others. Its operational and financial statistics for the period indicate the railroad has not progressed in many crucial performance areas. Major problems exist in the operational, revenue generating and cost control areas. Since the long-term goal of ConRail and USRA is to develop a self-sustaining railroad, improvements throughout the system will be required. ConRail projects that it will need an additional $1.283 billion in Federal financing during the period from 1978 to 1982 to support rehabilitation of physical assets, to provide adequate working capital, and to compensate for operating losses. ConRail is seeking a first installment of approximately $600 million to cover its fiscal year 1979 funding shortfall.

There are a number of recommendations that have been suggested for dealing with ConRail's short-term money requirements for fiscal year 1979. I am introducing legislation today which will provide a means for examining these alternative funding mechanisms and conducting oversight hearings on ConRail's operating performance since April 1, 1976.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2788

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 "United States Railway Association Amendments Act of 1978".

SEC. 2. (a) Section 216 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726) is amended by striking out "$1,100,000,000" each place it appears therein, and inserting in lieu thereof in each such place "$1,700,000,000".

(b) Section 216(b) of such Act (45 U.S.C. 716(b)) is amended by striking out "$2,100,000,000" and inserting in lieu thereof "$2,700,000,000".

SEC. 3. The amendments made by section 2 of this Act shall become effective on the date of enactment of this Act.

By Mr. LONG:

S. 2789. A bill to provide authorization for appropriations for the Office of Rail Public Counsel, and for other purposes; to the Committee on Commerce, Science, and Transportation.

RAIL PUBLIC COUNSEL AUTHORIZATION ACT OF 1979

Mr. LONG. Mr. President, I am introducing today the Rail Public Counsel Authorization Act of 1979 for appropriate reference.

The Rail Public Counsel's Office was created by section 304 of the Railroad Revitalization and Regulatory Reform Act of 1976 to provide responsible and professional representation for the many communities and users of rail service who otherwise might not be adequately represented in proceedings involving rail matters.

This legislation will assure that the public interest considerations are properly presented before the various deciding bodies.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2789

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 27(6) of the Interstate Commerce Act (49 U.S.C. 26(b)) is amended—

(a) by striking out "and" immediately after ", 1977,"; and

(b) by inserting immediately before the period at the end thereof the following ", and not to exceed $800,000 for the fiscal year ending September 30, 1979".

By Mr. JAVITS (for himself, Mr. WILLIAMS, Mr. PELL, Mr. RANDOLPH, Mr. EAGLETON, Mr. CHAFEE, Mr. RIEGLE, Mr. HATCH, and Mr. HATHAWAY):

S. 2792. A bill to revise and extend the program for gifted and talented children in order to provide a consolidation of that program with other educational programs, and for other purposes; to the Committee on Human Reources.

GIFTED AND TALENTED EDUCATION ACT OF 1978

Mr. JAVITS. Mr. President, on March 15, I introduced S. 2749, the Gifted and Talented Education Act of 1978. Unfortunately, a major error in the printing of the bill resulted in the substitution of part of another piece of legislation for part of S. 2749, rendering the printed version of S. 2749 incomprehensible.

I, therefore, introduce the proper text as a new bill, with the following cosponsors: Senators WILLIAMS, PELL, RANDOLPH, EAGLETON, CHAFEE, RIEGLE, HATCH, and HATHAWAY.

I ask unanimous consent that the bill be printed in the RECORD.

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

S. 2792

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 Gifted and Talented Education Act of 1978".

AUTHORIZATION

SEC. 2. Section 401 of the Elementary and Secondary Education Act of 1965 (hereinafter in this Act referred to as the "Act") is amended by redesignating subsection (d), and all references thereto, as subsection (e), and by adding after subsection (c) of such section, the following new subsection:

"(d) There is authorized to be appropriated the sum of $50,000,000 for obligation by the Commissioner during the fiscal year 1979 and for each of the four succeeding fiscal years, for the purpose of making grants under part D (Education of Gifted and Talented Children) of this title.".

ALLOTMENT

SEC. 102. (a) (1) The first sentence of section 402(a)(1) of the Act is amended by striking out "subsections (a) or (b), or both," and inserting in lieu thereof "subsections (a), (b), or (d) or under any such subsection,".

(2) The second sentence of such section is amended by striking out "under part B or part C, or both" and inserting in lieu thereof "under part B, part C, or part D, or any such part,".

(b) (1) Section 402(a)(2) of the Act is amended by striking out the second and the third sentence thereof.

(2) Section 402(a) of the Act is amended by inserting after paragraph (2) the following new paragraphs:

"(3) From the amounts appropriated to carry out part D of this title for any fiscal year pursuant to subsection (d) of section 401, the Commissioner shall reserve 75 per centum of such amounts to be allotted to the States. The Commissioner shall allot to each State from such amount so reserved an amount which bears the same ratio to such amounts so reserved as the number of children aged five to seventeen, inclusive, in the State bears to the number of such children in all the States.

"(4) For the purpose of this subsection, the term 'State' shall not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands. The number of children aged five to seventeen, inclusive, in a State an in all States shall be determined by the Commissioner on the basis of the most recent statisfactory data available to him.".

(c) Section 402(b) of the Act is amended by striking out "part B or C" and inserting in lieu thereof "part B, C, or D".

STATE PLANS

SEC. 4. (a) Section 403(a)(2) of the Act is amended by striking out "parts B and C" and inserting in lieu thereof "parts B, C, and D".

(b) Section 403(a)(8) of the Act is amended by striking out "and" at the end of clause (B), by striking out the semicolon at the end of clause (C) and by adding at the end thereof the following new clauses:

"(D) that not less than 25 per centum of the amounts which such State receives from its allotment under sections 401(d) and 402 (a)(3) in any fiscal year shall be used to make payments to local educational agencies to be used by local educational agencies for programs and projects which include identification and education of disadvantaged gifted and talented children from low-income families; and

"(E) from the funds described under clause

(A), the State will administer the provisions of State plans relating to section 441(a) of part D.

(c) Section 403(a) of the Act is amended by striking out "and" at the end of paragraph (10), by striking out the period at the end of paragraph (11), and inserting in lieu thereof a semicolon and the word "and", and by adding at the end thereof the following new paragraphs:

"(12) provide, with respect to programs and projects authorized by part D of this title—

"(A) satisfactory assurance that funds paid to the State from its allotment will be expended solely to plan, establish, and operate programs and projects which—

"(i) are designed to identify and to meet the special educational and related needs of gifted and talented children, and

"(ii) are of sufficient size, scope, and quality as to hold reasonable promise of making substantial progress toward meeting those needs:

"(B) that the State educational agency will establish such policies and procedures as are necessary for acquiring and disseminating information derived from educational research, demonstration and pilot projects, new educational practices and techniques, and the evaluation of the effectiveness of the program or project in achieving its purpose; and

"(13) provide that funds made available to any local educational agency from the State's allotment for the programs authorized under part D of this title may be used for the acquisition of instructional equipment to the extent such equipment is necessary to enhance the quality or the effectiveness of the program for which the application by such an agency is made.".

PAYMENTS

SEC. 5. Section 405 of the Act is amended by inserting "(a)" after the section designation, and by adding at the end thereof the following new subsection

"(b)(1) From the amounts allotted to each State under section 402(a)(3) for carrying out programs authorized by part D, the Commissioner shall pay to that State an amount equal to the Federal share of the amount expended by the State in carrying out its State plan (after withholding any amount necessary pursuant to section 406 (f)).

"(2) The Federal share for the fiscal year 1979 shall be 90 per centum, for the fiscal year 1980, 80 per centum, for the fiscal year 1981, 70 per centum, for the fiscal year 1982, 60 per centum, and for the fiscal year 1983, 50 per centum.".

PROGRAM AUTHORIZED

SEC. 6. Title IV of the Act is amended by adding at the end thereof the following new part:

"Part D—Education of Gifted and Talented Children

"PROGRAM AUTHORIZED

"SEC. 441. (a) The Commissioner shall carry out a program from 75 per centum of the amounts appropriated pursuant to section 401(d) (for making grants to the States pursuant to States plans approved under section 403) for the planning, development, operation, and improvement of programs and projects designed to meet the special educational needs of gifted and talented children at the preschool and elementary and secondary school levels.

"(b) From 25 per centum of the sums appropriated pursuant to section 401(d) the Commissioner is authorized to—

"(1) make grants to State educational agencies to assist them in establishing and maintaining, directly or through grants to institutions of higher education, a program for training personnel engaged or preparing to engage in educating gifted and talented children or as supervisors of such personnel;

"(2) make grants to institutions of higher education and other appropriate nonprofit institutions or agencies to provide training to leadership personnel for the education of gifted and talented children and youth; and

"(3) enter into contracts with, and make grants to, public and private agencies and organizations, including State and local educational agencies, for the establishment and operation of model projects for the identification and education of gifted and talented children.

For the purpose of clause (2) of this subsection, leadership personnel may include, but are not limited to, teacher trainers, school administrators, supervisors, researchers, and State consultants, and grants under such clause may be used for internships, with local, State, or Federal agencies and other public or private agencies or institutions.

"(c) Notwithstanding the second sentence of section 405(b)(1) of the General Education Provisions Act, the National Institute of Education shall, in accordance with the terms and conditions of section 405 of such Act carry out a program of research and related activities relating to education of gifted and talented children. The Commissioner is authorized to transfer, from amounts available for the purposes of subsection (b), to the Institute of Education such sums as may be necessary for the program required by this subsection, but such sums shall not exceed 5 per centum of the amount available for this part in any fiscal year. As used in the preceding sentence the term 'research and related activity' means research, research training, surveys and demonstrations in the field of education of gifted and talented children and youth, or the dissemination of information derived from such research, surveys or demonstration, and all such activities, including experimental and model schools.

"ADMINISTRATION

"SEC. 442. (a) The Commissioner shall designate an administrative unit within the Office of Education to administer the programs and projects authorized by this part and to coordinate all programs for gifted and talented children and youth administered by the Office of Education.

"(b) The Commissioner shall establish or designate a clearinghouse to obtain and disseminate to the public information pertaining to the education of gifted and talented children and youth. The Commissioner is authorized to contract with public or private agencies or organizations to establish and operate the clearinghouse.".

ADDITIONAL COSPONSORS

S. 1010

At the request of Mr. MCINTYRE, the Senator from North Carolina (Mr. MORGAN) was added as a cosponsor of S. 1010, the Consumer Cooperative Bank Act.

S. 2533

At the request of Mr. CHURCH, the Senator from New York (Mr. JAVITS) and the Senator from Georgia (Mr. NUNN) were added as cosponsors of S. 2533, a bill to provide for the use of alcohol produced from renewable resources as a motor vehicle fuel.

S. 2557

At the request of Mr. HUDDLESTON, the Senator from Nebraska (Mr. ZORINSKY) and the Senator from Ohio (Mr. METZENBAUM) were added as cosponsors of S. 2557, the Emergency Transportation Repair Act.

S. 2565

At the request of Mr. MATHIS, the Senator from Minnesota (Mrs. HUMPHREY) was added as a cosponsor of S. 2565, a bill to provide for further research and services with regard to victims of rape.

S. 2568

At the request of Mr. DOMENICI, the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 2568, a bill for the relief of Pranas Brazinskas.

S. 2569

At the request of Mr. DOMENICI, the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 2569, a bill for the relief of Algireas Brazinskas.

S. 2573

At the request of Mr. HELMS, the Senator from Nebraska (Mr. CURTIS) and the Senator from Utah (Mr. GARN) were added as cosponsors of S. 2573, a bill to limit the jurisdiction of the Supreme Court concerning voluntary prayer in public schools.

S. 2606

At the request of Mr. CHURCH, the Senator from Idaho (Mr. MCCLURE) was added as a cosponsor of S. 2606, a bill to amend and supplement the Federal reclamation laws.

S. 2727

At the request of Mr. STEVENS, the Senator from Washington (Mr. MAGNUSON), the Senator from Louisiana (Mr. LONG), the Senator from Kentucky (Mr. FORD), the Senator from Michigan (Mr. RIEGLE), the Senator from Colorado (Mr. HART), the Senator from Rhode Island (Mr. CHAFEE), and the Senator from Minnesota (Mr. ANDERSON) were added as cosponsors of S. 2727, a bill to promote and coordinate amateur sports.

S. 2730

At the request of Mr. WILLIAMS, the Senator from Idaho (Mr. CHURCH), the Senator from Alaska (Mr. STEVENS), and the Senator from Maine (Mr. MUSKIE) were added as cosponsors of S. 2730, a bill to establish a Hubert H. Humphrey Fellowship in Social and Political Thought at the Woodrow Wilson International Center for Scholars at the Smithsonian Institution and to establish a trust fund to provide a stipend for such fellowship.

SENATE JOINT RESOLUTION 118

At the request of Mr. JOHNSTON, the Senator from Maine (Mr. HATHAWAY) was added as a cosponsor of Senate Joint Resolution 118, to declare an Emergency Medical Services Week.

SENATE RESOLUTION 419

At the request of Mr. DECONCINI, the Senator from South Dakota (Mr. ABOUREZK), the Senator from Maryland (Mr. SARBANES), the Senator from Alabama (Mr. ALLEN), the Senator from Rhode Island (Mr. PELL), the Senator from Kansas (Mr. DOLE), the Senator from Oregon (Mr. PACKWOOD), and the Senator from New Jersey (Mr. WILLIAMS) were added as cosponsors of Senate Resolution 419, condemning the kidnaping of former Italian Premier Aldo Moro.

SENATE CONCURRENT RESOLUTION 72

At the request of Mr. CASE, the Senator from New Mexico (Mr. DOMENICI), the Senator from Hawaii (Mr. MATSUNAGA), and the Senator from Indiana (Mr. LUGAR) were added as cosponsors of Senate Concurrent Resolution 72, regarding efforts to counter international terrorism.

SENATE RESOLUTION 423—ORIGINAL RESOLUTION REPORTED AUTHORIZING A STAFF INVESTIGATOR TO PRESENT TESTIMONY

Mr. JACKSON, from the Committee on Governmental Affairs, reported the following original resolution, which was ordered placed on the calendar:

S. RES. 423

Whereas, by letter dated March 16, 1978, the Chairman of the Select Committee on Assassinations of the United States House of Representatives has requested that Philip R. Manuel, a staff investigator of the Senate Permanent Subcommittee on Investigations, appear and give executive session testimony before that body on matters pertinent to the inquiry currently being conducted by that body;

Whereas, the subject matter of that executive session testimony pertains to information obtained by Mr. Manuel in the course of his employment as a staff investigator for the Senate Permanent Subcommittee on Investigations; and

Whereas, by the privileges of the Senate of the United States and by Rule XXX of the Standing Rules of the Senate, no information secured by staff employees of the Senate pursuant to their official duties may be revealed without the consent of the Senate: Therefore, be it

Resolved, That Philip R. Manuel is authorized to present himself and give executive session testimony before the Select Committee on Assassinations of the United States House of Representatives pursuant to the written request of the Chairman of said Select Committee.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the Honorable Louis Stokes, Chairman, Select Committee on Assassinations, United States House of Representatives, Washington, D.C. 20515.

● Mr. JACKSON. Mr. President, I report today a resolution to permit executive session testimony by a staff investigator of the permanent Subcommittee on Investigations of the Committee on Governmental Affairs pursuant to the written request of the chairman of the Select Committee on Assassinations of the House of Representatives.

By letter dated March 16, 1978, the Honorable LOUIS STOKES, chairman of the House Select Committee on Assassinations, requested that the permanent Subcommittee on Investigations authorize Philip R. Manuel, a subcommittee investigator, to appear and give executive session testimony before that body concerning information obtained by Mr. Manuel in the course of his employment as a staff investigator and pertinent to the inquiry currently being conducted by the Select Committee on Assassinations.

Pursuant to rule XXX of the Standing Rules of the Senate, and the privileges of the Senate, such testimony may not be presented without the approval of the Senate.

Accordingly, I report the resolution approved by the Committee on Governmental Affairs, and ask that this resolution be agreed to.●

SENATE RESOLUTION 424—SUBMISSION OF A RESOLUTION RELATING TO A NEW CANAL CONNECTING THE ATLANTIC AND PACIFIC OCEANS

Mr. MAGNUSON submitted a resolution, which was referred to the Committee on Foreign Relations:

S. Res. 424

Resolved, that it is the sense of the Senate that the President of the United States should immediately begin negotiations with the government of the Republic of Panama, or with the government of any other appropriate country if agreed to by the two Parties, regarding the construction, maintenance and operation of a new canal connecting the Pacific and Atlantic Oceans.

(The remarks of Mr. MAGNUSON when he submitted the resolution appear earlier in today's proceedings.)

AMENDMENTS SUBMITTED FOR PRINTING

NAVIGATION DEVELOPMENT ACT—H.R. 8309

AMENDMENT NO. 1742

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

Mr. SARBANES (for himself and Mr. MATHIAS) submitted an amendment intended to be proposed by them, jointly, to the bill (H.R. 8309) authorizing certain public works on rivers for navigation, and for other purposes.

● Mr. SARBANES. Mr. President, I send to the desk on behalf of myself and my able colleague, the distinguished senior Senator from Maryland (Mr. MATHIAS), an amendment to H.R. 8309, the Navigation Development Act, which authorizes the U.S. Army Corps of Engineers to deepen the channel of the Choptank River and the Cambridge Harbor turning basin in Dorchester County, Md. My amendment will authorize the corps to increase the channel and harbor depth to 25 feet so that more vessels with larger cargoes can call on the Cambridge Port.

The deeper channel and harbor are vitally important to the economy of Cambridge, Md., and to the eastern shore area which it serves. The area's seafood packing industry depends on a steady traffic of fully loaded vessels. In addition, Cambridge has undertaken a special effort to export agricultural products and recently a vessel loaded with locally grown corn departed Cambridge for Nigeria. This was the largest vessel ever to use the harbor and there is a great export potential with clear benefits for the local farm economy. Cambridge is also undertaking a vigorous economic development program in which it seeks to expand its economic base. All of these activities require that the harbor and channel be deep enough to handle fully loaded cargo vessels.

The Cambridge community strongly support this project and community leaders and local officials, particularly Mayor Albert Atkinson and State Senator Fred Malkus, have been unstinting in their effort to get this project underway. After some delays, the channel and harbor dredging have now been approved by the Corps of Engineers and the Department of the Army. The project has a fine cost-benefit ratio and local financial participation is assured. Mr. President, this is a most important project and I urge my colleagues to support its authorization when H.R. 8309 is considered by the Senate.●

VETERANS PENSION—S. 2384

AMENDMENT NO. 1743

(Ordered to be printed and referred to the Committee on Veterans' Affairs.)

Mr. THURMOND (for himself, Mr. HANSEN, and Mr. STAFFORD) submitted an amendment intended to be proposed by them, jointly, to the bill (S. 2384) to amend title 38 of the United States Code in order to provide a security pension program for non-service-connected disabled veterans of a period of war who are in need, for surviving spouses of veterans of a period of war who are in need, and for surviving children of veterans of a period of war who are in need; to provide for annual automatic cost-of-living adjustments in the security pension program; to prevent reductions in security pension benefits solely attributable to cost-of-living increases in social security benefits; and for other purposes.

NATIONAL PROGRAM OF WATER RESEARCH AND DEVELOPMENT—S. 2704

AMENDMENT NO. 1744

(Ordered to be printed and referred to the Committee on Environment and Public Works.)

Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill (S. 2704) to promote a more adequate and responsive national program of water research and development, and for other purposes.

● Mr. DOMENICI. Mr. President, when I joined recently in cosponsoring S. 2704, by request, I made a speech on the floor analyzing the bill. In that speech, I explained why the new bill must not be used to undercut the 1977 initiative authorizing four demonstration projects for saline water conversion. Unless we amend S. 2704, it would repeal entirely the Water Research and Conversion Act of 1977 (Public Law 95–84).

I am today submitting an amendment that would incorporate within S. 2704 the exact language approved by the Congress in Public Law 95–84. Section 2 of that 1977 law directed the Secretary of the Interior—

To study, design, construct, operate, and maintain desalting plants demonstrating the

engineering and economic viability of membrane and phase-change desalting processes at not more than four locations in the United States . . . provided, that at least two such plants shall demonstrate desalting of brackish ground water.

A total of $40,000,000 was authorized for the section 2 program, beginning in fiscal year 1978, with additional sums to be available "as are necessary to defray operations, maintenance, and energy costs for demonstration plants during the periods of Federal responsibility for such activities."

Specifically, my amendment creates a new section 206 in S. 2704, and provides specific dollar authorizations for this work in section 402 of the bill. As indicated, this would merely codify the 1977 provision within this new, organic act.

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

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

AMENDMENT No. 1744

On page 18, after line 19, insert the following:

"SEC. 206(a) Notwithstanding any limitation imposed by Section 205(b)(3) of this Title, the Secretary is authorized and directed to study, design, construct, operate, and maintain desalting plants demonstrating the engineering and economic viability of membrane and phase-change desalting processes at not more than four locations in the United States, including Puerto Rico, Virgin Islands, and Guam: *Provided*, That at least two such plants shall demonstrate desalting of brackish ground water.

"(b) Funds appropriated pursuant to the authority provided by this section may not be expended until thirty calendar days (excluding days on which either the House of Representatives or the Senate is not in session because of an adjournment of more than three calendar days to a day certain) have elapsed following transmittal of a report to the chairman of the Committee on Interior and Insular Affairs of the House of Representatives and the chairman of the Committee on Environment and Public Works of the United States Senate. Such report shall present information that includes, but is not limited to, the location of the demonstration plant, the characteristics of the water proposed to be desalted, the process to be utilized, the water supply problems confronting the area in which the plant will be located, alternative sources of water and their probable cost, the capacity of the plant, the initial investment cost of the demonstration plant, the annual operating cost of the demonstration plant, the source of energy for the plant and its cost, the means of reject brine disposal and its environmental consequences, and the unit cost of product water, considering the amortization of all components of the demonstration plant and ancillary facilities. Such report shall also be accompanied by a proposed contract between the Secretary and a duly authorized non-Federal public entity, in which such entity shall agree to furnish, at no cost to the United States, necessary water rights, water supplies, rights-of-way, power source interconnections, and brine disposal facilities. Such proposed contract will further provide that the United States will construct the plant described in the report at no cost to the non-Federal public entity and that the United States will provide all costs of operation and maintenance of the plant for a term of at least two but not more than five years, during which access to the plant and its operating data will not be denied to the Secretary or his representatives. The Secretary is authorized to include in the proposed contract a provision for conveying all rights, title, and interest of the Federal Government to the non-Federal public entity, subject only to a future right to re-enter the facility for the purpose of financing at Federal expense modifications for advanced technology and for its operation and maintenance for a successive term under the same conditions as pertain to the original term."

On page 25, after line 16, insert the following:

"(c) There is authorized to be appropriated, to remain available until expended, for the fiscal year ending September 30, 1978, and thereafter the sum of $40,000,000 to finance the construction of demonstration plants authorized by Section 206 of this Act. There are also authorized to be appropriated such additional sums as are necessary to defray operation, maintenance, and energy costs for demonstration plants during the periods of Federal responsibility for activities under Section 206 of this Act." ●

INTERNATIONAL DEVELOPMENT CORPORATION ACT OF 1978—S. 2420

AMENDMENTS NOS. 1745 AND 1746

(Ordered to be printed and referred to the Committee on Foreign Relations and the Committee on Governmental Affairs.)

Mr. KENNEDY submitted two amendments intended to be proposed by him to the bill (S. 2420) to promote the foreign policy, security, and general welfare of the United States by assisting peoples of the world in their efforts toward economic development by establishing the International Development Corporation Administration, and for other purposes.

● Mr. KENNEDY. Mr. President, beginning today I am submitting a series of amendments to strengthen provisions of S. 2420, the International Development Cooperation Act of 1978, now pending before the Committee on Foreign Relations.

As my colleagues know, this is the late Senator Hubert Humphrey's final piece of legislation, and it is a monument to his many years of dedicated work and concern over America's foreign assistance program. His bill, prepared during the final months of his life, is probably the most significant legislative initiative in the foreign assistance field since President Kennedy's proposals in the early 1960's.

The Humphrey bill wipes the slate clean and starts anew. It broadens the humanitarian and developmental purposes of our foreign assistance program, and strengthens the "new directions" mandated by Congress in recent years to guide our Nation's effort in helping developing countries around the globe. I am pleased to be a cosponsor of this legislation, and I shall work with others in the days and weeks ahead to assure its favorable consideration and final passage.

However, as we all know, the pending bill was considered by Senator Humphrey to be a "working bill"—a strong and firm place from which to begin the large task of rewriting and replacing the Foreign Assistance Act of 1961, as amended. Hearings on the bill have just begun, and there will clearly be a number of major changes and revisions in the bill as its many innovative and important new provisions are more closely studied.

It is within this context, Mr. President, that I will be offering a series of "working amendments" to the bill—to place before the Foreign Relations Committee and its Subcommittee on Foreign Assistance certain proposals to modify the bill, to expand it in certain areas, and to perfect some portions of it.

INTERNATIONAL HEALTH PROGRAMS

First, one of the most important features of the pending bill is its basic revision of the authorizing language for our bilateral development assistance programs. In general, I strongly support the new language in the bill, especially in the agricultural and nutrition field, as well as in human resources development. However, I am concerned over a lack of emphasis on international health programs, and the need to strengthen the bill's provisions in chapter II for population and international health assistance.

We are passing through a period of critical choices in our Nation's foreign assistance program. In this, as in many other areas of U.S. foreign policy, we are faced with the need to reassess our approach and policy toward overseas assistance. The increasing limitation on funds demands that we carefully review our foreign aid expenditures to assure that they support our legitimate foreign policy objectives as well as satisfy the humanitarian needs of the world and the development needs of underdeveloped countries during the coming decade.

In a series of hearings over the past several years before the Subcommittee on Refugees and the Subcommittee on Health, both of which I have served as chairman, a number of important points have emerged which I believe must be given greater emphasis in designing new and productive approaches to our foreign assistance program. The first of these is that the economic development of any country depends greatly upon the well-being of its peoples. Economic advance will always be impeded by hunger, by widespread disease, and by overpopulation. Second, we must recognize that the humanitarian components of any assistance program must be well integrated, so that assistance programs in the areas of nutrition, health, and population can no longer be thought of as independent of one another. Third, we must devise health programs that will meet the real needs of the poor people of these countries and learn to formulate projects that will get the benefits of our assistance program down to the grassroots level. Finally, in this changing political world, we must realize that it is no longer suitable to work alone and paternalistically in our international health programs. We must develop truly cooperative ventures with needy countries, directed more at helping them to solve their own health problems for the long term, rather than attempting to effect our own short-term solutions to these problems.

Mr. President, the amendments which

I am proposing today focus on the international health aspects of our foreign assistance program, although they do have large implications in other areas.

But even in the health field, the problems of the Third World are massive, and we should be doing more about it. Moreover, what we do, we should do more effectively. This is not only a question of satisfying the traditional American humanitarian concern; it is also something that we should be doing in our enlightened self-interest. The health of one part of the world inevitably affects the health of another part. By helping to eradicate smallpox in the last afflicted areas of the globe, we eliminated the need for expensive, and sometimes hazardous, smallpox innoculations in other areas of the world.

Today, the health problems of the world, and especially of developing nations, are truly staggering. It is an enormous human tragedy that one-fourth of the people on this Earth have no access to any health care whatever, while another billion people have only the most rudimentary and ineffective care. In some nations, four persons out of every five receive no health care at all throughout their lives. These are the very people who need health care the most. Over 300 million people throughout the world suffer from filariasis, while in Africa 1 person in 10 will be affected by the "river blindness" form of this disease, which seriously impedes agricultural productivity and economic development. Malaria affects 200 million people, and in some parts of tropical Africa every child over 1 year old will catch this disease and 1 million children will die of it each year.

The list is very long, and statistics like these are well known. But behind the figures are the people, the hundreds of millions of human beings living lives of desperation. Fear and hunger, sickness and death, are the horsemen of their daily living apocalypse.

Why is not more being done? Why do the experts tell us that the situation will get worse by the year 2000? It is time that the people of the United States and other advanced nations rise up in outrage at these conditions, and demands that governments work together to end this global blight. In the United States, very little research is being carried out on tropical diseases, and yet this must be an important component of any foreign assistance program.

Mr. President, I would suggest that not only can much be done about these disease problems, but that dollars spent in this area are some of the most cost effective in terms of foreign assistance. Further, improvement of the health of peoples abroad can have a direct influence on the health and the health-care costs of the American people. Again, I need only cite one example of this. The U.S. contribution to the worldwide smallpox eradication campaign cost us a total of some $25 million, but because eradication of this disease enabled us to terminate our own domestic smallpox vaccination program, we are now able to save over $125 million a year domestically as the direct result of our modest international effort in this area.

Mr. President, the principal objectives of these amendments are:

First, to give full recognition to health activities in our foreign assistance program, and to integrate these activities with related efforts in nutrition and population;

Second, to attempt to orient our foreign assistance program more toward the solution of the problems of the rural poor in terms of the most prevalent tropical diseases and needs of a developing primary health care system, rather than to engage in activities which primarily benefit the urban rich;

Third, to encourage the Agency to utilize more effectively the technical and professional competence that now exists in the Department of Health, Education, and Welfare, in those assistance programs which require the skilled expertise and backup scientific support that exist in such units as the Center for Disease Control and the National Institutes of Health;

Fourth, to mobilize the universities and other institutions to provide the necessary backup in research—basic biomedical, primary health care, et certera—and training of health professionals and paraprofessionals that any development program will need, with an emphasis on helping Third World countries develop their own experts to do much of what has to be done for themselves; and

Fifth, to attempt to free up the foreign assistance agency from its old style parochialism and lack of technical expertise by involving outside professionals more extensively in policy-decision and implementation.

EXPLANATION OF AMENDMENTS

Mr. President, my first amendment, entitled "Health and Disease Prevention," separates the authorization for health from that for population, and is intended to direct the health activities of the agency as devising and carrying out in partnership with developing nations and international organizations a strategy for programs of preventive medicine and basic health care. It focuses on the problems posed by the most serious infectious diseases in underdeveloped countries, with an emphasis on programs carried out in and in cooperation with developing countries, but linked with and supported by the unique health facilities and personnel in American institutions.

The second amendment creates a new title IV in chapter II, and is devoted to strengthening institutional capacity for health development. Section 241, general provisions, emphasizes the importance of strengthening the capabilities of universities and other institutions to assist in the research and teaching efforts required to improve the health of developing countries, and calls for programs of research and application of health technologies in developing countries, linked closely with these American institutions.

Section 242, general authority, authorizes the Administrator to undertake programs to build and strengthen the institutional capacity and human resource skills both in developing countries and within the United States, so as to utilize the expertise of American institutions to the best advantage in the training of foreign nationals and the establishment of collaborative programs to meet the health needs of developing countries.

Section 243 establishes a Board for International Health Development, composed of members with broad expertise in the international health area, some of whom will represent other governmental departments, so that a full integration of U.S. governmental efforts in this area may be achieved. Among the duties of this Board are participation in the formulation of basic policy and strategy, the recommendation of the apportionment of funds in the health area, the assessment of the impact of health programs in developing countries, and the establishment of a peer review system to serve as a quality review monitor of grants and contract programs in the health field.

Section 244 contains the authorization for the utilization for these purposes of the funds made available under section 204.

Section 245 requires of the administrator an annual report to Congress of the activities carried out under this title during the previous year, and a projection of future activities to be conducted during the subsequent fiscal year.

Mr. President, it is time that our foreign assistance program was made more rational, and more responsive both to the needs of the American foreign policy as well as to the problems of hundreds of millions of poor people throughout the world who are ravaged continually by disease and whose desperate appeal for help we can no longer disregard.

Mr. President, I ask unanimous consent that the text of these health amendments be printed in the RECORD.

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

AMENDMENT NO. 1745

On page 6, line 16, after "poverty", insert "and disease".

On page 11, line 12, after "population planning", insert "; health;".

On page 17, line 3, after "POPULATION" strike out "AND HEALTH".

On page 17, line 4, strike out "poor health conditions and".

On page 17, line 17, strike out all after "nutrition." through line 20.

On page 17, line 25, insert "," after "planning" and strike out "In addition to" and insert in lieu thereof "principally".

On page 18, line 2, after "research" insert "." and "In addition,".

On page 19, strike all of line 18 through line 3 of page 20.

On page 20, line 4, section "(f)" is relettered "(e)".

On page 20, line 5, after "section" insert "and section 204".

On page 20, line 10, insert the following new section:

"SEC. 204. HEALTH AND DISEASE PREVENTION. (a) The Congress recognizes that poor health and widespread debilitating disease can vitiate otherwise successful development efforts. The widespread existence of acute and chronic infectious diseases afflicting tens and hundreds of millions of people inhibits food production, accentuates the effects of malnutrition, and impedes economic progress.

Good health conditions are a principal element in improved quality of life and contribute to the individual's capacity to participate in the development process. The Administrator is authorized, on such terms and conditions as he may determine, to furnish assistance for disease prevention and control, improved sanitation and water facilities, basic health education and the extension of primary health care facilities—

"(1) to expand significantly the provision of basic health and sanitation education and services, especially to rural poor people, and to support such research into primary health care services as may best enhance their capacity for self-help.

"(2) to control the major endemic infectious diseases and their consequences; and

"(3) to expand significantly the provision of simplified and improved health technologies to combat these diseases, especially among rural poor people.

There are authorized to be appropriated to the Administrator for the purposes of this section, in addition to funds otherwise available for such purposes, $ for the fiscal year 1979, which amounts are authorized to remain available until expended.

"(b) Assistance provided under this section shall be used primarily for activities which are specifically designed to conserve or restore the health of the poor, through such means as creation and strengthening of local institutions linked to the regional and national levels; the training of appropriate medical care and public health personnel as suitable to their needs; and the creation and strengthening of systems, particularly at the community level, to provide other services and supplies needed by sick people and those at risk from disease, such as by immunization programs, disease vector control, epidemiological support, pure water, health education and improved sanitation.

"(c) The Congress finds that human suffering and disease are widespread and growing in the poorest and most slowly developing countries. In the allocation of funds under this section, special attention shall be given to improving the health in countries which have been designated as relatively least developed by the United Nations Conference on Trade and Development.

"(d) Assistance provided under this section shall be used in coordination with programs carried out under sections 202 and 203, since the problems of malnutrition, disease, and excessive population are intimately connected. In particular, the Administrator is encouraged—

"(1) to devise and carry out in partnership with developing nations and international organizations a strategy for programs of preventive medicine and basic health care, emphasizing the most serious infectious diseases which affect large portions of the population and especially those which affect children;

"(2) to insure that programs of maternal and child health include a population planning component;

"(3) to provide technical, financial, and material support to individuals or groups at the local level for such programs; and

"(4) to utilize to the maximum extent practicable the professional and technical capabilities of the Department of Health, Education, and Welfare through inter-agency agreements.

"(e) Health research carried out under this Act shall—

"(1) be undertaken to the maximum extent practicable in developing countries by developing country personnel, linked with and supported by the unique biomedical research facilities and highly trained personnel of private, public, and governmental research laboratories within the United States;

"(2) take account of the special needs of the poor people of developing countries in the determination of research priorities, including research having a focus on the important disease problems and health care needs of these nations; and

"(3) make extensive use of field testing to adapt basic research to local conditions.

Special emphasis shall be placed on disseminating research results to local health units in which they can be put to use, and especially on institutional and other arrangements needed to assure that the general population has effective access to both new and existing technology.

"(f) Local currency proceeds from sales of commodities provided under the Agricultural Trade and Development Act of 1954, as amended, which are owned by foreign governments, shall be used whenever practicable to carry out the provisions of this section."

Sections "204" through "208" are renumbered "205" through "209".

AMENDMENT No. 1746

On page 40, following line 23, insert the following new Title:

"TITLE IV—STRENGTHENING INSTITUTIONAL CAPACITY FOR HEALTH DEVELOPMENT

"SEC. 241. GENERAL PROVISIONS.—(a) The Congress declares that the United States should strengthen the capacities of United States public institutions, universities, and other eligible private agencies in program-related health institutional development and research, consistent with sections 203 and 204, to enhance the institutional capabilities of the developing countries to provide for themselves the basic public health care needed by their populations; should improve the participation of United States public institutions and universities in the United States government efforts to apply health sciences more effectively to the goal of protecting and improving the health of the people of the world; and in general should provide increased and longer term support to the application of science to solving the special health problems of developing countries.

"The Congress so declares because it finds—

"(1) that the good health of its people is one of the most significant foundations for the economic progress of a nation;

"(2) that the improvement of health and nutrition is of the greatest benefit to the poorest majority of the developing world;

"(3) that research, teaching, and the appropriate application of medical technologies are prime factors in improving health abroad, as well as in the United States;

"(4) that medical research and services abroad has in the past and will continue in the future to provide benefits for the health of the American people, and that improving the health of peoples abroad is of benefit to all; and

"(5) that universities and other institutions need to be encouraged to continue or to expand their efforts to assist in improving the health in developing countries.

"(b) Accordingly the Congress declares that, in order to prevent disease and establish freedom from illness, various components must be brought together, including—

"(1) strengthening the capabilities of universities and other institutions to assist in the research and teaching efforts required to improve the health of developing countries;

"(2) institution-building programs for development of national and regional biomedical research and application capacities in the developing countries;

"(3) international health research centers, including support of appropriate activities by the World Health Organization;

"(4) research program grants, including the establishment of specialized centers for research and training in the disease problems of underdeveloped nations; and

"(5) contract research.

"(c) The United States should—

"(1) effectively involve United States universities and other eligible institutions more extensively in each component;

"(2) provide mechanisms for the universities and institutions to participate and advise in the planning, development, and implementation of each component; and

"(3) assist such universities and institutions in cooperative joint efforts with—

"(A) health institutions in developing countries; and

"(B) regional and international health research centers, directed to strengthening their joint and respective capabilities and to engage them more effectively in research, teaching, and primary health care activities for solving problems of disease in underdeveloped countries.

"SEC. 242. GENERAL AUTHORITY. (a) To carry out the purpose of this title, the Administrator is authorized to provide assistance on such terms and conditions as he shall determine—

"(1) to strengthen the capabilities of universities and other eligible institutions in teaching, research, and the application of health technologies to enable them to implement current programs authorized by paragraphs (2) through (5), and those proposed in the report required by section 245;

"(2) to build and strengthen the institutional capacity and human resource skills of developing countries so that such countries may participate more fully in the health care of their own peoples;

"(3) to provide program support for long-term collaborative university research on the disease and health care problems of developing countries;

"(4) to involve universities and other eligible institutions more fully in the international work of biomedical science, including the international research centers, the activities of international organizations such as the World Health Organization, and the institutions of developing nations; and

"(5) to provide program support for international medical research centers, to provide support for research programs identified for specific problem-solving needs, and to develop and strengthen national research systems in the developing countries, with emphasis on the special needs of their developing health care systems.

"(b) Programs under this title shall be carried out so as—

"(1) to utilize and strengthen the capabilities of universities in—

"(A) developing capacity in the cooperating country for instruction in public health and medical care skills, and other relevant skills appropriate to local needs;

"(B) biomedical research to be conducted in the cooperating countries, international medical research centers, and in the United States;

"(C) the planning, initiation, and development of services through which information concerning health and related subjects will be made available directly to the poor people of developing countries by means of education and demonstration; and

"(D) the exchange of educators, scientists, and students for the purpose of assisting in successful development in the cooperating nations;

"(2) to take into account the value to the health of the American people of such programs, integrating to the extent practicable programs and financing authorized under this title with such programs as are supported by other government resources so as to maximize the contribution to the development of health in the United States and in developing nations; and

"(3) to build on existing programs and institutions whenever practicable, including

those of the Department of Health, Education, and Welfare, the Center for Disease Control, the universities, and other institutions.

"(c) To the maximum extent practicable, activities under this section shall—

"(1) be designed to achieve the most effective interrelationship between the teaching of health sciences, biomedical research, and health care delivery systems;

"(2) focus primarily on the health needs of developing countries;

"(3) be adapted to local circumstances; and

"(4) be carried out within the developing countries.

"SEC. 243. HUBERT H. HUMPHREY INTERNATIONAL HEALTH FELLOWSHIP PROGRAM. The Administrator is authorized to establish on such terms and conditions as he shall determine, a program of training of medical, public health, and support professionals required to accomplish the purposes of section 204 and of this Title. This program shall be known as the Hubert H. Humphrey International Health Fellowship program. Not less than 50 percent of all fellowships awarded shall be for the training in appropriate institutions of personnel from developing countries.

"SEC. 244. BOARD FOR INTERNATIONAL HEALTH DEVELOPMENT.—(a) To assist in the administration of the programs authorized by this title, the President shall establish a permanent Board for International Health Development (hereinafter in this title referred to as the "Board", consisting of ten members, of whom one shall be the Administrator, one shall be the Director of the Office of International Health in the Department of Health, Education, and Welfare, one shall be the Director of the Center for Disease Control, one shall be the Director of the National Institutes of Health, one shall be appointed from the private health-related voluntary organizations, and not less than two shall be appointed from the universities. Terms of members shall be set by the President at the time of the appointment. Members of the Board shall be entitled to such reimbursement for expenses incurred in the performance of their duties (including per diem in lieu of subsistence while away from their homes or regular place of business) as the Administrator deems appropriate.

"(b) The Board's general area of responsibility shall include, but not be limited to—

"(1) participation in the planning, development, and implementation of,

"(2) initiating recommendations for, and

"(3) monitoring of,

the activities described in section 242.

"(c) The Board's duties shall include, but not necessarily be limited to—

"(1) participating in the formulation of basic policy, procedures, and criteria for project and program proposal reveiw, selection, and monitoring;

"(2) recommending which developing countries could benefit from programs carried out under this title, and identifying those nations which have an interest in participating with the United States in establishing or developing health institutions which engage in teaching and research;

"(3) reviewing and evaluating memoranda of understanding or other documents that detail the terms and conditions between the Administrator and universities and other institutions participating in programs under this title;

"(4) recommending to the Administrator the apportionment of funds authorized under section 242 of this title; and

"(5) recommending to the Administrator the numbers and types of medical, public health, and support professional fellowships to be awarded within the program established in section 243, and the continued review of the quality and efficacy of this program; and

"(6) assessing the impact of programs carried out under this title in improving health in developing countries.

"(d) The Administrator shall publish the recommendations of the Board, with his response to those recommendations, and in those cases where he disagrees he must publish the bases for such disagreement.

"(e) The Administrator may authorize the Board to create such subordinate units as may be necessary for the performance of the duties, including but not limited to the development of an appropriate and effective peer review system to monitor the grants and contracts adopted under section 204 and under this title. The Administrator is encouraged to the maximum extent practicable to utilize existing governmental peer review mechanisms.

"(f) In addition to any other functions assigned to and agreed to by the Board, the Board shall be consulted in the preparation of the annual report required by Section 245 and on other health development activities related to programs under this title.

"SEC. 245. AUTHORIZATION.—(a) The Administrator is authorized to use any of the funds made available under section 204 to carry out the purposes of this title. Funds made available for such purposes may be used without regard to the provisions of sections 207 and 208 (b) of this Act.

"(b) Foreign currencies owned by the United States and determined by the Secretary of the Treasury to be excess to the needs of the United States shall be used to the maximum extent possible in lieu of dollars in carrying out the provisions of this title.

"(c) Assistance authorized under this title shall be in addition to any allotments or grants that may be made under other authorizations.

"(d) Universities and other eligible institutions may accept and expend funds from other sources, public or private, to carry out the purposes of this title. All such funds, both prospective and in hand, shall be periodically disclosed to the Administrator as by regulation required, but no less often than in an annual report.

"SEC. 246. ANNUAL REPORT.—The Administrator shall transmit to the Congress, not later than February 1 of each year, a report detailing the activities carried out in pursuing of this title during the preceding fiscal year and containing a projection of program activity to be conducted during the subsequent fiscal year. Such report shall contain a summary of the activities of the Board established pursuant to section 243 and may include the separate views of the Board in respect to any aspect of the programs conducted or proposed to be conducted under this title.".●

DECLARATIONS SUBMITTED FOR PRINTING

DECLARATION NO. 3

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

Mr. MAGNUSON submitted a declaration intended to be proposed by him to the resolution of ratification of the Panama Canal Treaty, Ex. N, 95–1.

ADDITIONAL COSPONSORS—EX. N, 95–1

AMENDMENT NO. 10

At the request of Mr. DOLE, the Senator from Utah (Mr. GARN) and the Senator from North Dakota (Mr. BURDICK) were added as cosponsors of amendment No. 10 intended to be proposed to the Panama Canal Treaty, Ex. N, 95–1, eliminating the treaty restrictions against U.S. negotiations for a new interoceanic canal.

NOTICES OF HEARINGS

SUBCOMMITTEE ON ENERGY CONSERVATION AND REGULATION

● Mr. JOHNSTON. Mr. President, the Subcommittee on Energy Conservation and Regulation of the Committee on Energy and Natural Resources will hold a series of hearings in preparation for committee markup of S. 2692, the bill authorizing fiscal year 1979 funds for the civilian programs of the Department of Energy. These hearings will be held in accordance with the following schedule:

Thursday, April 13—Administrator, Economic Regulatory Administration.

Friday, April 14—Assistant Secretary for Conservation and Solar Application; Director of Administration.

Tuesday, April 18—Chairman, Federal Energy Regulatory Commission; Administrator, Energy Information Administration.

Questions about these hearings should be addressed to Ben Cooper or James T. Bruce of the committee staff at 224–9894.●

SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT

● Mr. HARRY F. BYRD, JR. Mr. President, as chairman I wish to announce that the Subcommittee on Taxation and Debt Management of the Finance Committee will hold a hearing on Monday, April 24, 1978, on S. 2738, a bill to provide for the indexation of certain provisions of the Federal income tax laws. The hearing may also consider other bills which may be introduced relating to tax indexing.

Senator BOB DOLE is the chief sponsor of S. 2738. Senators JAMES A. MCCLURE and ROBERT P. GRIFFIN are cosponsors.

The hearing will begin at 10 a.m. in room 2221, Dirksen Senate Office Building.

Witnesses who desire to testify at the hearing should submit a written request to Michael Stern, staff director, Committee on Finance, room 2227 Dirksen Senate Office Building, Washington, D.C. 20510, by no later than the close of business on Friday, April 14, 1978.

The provisions contained in S. 2738 are of general applicability and would result in a reduction in Federal revenues as follows:

(Billions of dollars)

FY 1979	−5
FY 1980	−12
FY 1981	−21
FY 1982	−30
FY 1983	−41

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SUBCOMMITTEE ON PARKS AND RECREATION

● Mr. ABOUREZK. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of a public hearing before the Subcommittee on Parks and Recreation of the Committee on Energy and Natural Resources.

The hearing is scheduled for April 6, 1978, beginning at 10 a.m. in room 3110 of the Dirksen Senate Office Building and will include the following measures:

S. 1655—To provide for the establishment of the Lowell National Cultural Park in the Commonwealth of Massachusetts, and for other purposes.

S. 2566—To amend the Pennsylvania Avenue Development Corporation Act of 1972 to authorize appropriations and borrowings from the United States Treasury for further implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House, and for other purposes.

S. 2699—To amend the Act of June 27, 1960 (74 Stat. 220) as amended by the Act of May 24, 1974 (88 Stat. 174, 176; 16 U.S.C. 469) relating to the preservation of historical and archeological data; to authorize appropriations under section 3(b) and 4(a) for fiscal years 1979 through 1983, and for other purposes.

Those wishing to submit a written statement for the record should write to the Parks and Recreation Subcommittee, room 3106, Dirksen Senate Office Building, Washington, D.C. 20510.

For further information regarding the hearing, you may wish to contact Tom Williams or Laura Beaty at 224-7145.●

ADDITIONAL STATEMENTS

HELP PROVIDED OVER-65 TAXPAYER

● Mr. CHURCH. Mr. President, the Internal Revenue Service has emphasized repeatedly that the Federal Government wants no individual to pay more income tax than legally due.

Each taxpayer is entitled to all exemptions, deductions, and credits authorized by law.

The Committee on Aging has a long-standing interest in protecting older Americans from overpaying their income taxes.

Hearings conducted by the committee make it clear that large numbers pay more income tax than required, because they are unaware of tax relief measures designed to help them.

Each year the committee prepares an updated checklist of itemized deductions.

This publication also summarizes major tax relief measures—such as the tax credit for the elderly and the partial or total exemption from Federal income tax of the gain on the sale of a personal residence—for older Americans.

In addition, the committee maintains a supply of tax publications for the elderly, including "Tax Benefits for Older Americans," "Tax Information on Pension and Annuity Income," and others.

Another helpful addition for older persons is a recent article by Sylvia Porter. She provides many useful tax tips—as well as important information—for persons 65 or older.

In addition, she describes sources where taxpayers may obtain assistance.

This article, it seems to me, would be of assistance to Senators and their staff in answering tax questions for elderly constituents.

Mr. President, I submit for the RECORD that Sylvia Porter's article entitled "Help Provided Over-65 Taxpayers."

The article follows:

YOUR MONEY'S WORTH—HELP PROVIDED OVER-65 TAXPAYERS

(By Sylvia Porter)

Q: Which U.S. government agency provides nationwide toll-free telephone assistance, toll-free TV-phones and teletypewriters for the deaf, free information booklets (many printed in extra large type for the partially blind), runs overseas seminars, and offers free walk-in counseling services, some designed particularly for those who don't speak English, for the elderly, the handicapped, and low-income citizens?

A: The Internal Revenue Service.

Why? Because our tax laws are so complex and change so frequently that even if you are more informed than most taxpayers, you may not be aware of all the deductions, credits and exemptions to which you are intitled.

To whom is this of extraordinary importance? The millions who are 65 or over, for when you reach 65 or retire, you are suddenly faced with a myriad of new federal income tax provisions.

What's more, if you're retired, your taxes are no longer withheld by your employer. Your income comes largely from pensions, annuities, investments, business activities, etc., not subject to withholding. The laws governing these forms of income are among the most befuddling in the tax code and require you to fill out several additional schedules as well as the long Form 1040.

In addition, Congress has passed many special tax-relief provisions for the elderly alone—as a result of which about 18 million of the 24 million of you considered older citizens currently pay no federal income tax at all. You can receive levels of income tax-free which are roughly double the tax-free income levels for those under 65.

If you, for instance, are a taxpayer younger than 65, you can now receive income of $3,200 before you become liable for taxes. But if you are single and over 65, you do not have to pay taxes until your income tops $6,400. And your tax-free level may be even higher if you receive Social Security benefits (which are exempt from taxes).

Of every four older Americans, only about one—or approximately 6 million—actually pay income taxes. You are relatively well-off, with your incomes averaging close to $20,000 a year. Under current law, you, too, are entitled to special treatment.

As one illustration, you are granted an extra personal exemption of $750 under today's law. You also are allowed an exemption for all gains on sales of homes selling for $35,000 or less and a portion of gains for your residence if you sell it above this.

These and other tax preferences for you cost the U.S. Treasury a towering $6 billion annually—and under the tax proposals President Carter has submitted to Congress, your tax liabilities, as an older citizen, would be cut even more. More than a million additional returns now filed by taxpayers 65 or older would be dropped from the tax rolls. The average net tax cut would be $250.

If you are 65 or over and single, your tax-free level of income would rise by $850, from $6,400 to $7,250. If you're a couple, both 65 or over, your tax-free level of income would jump by $1,200, from $10,450 to $11,650.

But while many of today's measures ease and new proposals would further reduce the tax burdens of millions of you, they are of little value unless you know they exist and how to take advantage of them.

To help you avoid overpaying your taxes this year, the Senate's Special Committee on Aging has published a revised checklist of itemized deductions for use in preparing your '77 return.

A limited supply of this brochure is available on your request from the Committee on Aging, Room G-233, Dirksen Senate Office Building, Washington, D.C. 20510. When this supply runs out, you may get a copy for $1 from the Government Printing Office, Washington, D.C. 20402.

The IRS also distributes publications to assist older taxpayers. "Tax Benefits for Older Americans" is the main information booklet. It is free and you can get a copy at IRS and Social Security offices. The 1979 brochure will be simplified and will carry sample forms illustrating many of the tax situations which an older taxpayer will face.●

TUITION TAX CREDIT

● Mr. PACKWOOD. Mr. President, last September Senator MOYNIHAN and I introduced S. 2142, a bill to provide a tax credit for persons paying tuition to elementary and secondary schools, colleges, and vocational schools.

The response in Congress to this legislation has been better than we dared to hope. Fifty Senators have cosponsored S. 2142. The Finance Committee has approved a variation of it, sponsored by Senators ROTH, RIBICOFF, MOYNIHAN, and myself, by a vóte of 14 to 1.

A majority of both the House and the Senate support tuition tax credits. The Senate approved amendments offered by Senator ROTH to create college tuition tax credits three times in the last 2 years. The Congress specifically allowed funds for tuition tax credits in the fiscal year 1978 budget. In a key test vote in the House of Representatives on March 20, a majority of Representatives, 218 to 156, indicated they wanted tuition tax credits considered in connection with proposals to liberalize student grant and loan programs.

In spite of the strong showing of support in Congress, it is still difficult to predict how soon Congress will enact this proposal. The outcome will be influenced by the quality of the arguments made by those on both sides. And measured by this standard I feel that Senator MOYNIHAN's recently published article, "Government and the Ruin of Private Education" in the April 1978 issue of Harper's magazine, could be decisive. I never cease to be amazed by the ability of Senator MOYNIHAN to weave words and arguments and logic in a way which raises the quality of the discussion.

Mr. President, I submit for the RECORD a copy of Senator MOYNIHAN's article.

The article follows:

GOVERNMENT AND THE RUIN OF PRIVATE EDUCATION

(By Daniel Patrick Moynihan)

AN ARGUMENT FOR TUITION TAX CREDIT AS A WAY TO SUSTAIN NONGOVERNMENTAL SCHOOLS

What is likely to be among the most important debates on education in American history began quietly with three days of Senate hearings in January. Sen. Bob Packwood (Rep.-Oreg.) and I introduced a bill to provide tax credits to help pay the tuition costs of parents with children in nonpublic schools and colleges and universities. Our bill was distinctive in that fifty Senators were cosponsors. There were twenty-six Republicans and twenty-four Democrats, ranging from

Sen. George McGovern (Dem.-S. Dak.) to Sen. Barry Goldwater (Rep.-Ariz.).

The hearings were distinctive in the strength of the views passed upon us that this was a measure middle-class Americans felt they had coming to them. They had put with and supported a chaos of government programs designed in aid of other classes and, for that matter, other worlds. Now there was something for them. For education. Just as notable was the strength of the opinions of the constitutional lawyers and scholars who testified that in their view there is no question that tuition tax credits are constitutional as a form of assistance to nonpublic elementary and secondary education. Catholics testified, of course. But so did Lutherans, and representatives of Hebrew schools and Baptist schools. A generation ago this was a Catholic issue. It is nothing of the sort any longer. It is an issue that reflects a broad revival of interest in religious education, an upheaval in constitutional scholarship, and a pervasive sense in American society that government has got to stop choking the life out of institutions that could be seen to compete with it.

What in a sense was not distinctive was the response of the Administration, which came early in February.

As is routinely now the case, the party in power and the President in office were pledged to some form of aid to nonpublic elementary and secondary schools. Just as routinely, whoever wins the election seems to break the commitment when the possibility of keeping it arises. What was distinctive in the response of the Carter Administration was that the President, in a White House news conference, announced that he was prepared, as a substitute for our bill, to spend $1.2 billion for the expansion of existing programs of college student assistance. This came just days after his first budget message provided next to nothing. You have got to not want something pretty badly to be willing to spend $1.2 billion to keep from getting it. As for aid to elementary and secondary schools, HEW Secretary Joseph A. Califano, Jr., at the same press conference, allowed that, wotthehell, Republican Presidents had promised the same.

This is the kind of behavior in an institution—the federal government—for which Marxists reserve the formulation: "It is no accident, Comrade."

IN SUPPORT OF PRIVATE SCHOOLS

In the contest between public and private education, the national government feigns neutrality, but in fact it is anything but neutral. As program has been piled atop program, and regulation on regulation, the federal government has systematically organized its activities in ways that contribute to the decay of nonpublic education. Most likely, those responsible have not recognized this; they think themselves blind to the distinction between public and private. But of course they are not. They could not be. For governments inherently, routinely, automatically favor creatures of governments. They know no other way. They recognize the legitimacy of no other institutions. Joseph Schumpeter's gloomy prophecy that liberalism will be destroyed through the steady conquest of the private sector by the public sector bids fair to come true in the United States, and in no domain of our national life is this clearer or seemingly more inexorable than in education.

It is remarkable that the bureaucracy gets away with this, for at the political level nothing is clearer than the avowed support of the parties and their leaders for private education, and for federal policies to buttress it. In its 1976 platform, the Republican party stated:

"We favor consideration of tax credit for parents making elementary and secondary school tuition payments. . . . Diversity in education has great value. . . . Public schools and nonpublic schools should share an education fund on a constitutionally acceptable basis."

The Democratic party platform in 1976:

"Renew[ed] its commitment to the support of a constitutionally acceptable method of providing tax aid for the education of all pupils in nonsegregated schools in order to insure parental freedom in choosing the best education for their children. Specifically, the party will continue to advocate constitutionally permissible federal education legislation which provides for the equitable participation in federal programs of all low- and moderate-income pupils attending the nation's schools." [In the interests of full disclosure, let me say I wrote the plank.]

Three years earlier, on behalf of the Nixon Administration, Secretary of the Treasury George P. Shultz testified before the Ways and Means Committee in support of a tax credit for nonpublic school tuitions. "The nonpublic school system plays a vital role in our society," Shultz said:

"These schools provide a diversity of education in the best of our traditions and are a source of innovation and experimentation in educational advances which benefit the public school system and the public in general. In many American communities, they are an important element of stability and civic responsibility. However, education costs are rising, the enrollment in the nonpublic schools is declining, and an important American institution may be in jeopardy."

Tax credits, he flatly predicted, will help "reverse this trend."

During his 1976 Presidential campaign, Jimmy Carter said almost precisely the same thing in a message to the nation's Catholic school administrators:

"Throughout our nation's history, Catholic educational institutions have played a significant and positive role in the education of our children. . . . Indeed, in many areas of the country parochial schools provide the best education available. Recognization [sic] of these facts must be part and parcel of the consciousness of any American President. Therefore, I am firmly committed to finding constitutionally acceptable methods of providing aid to parents whose children attend parochial schools."

In a major address just a few months ago, Education Commissioner Ernest L. Boyer echoed this sentiment. "Private education is absolutely crucial to the vitality of this nation," Dr. Boyer averred, "and public policy should strengthen rather than diminish these essential institutions." But the moment we got serious, as it were, and proposed legislation that might do this, Boyer, as his office requires, was on the other side. He was quoted: "We would be saying for the first time that the extra costs of private education are deserving of governmental support." This is their essential point: government has no responsibility to any form of education government does not control. It is a modern doctrine, as I shall discuss, and not always an especially honest one. With respect to "extra costs" our witnesses confirmed that, generally speaking, "private" schools, which is to say neighborhood Catholic, Protestant, and Jewish schools, spend about one-fourth of the per-pupil expenditure of their neighboring public schools. But the advocates of this doctrine are fierce and unshakable in their conviction that theirs is the cause of true liberalism, and that those who disagree are the instruments, witting or no, of the pope and the plutocracy. No argument is too weak to be advanced. The Department of Health, Education, and Welfare did not send an education official to testify at our hearings, but its assistant secretary for legislation was supplied with the boiler plate for the occasion: "An elementary-secondary tuition tax credit could undermine the principle of public education in this country." Undermine! When church-related schools existed and thrived in the United States generations before the public schools as we know them came into being?

If there is an argument, it is that the public schools are a threat to their existence. But this is not really what HEW meant. It meant that private schools undermine the principle of state monopoly. If the bureaucracy was to be open and say that private schools challenge and even defy that principle, then well and good. But the bureaucracy is never open, and often truly dishonest. The hapless assistant secretary was forced to say that our bill would "dry up local and state money for education." If there is one clear correlation in American education it is that wherever there is a large proportion of students in nonpublic schools, public expenditures for public schools are very high indeed. New York City is surely a prime example.

Our bill, the Tuition Tax Credit Act of 1977, would enable a taxpayer to subtract from the taxes he owes a sum equal to 50 percent of amounts paid as tuition. The credit is limited to $500 per student per year, which is to say that after tuition passes $1,000 per student, no additional credit is obtained. If the taxpayer in question owes no taxes, or does not owe the full amount, the Treasury will pay the difference to him. This is by no means the only feasible approach to the matter. Sen. Abraham Ribicoff (Dem.-Conn.) has for some time urged a formula whereby the credit would be a varying percentage of tuitions at different levels, this giving additional benefit to those paying higher tuitions. Another variation offers a flat tax credit for whatever the tuition may be, up to a cutoff point.

This past December, Sen. William Roth (Rep.-Del.) brought up on the Senate floor such a tax credit bill—with a $250 ceiling—and it passed by a vote of 61 to 11. Attached as an amendment to the Social Security Bill, it deadlocked the House-Senate Conference Committee until the House conferees agreed that this year the matter would be allowed to come to a vote on the House floor, where it would surely pass.

Almost any formula would entail legislation on the scale of the Servicemen's Readjustment Act of 1944 (the "G.I. Bill"), the National Defense Education Act of 1958, and the Elementary and Secondary Education Act of 1965, placing it among the half-dozen great educational statutes of our history. Although even now not much notice is being paid, this in a curious way is rather a positive sign. At our hearings in January, Rabbi Morris Sherer of Agudath Israel of America, a fifty-five-year-old national orthodox Jewish movement, observed that when he first testified on this subject—seventeen years ago, during the Administration of President Kennedy—it was "so shocking," as he put it, that the *New York Times* put his picture on the front page. But in the interval, he suggested, the climate has so changed, the idea of public support for nonpublic schools had become so widely accepted, that he was sure "today, . . . seventeen years later, it will be relegated to page 99." In the event, not a line about the three days of hearings made it onto any page of the *Times*, albeit they came to the attention of the White House! But the rabbi made a point: there has been a vast change in attitudes on this subject, such that it might reasonably be described as an idea whose time has come, and be judged to have made its way at least partially into that realm of political ideas so "self-evident" that few bother to express what almost everyone takes for granted.

Two-thirds of the tax credits that would

be paid under this bill would go to defray the tuition costs of persons attending colleges and universities. A very considerable sum is involved; altogether the bill would cost the Treasury some $4 billion annually, and the bulk of these funds would be devoted to the central principle of maintaining diversity in higher education. But there is certainly no constitutional issue involved at the college level, and not much political argument either. The House Ways and Means Committee has not previously wanted to commit the money, and that is always a perfectly respectable contention. But should it change its mind, as it might well do now, the matter could be disposed of in an afternoon, as middle-income Americans have come to feel a genuine grievance over this matter.

These are the people who pay most of the taxes in America and get few of the social services. In the main, this has been fine by them. The social legislation of the past generation has been enacted primarily by legislators who represent such constituencies. But in the last decade it has come to be seen that taxes are preventing the education of their children, and this they will not have. In this sense, our bill is straightforward, and similar to many others that have somewhat different formulas but the same objective, one that Americans have pretty much agreed upon since the Northwest Ordinance of 1787.

The Administration's alternative is not bad legislation. It raises the income limits of a good program, the Basic Education Opportunity Grants, from $15,000 to $25,000. For what it may be worth, I drafted the Presidential message that first proposed the program. Sen. Claiborne Pell (Dem.-R.I.) has been an immensely devoted and immensely skilled advocate of this program and its "Pell Grants." The drawbacks are twofold with respect to the program itself. It leaves many families out. It puts all other families under a means test. One must see the form to believe it, and one must ask whether it is really necessary to create that much more digging into our private lives for the federal bureaucracy. (Tax credits work directly through the Internal Revenue Service and need involve nothing more than an extra line on form 1040. But the real problem of the Administration's response is that it leaves out elementary and secondary schools altogether.)

Ours is a disincentive measure, precisely with respect to the support it would provide to elementary and secondary schools that are outside the public school system. This involves an argument that has been going on from the beginning of the American republic, namely, support for church-related schools. Here we enter a dark and bloody ground where battles have raged for generations. And yet here, too, there is every sign that finally the matter is to be resolved. This would be an achievement of social peace that goes well beyond education policy, and rewards a certain elaboration.

THE ORIGINS OF PUBLIC EDUCATION

If you like, the accepted interpretation of the Constitution is changing. It is changing back to its original meaning and intention, which in no way barred public support for church-related schools. After more than a century—a period in which religious fears, and, to a degree, religious bigotry, distorted our judgment about what was and was not constitutional—we are getting back to the clear meaning of the plain language in which the Constitution and the Bill of Rights are written.

The most notable element in this regard concerns the demystification of the First Amendment. Demystification is anything but a plain word with a clear meaning, but it is a useful concept that first appeared in Marxist literature, and is now making its way into more general circles. It embodies the argument that social groups commonly conceal from themselves, as well as from others, the true motives and interests that account for their behavior. All manner of myths grow up to explain and justify actions that are founded on a reality that for one reason or another no one wishes to admit. Frequently a condition of social change is to "demystify" such action, and to reveal the true sources of behavior.

This is happening to the First Amendment, through an interaction of legal argument and historical studies. The historical fact is that education in colonial America was almost exclusively an activity of religious sects, just as in that period, as Bernard Bailyn writes (in Education in the Forming of American Society), "sectarian religion became the most important determinant of group life. . . . And it was by carefully controlled education above all else that denominational leaders hoped to perpetuate the group into future generations." In the diverse school systems of the time, we see a now-familiar phenomenon at work. Eighteenth-century Americans didn't necessarily want religious toleration; they simply had no choice, such was the number of religions. In time, public support for all manner of church schools was common and unremarked. Bailyn makes the nice point that it came about in part because there was no effective way to endow church schools. Back in England, endowments meant land, which meant tenants, which meant rents. But with free land on the frontier, American tenants could not be found, and so the church schools came to be supported by taxes.

With the founding of the American republic, the arrangement continued, for a time. As with much else, change first appeared in New York City. At the turn of the nineteenth century, public funds from New York State's "permanent school fund" were used to support the existing church schools and four private charitable organizations that provided free education for needy youngsters. In 1805, however, the state legislature chartered the New York Free School Society, which shortly obtained a "peculiar privilege," not shared by the other groups, of receiving public funds to equip and construct its school building.

This favored status was soon challenged by the Baptists, whose schools were experiencing financial difficulties in the aftermath of a depression during the 1820s. The Free School Society responded by challenging both the integrity of the Baptist school organization and the legitimacy of any public money going to support schools associated with religious denominations. "It is totally incompatible with our republican institutions," the Society argued, "and a dangerous precedent" to allow any public funds to be spent "by the clergy or church trustees for the support of sectarian education."

Although New York Secretary of State John Van Ness Yates urged the legislature to support the Baptist position, his advice was rejected, and in 1824 the state turned over to the New York City Common Council the responsibility of designating recipients of school funds within the city. In 1825, the Council ruled that no public money could thereafter go to sectarian schools, and the following year, as if to reinforce the claim that it alone represented non-sectorian "public" education, the Free School Society changed its name to the New York Public School Society. Although it remained a private association with a self-perpetuating board of trustees, the Society obtained what amounted to legal recognition that only its version of education—nonsectarian but Protestant—would thereafter receive public support. The phrase "public school" that endures in New York—as in P.S. 104—is a legacy of this change in the name of a private organization.

By 1839, the Public School Society operated eighty-six schools, with an average total attendance of 11,789. In that year, the Catholic Church also operated seven Roman Catholic Free Schools in the city, "open to all children, without discrimination," with more than 5,000 pupils in attendance. "Nonetheless," as Nathan Glazer and I wrote in Beyond the Melting Pot in 1963, "almost half the children of the city attended no school of any kind, at a time when some 94 percent of children of school age in the rest of the state attended common schools established by school districts under the direction of elected officers."

Catholics in the city began clamoring for an immediate share of public education funds, but were flatly turned down by the Common Council, nothwithstanding even Bishop John Hughe's offer to place the parochial schools under the supervision of the Public School Society in return for public money.

As tempers rose, in April, 1841, acting in his capacity of ex officio superintendent of public schools, Secretary of State John C. Spencer submitted a report on the issue to the state senate. Spencer was a scholar—he was Tocqueville's first American editor—as well as an authority on the laws of New York State. He began by examining the essential justice of the Catholic request for public aid to their schools:

"It can scarcely be necessary to say that the founders of these schools, and those who wish to establish others, have absolute rights to the benefits of a common burthen; and that any system which deprive them of their just share in the application of a common and public fund must be justified, if at all, by a necessity which demands the sacrifice of individual rights, for the accomplishment of a social benefit of paramount importance. It is presumed no such necessity can be urged in the present instance."

To those who feared use of public funds for sectarian purposes, Spencer replied that all instruction is in some ways sectarian: "No books can be found, no reading lessons can be selected, which do not contain more or less of some principles of religious faith, either directly avowed, or indirectly assumed." The activities of the Public School Society were no exception to this rule:

"Even the moderate degree of religious instruction which the Public School Society imparts, must therefore be sectarian; that is, it must favor one set of opinions in opposition to another, or others; and it is believed that this always will be the result, in any course of education that the wit of man can devise."

As for avoiding sectarianism by abolishing religious instruction altogether: "On the contrary, it would be in itself sectarian; because it would be consonant of the views of a peculiar class, and opposed to the opinions of other classes."

The Catholics got no satisfaction from the legislature, but the Public School Society was, in effect, disestablished in 1842. The legislature was persuaded, chiefly by Democrats of a Jacksonian persuasion, that the society was a dangerous private monopoly over which the public had no control. The new school law allowed the society to continue to operate its schools but only as district public schools under the supervision of an elected board of education and the state superintendent of common schools.

CLARIFYING THE FIRST AMENDMENT

Soon, a specifically anti-Catholic nativist streak entered the opposition to public support for church-related schools. President Ulysses S. Grant, looking around for an issue on which he might run for a third term, seized on the danger of papist schools. The Republican platform of 1876 declared:

"The public school system of the several states is a bulwark of the American republic; and, with a view to its security and per-

manence, we recommend an amendment to the Constitution of the United States, forbidding the application of any public funds or property for the benefit of any school or institution under sectarian control."

Observe. In 1876 there were those who thought that public aid to church schools should be made unconstitutional. But at least they were clear that the Constitution would have to be amended to do so. It is extraordinary how this so obvious fact got lost in years that followed. We may hope that the matter has now been settled by Walter Berns in his devastatingly clear historical account, The First Amendment and the Future of American Democracy. What Congress intended by the First Amendment was to forbid the preference of one religion over another. At the time of the Revolution, nine of the thirteen colonies had established religions. The establishment clause forbids the nation from having one, this for the obvious reason that to have picked one religion over the others could have destroyed the Union.

To repeat, it is astounding how this plain meaning became lost. We are not here interpreting the Dead Sea Scrolls, or the Upanishad. The House of Representatives debated the First Amendment during the summer of 1789. Then, as now, the Congressmen spoke English. Then, as now, their deliberations were printed up overnight and placed on their desks the next morning. Thus, on August 15, 1789, in reply to Peter Sylvester of New York, who feared the draft amendment "might be thought to have a tendency to abolish religion altogether," Madison responded that "he apprehended the meaning of the words to be that Congress should not establish a religion, and enforce the legal observation of it by law, nor compel men to worship God in any manner contrary to their conscience."

It is necessary here to insist that because the First Amendment does not prohibit aid to church schools it does not follow that the authors of the amendment favored such arrangements. Some did, some didn't. Madison surely would not have. The plain point is that this was left as a political choice, as an issue of public policy to be resolved however we chose, and changed however often we might wish.

Here, then, a friendly word for the nativists. Early Americans were considerably suspicious of non-English immigrants. Bailyn reports that even Benjamin Franklin was "struck by the strangeness . . . of the German communities in Pennsylvania, by their lack of familiarity with English liberties and English government," such that he helped to organize the Society for the Propagation of the Gospel to the Germans in America. Why ought George Templeton Strong in New York City of the 1860s not have wondered what would come of the flood of Catholic Irish, not half of whom, probably, spoke English, and yet be more fearful of the Central and Southern Europeans who followed, none of whom spoke English, none of whom came from a country where political liberties existed? How could he not have suspected the Pope of Rome?

The only perceptible political preference of the papacy in that republican age was for monarchy. In 1870, as if for the purpose of outraging the rationalism of the age, the Vatican Council of Bishops, after nineteen centuries of blessed unawareness, discovered that the pope was infallible—a curious doctrine, and singularly out of harmony with its age. One would not, at the turn of the century, have been overly confident of the Russian and Polish Jews who were then arriving, with a religious faith that had never shown any great interest in political democracy, and an element of nonreligious who were all too well versed in the latest antidemocratic doctrines of the Continent. But the point is that it all worked out. German Protestant and Italian Catholic and Polish Jew have all produced recognizably American progeny, enough to calm the fear and perhaps even to arouse the patriotic fervor of the most nervous nativist of generations past. All that is behind us, and political choices that were at least understandable a century ago make no sense today.

SUPREME COURT RULINGS

What then holds us back? The answer, simply, is the Supreme Court. For generations state legislatures have been passing bills that provide various kinds of aid to church-related schools, but for the last generation the Court has been declaring them unconstitutional in whole or in part. The degree to which the seemly disarray of eighteenth-century arrangements has persisted into the twentieth century is impressive. In 1938, eight states (Maine, Connecticut, New Hampshire, New York, North Carolina, Tennessee, Vermont, and Virginia) paid funds to private schools under certain circumstances. Two decades later, eight states (Alabama, Georgia, Maine, Nevada, New York, Pennsylvania, South Carolina, and Virginia) had constitutional provisions specifically authorizing public aid to private schools. But now the Supreme Court began to fight them, armed with the extension by the Fourteenth Amendment of First Amendment requirements to state governments. The decisive case, the first of its kind, was Everson v. Board of Education in 1947, involving a New Jersey statute authorizing school districts to reimburse parents for bus fares paid by children traveling to and from schools. The Court held that neither Congress nor the state legislature may "pass laws which and one religion, aid all religions, or prefer one religion over another." Nor may any tax "in any amount, large or small, . . . be levied to support any religious activities or institutions, whatever they may be called, or whatever form they may adopt to teach or practice religion." Now this was simply wrong. To cite Berns: "It does not accurately state the intent of the First Amendment." This has nothing in the least to do with whether the New Jersey statue was a desirable one or not. It is merely that incontestably the First Amendment did not prevent the New Jersey legislature from adopting it.

Mr. Justice Black, who wrote the opinion, depended primarily on views of Madison and Jefferson, who, in 1784, got much exercised over a bill reported favorably by the Virginia legislature "establishing a provision for teachers of the Christian religion." The late Mark DeWolfe Howe of the Harvard Law School put it that in Everson the justices made "the historically quite misleading assumption that the same considerations which moved Jefferson and Madison to favor separation of Church and State in Virginia led the nation to demand the religion clauses of the First Amendment." This, he wrote, was a "gravely distorted picture."

The Supreme Court had no sooner ruled in Everson than it began to retreat from its ruling. Slow at first, this of late has become a genuine rout, and in all truth has become an embarrassment. In our hearings, perhaps the most passionate statements came from legal scholars who pleaded that the Court has got to be relieved of this enterprise in which it has got itself hopelessly mixed up. Pass a bill, our scholars urged us; declare it to be constitutional; the Court will be only too willing to agree.

The alternative is the present confusion verging on scandal. Not five years after Everson, recalling the evident duty of all American institutions to foster piety, the Court held:

"We are a religious people whose institutions presuppose a Supreme Being . . . When the state encourages religious authorities by adjusting the schedule of public events to sectarian needs, it follows the best of our traditions. For it then respects the religious nature of our people and accommodates the public service to their spiritual needs . . . . The government must be neutral when it come to competition between sects."

From that not especially edifying passage, the justices seemingly abandoned their own standards of evidence, and even the dictates of reason, to justify the unjustifiable. In *Tilton* v. *Richardson* (1971) the Court was required to pass upon the constitutionality of the Federal Higher Education Facilities Act of 1963 insofar as it applied to church-related colleges and universities. Most of the statute was found constitutional, but only four justices could agree in an opinion. On their behalf, Chief Justice Burger noted that "candor compels the acknowledgment that we can only dimly perceive the boundaries of permissible government activity in this sensitive area of constitutional adjudication."

It was necessary, of course, for the Court to find a serviceable distinction between church-related elementary and secondary schools and sectarian colleges and universities. Venturing toward those dimly perceived boundaries in his judgment for the plurality, the chief justice asserted that "there is substance to the contention that college students are less impressionable and less susceptible to religious indoctrination."

Now surely this "contention" is an empirical statement whose "substance" is susceptible to verification. It is a statement by the justices that something is so. It is a statement, then, for which there must be evidence. The justices know about this sort of thing. When, in Brown v. Board of Education (1954), they held that segregated schools were educationally inferior to integrated schools, they cited evidence. One may argue as to how good the evidence was; that is the nature of social science. But the Court had no doubt that it needed evidence if it was going to say things like that. Very well, then. What is the state of the evidence concerning the greater or lesser impressionability with respect to religious indoctrination of seventeen-year-olds as against nineteen-year-olds, or rather, high schools students as against college students, inasmuch as ages vary considerably? One doubts there is much evidence one way or an other.

But the justices did not rely solely on this contention. "Many church-related colleges and universities are characterized," the chief justice wrote, "by a high degree of academic freedom, and seek to evoke free and critical responses from their students." What an extraordinarily patronizing endorsement! Would the justices have said the same of "many state universities"? Of "many Ivy League campuses"? What about "many elite preparatory schools"? Obviously not "many Catholic elementary schools"!

It gets worse. In a commencement address at LeMoyne College in May, 1977, I suggested that the problem was that the Court had been given "the thankless task of finding constitutional legitimacy for the religious bigotry of the nineteenth century, and that the quality of its decisions suggest the misgivings with which the deed has been done."

Forty-one days later, on June 24, 1977, the Court handed down its decision in Wolman v. Walter, which tested an Ohio statute dealing with expenditure of public funds to provide aid to students in nonpublic elementary and secondary schools. A three-judge district court panel had upheld the statute, and citizens and taxpayers had appealed. Mr. Justice Blackmun handed down what may be the most embarrassing decision in the modern history of the Court. It concludes:

"In summary, we hold constitutional those portions of the Ohio statute authorizing the

State to provide nonpublic school pupils with books . . . We hold unconstitutional those portions relating to instructional materials. . . ."

Backward reels the mind. Books are constitutional. Maps are unconstitutional. Atlases, which are books of maps, are constitutional. Or are they? We must await the next case.

But where are we for the moment? We are at the point where the United States Supreme Court has solemnly found that books are safe but equipment (also "field-trip services") is not safe. Verily, the history of modern man, and assuredly the experience of the Catholic Church, teaches that books are the one truly subversive element in the culture! Maps may err. And, in the case of the Mercator projection, for example, may even give rise to erroneous views that there is a natural tendency for armies and glaciers in the northern hemisphere to move south. But in the end it is books that are to be feared, doubtless even to be forbidden. But no, says the Supreme Court. Beware, says the Court, of field trips. Clearly, and not the least in jest, the Court needs to be rescued from this. As the Court itself bids fair to plead. Observe the state of opinion of Mr. Justice Blackmun's brethren in Wolman:

Chief Justice Burger concurred in part and dissented in part.

Mr. Justice Rehnquist and Mr. Justice White concurred in the judgment in part and dissented in part.

Mr. Justice Brennan concurred in part and dissented in part and filed an opinion.

Mr. Justice Marshall concurred in part and dissented in part and filed an opinion.

Mr. Justice Powell concurred in part and dissented in part and filed an opinion.

Mr. Justice Stevens concurred in part and dissented in part and filed an opinion.

In his Wolman opinion, Mr. Justice Stevens cites with avowed deference Clarence Darrow's argument in the Scopes trial on the great harm that comes to both Church and State whenever one depends on the other. This is not without charm, but must we really accept Mr. Darrow as a constitutional authority in such matters? Darrow was virtually a professional agnostic whose great triumph in the Scopes case was to elicit the admission from William Jennings Bryan that the Silver-Tongued Orator believed every word in the Bible to be true. Well, so does the thirty-ninth President of the United States, and no one thinks it especially hilarious. None of us knows as much as we knew in those fine old times in the hills of Tennessee. Even Darwin is having troubles.

POLITICS AND PLURALISM

In rather striking contrast, the political realm has been far more pluralist and, if you will, liberal in these matters. In 1875 President Grant addressed the Army of Tennessee in Des Moines, exhorting his old comrades that no money should "be appropriated to the support of any sectarian schools . . . Leave the matter of religion to the family altar, the church, and the private school, supported entirely by private contributions. Keep the Church and State forever separate."

The following year, as anticipated in his party's platform, Rep. James G. Blaine (Rep.-Maine) proposed a constitutional amendment to this effect, but it failed in the Senate. Altogether, between 1870 and 1888 there were eleven separate amendments proposed, five in the House and six in the Senate, but all were rejected. In the meantime, state and local governments continued to provide support of one sort or another to sectarian schools, and do so to this day. According to an authoritative survey by the Congressional Research Service, thirty-seven states supplied some aid to nonpublic schools as of January, 1977, although often in tiny amounts, for sharply limited purposes and through quite roundabout means. The public has been a good deal more perceptive about the First Amendment—and about the motives of some politicians—than have the courts.

After World War II, support began to develop for federal aid to elementary and secondary education, which President Kennedy first proposed to Congress in 1963. It failed because the Catholic hierarchy insisted that church-related schools should share in the program, and the Congress, in effect, agreed. In 1964 I negotiated a plank in the Democratic platform which stated:

"The demands on the already inadequate sources of state and local revenues place a serious limitation on education. New methods of financial aid must be explored, including the channeling of federally collected revenues to all levels of education, and, to the extent permitted by the Constitution, to all schools."

The bishops agreed that on these terms they would support a bill, and the Elementary and Secondary Education Act of 1965 followed directly. But church schools got precious little of the federal funds that followed, and today private-school students receive only dribs and drabs of the services to which they are entitled. With respect to Title I, for example, which is the major E.S.E.A. program delivering remedial educational services to disadvantaged youngsters, supposedly without regard to the auspices of the schools in which they are enrolled, a recent study conducted for the National Institute of Education by Dr. Thomas W. Vitullo-Martin concludes that "the program reaches only 47 percent of the nonpublic-school students who should be eligible for it, and provides them with only about 18 percent of the services they should receive." In most communities, Vitullo-Martin continues, "Children with the same level of educational disadvantages have less chance of receiving Title I services if they are enrolled in private schools, and will receive fewer and poorer services."

Now a new element appears. The Catholic issue recedes, and it turns out that all manner of Protestant and Jewish groups want to be able to mantain their schools. They said as much at our hearings. What we now have is a fight for educational pluralism, with the sense arising that something precious to this society is being lost. Nor is this just a matter of religious schools. A spokesman for CORE testified that his organization has "begun a community school in the Bronx. In this school, children read, on the average, at approximately grade level, while in the public schools of District 9, which services the area, children are over a year behind by grade 5 and almost two years behind by grade 8." This experience with one school reinforces Professor Thomas Sowell's research findings attesting to the importance of private schools in the education of black youngsters. "One of the great untold stories of contemporary American education," Sowell writes, "is the extent to which Catholic schools, left behind in ghettoes by the departure of their original white clientele, are successfully educating black youngsters there at low cost."

The cost differences are significant. In our hearings, persons from one city after another offered statistics indicating that the parochial schools in their community customarily educate their students at 25 to 40 percent of the cost of the local public schools. Without students, these schools will vanish. And with them will vanish a large measure of the diversity and excellence that we associate with American education.

I take pluralism to be a valuable characteristic of education, as of much else in this society. We are many peoples, and our social arrangements reflect this disinclination to submerge our inherited distinctiveness in a homogeneous whole.

Our private schools and colleges embody these values. They provide diversity to the society, choices to students and their parents, and a rich array of distinctive educational offerings that even the finest of public institutions may find difficult to supply, not least because they are public and must embody generalized values.

Diversity, pluralism, variety. These are values, too, and perhaps nowhere more valuable than in the experiences that our children have in their early years, when their values and attitudes are formed, their minds awakened, and their friendship formed. We cherish these values, and I do not believe it excessive to ask that they be embodied in our national policies for American education.

Tax credits for school and college tuitions furnish an opportunity to support these values. And they do so without raising any question of constitutionality. They are not a sufficient recognition of private education. But they are a necessary beginning, and a sound example of a public-policy idea whose time, one hopes, at last has come.

If we don't act, the question is likely soon to become moot. The conquest of the private sector is well advanced. In no small part as a result of its inequitable treatment at the hands of the national government, private education in the United States has taken a drubbing in the past quarter century. Everyone knew that elementary school enrollments would decline between 1965 and 1975—it was a demographic inevitability. But it is less widely known that nonpublic schools accounted for 98 percent of the entire net enrollment shrinkage, and that this loss of 1 million students represented more than one-fifth of their total enrollments.

At the college level, private institutions accounted for a majority of all students enrolled in 1951. Twenty-five years later, more than three quarters of all college and university students were in public institutions.

At the elementary and secondary level there is surely a revival of Protestant and Jewish education, but the truth is that Catholic spirits have flagged. Some dioceses—New York is a prime example—press on. In others, the bishops have seemingly come to think that schools are not part of the vocation of the Church, and in any event it is hopeless, given the Supreme Court. It would be ironic for them to give up just as the climate of liberalism was changing in their favor; but it could happen.

The Catholic hierarchy will no doubt consider trying to prevent the creation of the Department of Education that the President has proposed, and no doubt they should. In its proposed configuration it will merely institutionalize at yet a higher level those prejudices that have systematically opposed and sought to bring about the end of church schools. Why should the anti-Catholicism of the Grant era be given a seat at the Cabinet table of a twentieth-century President? Of course, that is not what the President intends. It is not what the distinguished Congressional sponsors of Department of Education bills intend. It is not what the National Education Association intends. But is it to be avoided, in view of the attitudes prevalent within the bureaucracy that would inexorably move from the Office of Education to the Department of Education? Is it right that two-and-one-half centuries after the first Catholic schools opened their doors in New Orleans, the Cabinet of the United States should acquire a member who presides over a bureaucracy devoted to the demise of such schools?

There is something larger involved here. It is time liberalism redefined its purposes in the area of education. State monopoly is

no more appropriate to liberal belief in this field than in any other.●

CONNECTICUT'S PRICELESS COASTLINE

● Mr. RIBICOFF. Mr. President, in 1972 the Congress approved the Coastal Zone Management Act. This legislation was a response to the problems of pollution, overdevelopment, shore erosion, and population expansion along the Nation's seashores. The Coastal Zone Management Act gave the 30 coastal States the primary responsibility for developing plans to protect and promote the 20,000 miles of America's coastline. One area which would benefit under the provisions of this measure is the 270 miles of Connecticut coastline along Long Island Sound.

For the past several years the Connecticut Coastal Area Management Programs has been working to develop a coordinated system for the management of Connecticut's coastal land and water resources. The coastal area management program has conducted hearings and public workshops throughout the State to acquaint Connecticut citizens on its objectives and to seek public recommendations. An advisory board has been actively assisting in the formulation of a comprehensive coastal area management program.

Earlier this year draft legislation was released for public review and comment. This measure is presently working its way through the Connecticut General Assembly. It contains the new or amended legal authority necessary to create a coastal management program for Connecticut with a view toward protecting and enhancing both economic and environmental coastal resources.

The proposed Connecticut coastal area management program is not only consistent with the Long Island Sound Heritage program I proposed last summer—S. 1968—but it also represents an important step forward in preserving and protecting the shoreline along the Long Island Sound. The sound and its shoreline are being menaced by our own carelessness. They are important assets which are diminished by pollution, shoreline erosion, the destruction of important wetlands, and the loss of open spaces.

I am hopeful that the Connecticut General Assembly will carefully and thoughtfully consider the future of the sound and its coastline as it reviews the coastal area management legislation which has been presented to it. This measure will stimulate a strong working partnership between the State and coastal towns in developing programs which will protect this valuable but endangered resource.

Earlier this week a very timely and perceptive editorial on the Connecticut coastal area management legislation appeared in the New York Times. I submit this editorial for the RECORD.

The editorial follows:

CONTROLLING CONNECTICUT'S COAST

Connecticut's coast comprises 270 miles of decaying industrial ports, sandy beaches, offshore islands and quaint seaport villages. Coastal recreation facilities are strained beyond capacity and pollution threatens them further. Over half the state's tidal wetlands have been destroyed. Some 500 Federal, state and local agencies vie for jurisdiction over planning and zoning, road construction, fish management and channel dredging. The Connecticut General Assembly is now considering area management legislation to bring some order to this coast.

The Federal Coastal Zone Management Act of 1972 provided for incentive grants to states to prepare and administer plans for the preservation of their coastlines. The Connecticut bill would authorize the state to proceed with such plans in cooperation with the 36 coastal towns. Once the plans are ready, development proposals for sites near the coast would be scrutinized for their ecological and economic impact.

The main dispute over the Connecticut legislation arises from the fear of coastal towns that they will lose control over their own shorelines, and particularly municipal beaches. However, understandable these concerns, they are exaggerated. The proposed bill clearly authorizes localities to assume responsibility for planning and regulating coastal development. If the state disagrees with a local choice, it cannot unilaterally reverse the judgment; it must go to court. Regulations that will govern the program must be submitted for comment to the affected towns well in advance of their adoption and must be further approved by the General Assembly's Environmental Committee.

Ultimately, of course, the state and public interest in the preservation of the shoreline ought to take some precedence. Municipal control cannot be absolute; indeed, it isn't so now, given the panoply of agencies already in the coastal picture. The jurisdictional maneuvering should not be allowed to obstruct passage of a needed measure. Marine resources, from which millions derive food, recreation and livelihood, are common property that ought to be prudently managed for the benefit of generations to come.●

MARYLAND DAY

● Mr. MATHIAS. Mr. President, this Saturday is the 344th anniversary of the founding of the State of Maryland.

It is fitting that we celebrate Maryland Day in the spring of the year, for the founding of the State of Maryland represents a time of rebirth and renewal, of rejuvenation and hope. And, it represents an honorable and historic quest for liberty.

Symbolic of the State's rich and noble history, and our country's role as a bastion of liberty, is the Liberty Tree at St. John's College in Annapolis.

Patriotic meetings were held under the yellow poplar, or tulip tree, known as the Liberty Tree, to protest against the oppression of Parliament.

The aging Lafayette was reportedly received by the citizens of Annapolis under the tree's winter-barren branches in December of 1824, and it remained an important landmark during the 19th century, especially as a favorite gathering place for Fourth of July picnics.

In his book, "The Ancient City," Elihu S. Riley wrote that the tree was accidentally set on fire in 1848, and—

The occurrence excited as much interest in and exertion on the part of our inhabitants to extinguish it and save the old favorite tree from extinction as if it had been one of the finest buildings of the town.

But an earlier incident is perhaps more memorable. In 1840, school boys exploded 2 pounds of gunpowder within the tree's hollow, apparently destroying it. But, in fact, the effect was just the opposite, and the next year the tree put out lush new growth. One account said "The explosion destroyed worms that were gnawing away at its vitals!"

So, the tree—like our own great State—has enjoyed a full and fabled history from the days of the first settlers; for, the Liberty Tree was almost certainly part of the forest which was growing when Annapolis was first settled by the Puritans in 1649.

On Monday, March 27, in a belated commemoration of Maryland Day, the Caritas Society of St. John's, and other Marylanders, are joining with me in planting on the United States Capitol grounds a sapling directly descended from America's last living Liberty Tree—the last living link with the American Revolution. That tree will add a rich historical dimension to the plantings on Capitol Hill. It will also stand to remind the visitors who come to the Capitol from every corner of the United States that Maryland's Sons of Liberty, who met during the Revolution beneath the Liberty Tree at St. John's, were in the vanguard of the independence movement that created the United States of America.

To my colleagues, Marylanders, and others wishing to observe the planting, I welcome and invite you to meet with us just off Liberty Drive on the U.S. Capitol grounds at 10:30 a.m. this Monday morning.●

FEDERAL FUNDING SOURCES FOR SENIOR CENTERS

● Mr. CHURCH. Mr. President, senior centers have grown in number and effectiveness over the years and are now at work in every State.

But many centers, old or new, need assistance: for expansion or renovation, for staffing expenses, for equipment, or for other reasons. The Senate Committee on Aging is constantly asked for information on funding sources for senior centers. The more popular and widespread the senior centers have become, the more requests for such information we receive.

Therefore, I was very pleased to learn that the National Institute of Senior Centers and the Administration on Aging worked together to define the Federal funding sources for senior centers. Funding for staffing, training, operations, materials, and the facilities are shown in this analysis.

Mr. President, I think that this information can be very valuable to my colleagues in responding to their constituents' requests and I ask that the funding sources be listed in the RECORD.

The material follows:

A TECHNICAL ASSISTANCE GUIDE: FEDERAL SOURCES FOR MULTIPURPOSE SENIOR CENTERS

In addition to Title V of the Older Americans Act (OAA) which supports Senior Center acquisition, alteration, renovation and some expansion, a number of Federal pro-

grams have funding resources that may be used for Senior Centers. Depending on the program, support may be available for facilities, materials, staff or training. Though competition for funds is keen, and each program has its particular requirements and restrictions, it is valuable for Senior Center boards, administrators and staff to know what programs exist and to explore the availability of funds in their states and areas.

The chart below, adapted from an Administration on Aging (AoA) Senior Center handbook for area agencies, outlines the Federal programs. Details on potential Senior Center uses of these programs, restrictions and applicant procedures are on following pages.

Funding sources	Service elements			
	Staff	Training	Materials	Facilities
1. OAA, title III, sec. 303	X	X	X	
2. OAA, title III, sec. 308	X	X		
3. OAA, title IV-A		X		
4. OAA, title V			X	X
5. OAA, title VII	X	X		
6. OAA, title IX	X	X		
7. CETA	X	X	X	
8. Public works				X
9. Community development block grants				X
10. HUD, housing for the elderly and handicapped	X			
11. Revenue sharing	X		X	
12. FHA, home improvement and winterization				X
13. ACTION, RSVP	X			
14. ACTION, SCP	X			
15. ACTION, VISTA	X			
16. ACTION, minigrants	X			
17. Title XX	X		X	
18. Title XX training		X		
19. Senior opportunities and services	X		X	
10. Snyder Act—Counseling	X			
21. Snyder Act—General assistance	X			
22. Arts and Humanities Act, arts education	X			
23. Arts and Humanities Act, program development	X			
24. Higher Education Act	X	X	X	

FEDERAL FUNDING SOURCES FOR MULTIPURPOSE SENIOR CENTER SERVICES AND FACILITIES

PROGRAM NAME	POTENTIAL SENIOR CENTER USES	APPLICANT PROCEDURE
Administration on Aging, DHEW, Older Americans Act of 1965		
1 Area Planning and Social Services: Title III, Section 308.	Provides funds that can be used for the administration, evaluation, development and expansion of senior center services, including salaries, rental costs, equipment and supplies.	State issues guidelines and directly funds service areas not covered by an area plan. Area agencies set forth program objectives and budgets in area plans subject to state approval.
2 Model Projects: Title III, Section 308	Can be used to support uniquely innovative senior centers that can be replicated nationally. Projects are generally approved for a period of 12 months. However, if more time is obviously needed to realize project objectives, a project may be approved for support for a period of 3 years contingent on the availability of funds and acceptable evidence of satisfactory progress.	Contact the Administration on Aging.
3 Training: Title IV–A	Can be used to train staff and participants in senior centers, to develop training materials, and statewide or areawide conferences, workshops, and seminars.	State agency develops a training plan with input from area agencies. Contact should be made with the state agency.
4 Multipurpose Senior Centers: Title V	Grants or contracts to pay up to 75 percent of the cost of acquiring, altering, or renovating existing facilities to serve as multipurpose senior centers; money can be used for initial equipment and furnishings.	Area agency or other eligible applicants apply to state agency; state agency to AoA.
5 Nutrition: Title VII	At least 80 percent of these funds must be used to provide a hot meal once a day, 5 or more days a week, to people 60+ and their spouses. Remaining funds can be used for such supportive services as outreach, nutrition education, counseling, transportation, recreation, shopping assistance, and escort services.	State plans must be submitted by the state governor to AoA on prescribed state plan format.
6 Senior Community Service Employment: Title IX	As a subsidized employment program, Title IX can provide part-time staff for senior centers. However, the goal of title IX is to move these individals into unsubsidized employment. Title IX employees must be economically disadvantaged and age 55+. Funds may also be used to provide training for Title IX staff and employee transportation costs when performing their job.	Application should be made to local subcontractors who hold the Title IX slots. In addition, in July 1977 the governor of each state will be given an allocation of Title IX funds. State agencies can apply to the governor of the state to administer the funds. Application may be made to the state agency or to Title IX subcontractor.
Employment & Training Administration, DOL Comprehensive Employment & Training Act of 1973 (CETA)		
7 Titles I, II, III, VI	Can provide training and staffing for senior center programs by providing subsidized employment to individuals who are eligible based on unemployment and income considerations. Funds may also be used to provide training for CETA staff. Funds may not be used for supplies, equipment, and other property except in specified training situations.	State and area agencies should contact the CETA prime sponsor in their area or state governor's office. The state Manpower Services Council can provide this information.
Public Works & Economic Development Administration Department of Commerce		
8 Local Public Works & Capital Development & Investment Act of 1965: Title I	Unlike Title V, grants may cover 100% of costs for construction, and may also fund renovation and repair and other improvements to community facilities including senior centers; EDA funds can be used in lieu of the non-federal match required under Title V.	State agency can apply to the state Economic Development Administration Regional Office. Area agency or senior center can apply to local municipality.

FEDERAL FUNDING SOURCES FOR MULTIPURPOSE SENIOR CENTER SERVICES AND FACILITIES—Continued

PROGRAM NAME	POTENTIAL SENIOR CENTER USES	APPLICANT PROCEDURE
	Community Planning and Development, HUD	
9 Community Development Block Grants, Housing and Community Development Act of 1974: Title I	Can be used for developing, improving and coordinating senior center services to benefit low and inadequate income individuals. Money can be used as matching funds for other federal service programs. Programs focus on urban areas where there is a great need for physical redevelopment. While some money is available for services, priority in most communities goes to neighborhood redevelopment, housing, rehabilitation, sewer construction, etc.	Contact the locality (city, town or county) which receives Community Development entitlement.
	Department of Housing & Urban Development	
10 Housing for the Elderly & Handicapped Housing Act of 1959, as amended in 1974	Housing projects assisted under Section 202 are to be designed to provide for sufficient activity space for elderly individuals living in this housing. Elderly in the community-at-large may be encouraged to participate.	Only voluntary non-profit agencies or organizations may be sponsors. Applications should be made to HUD regional and field offices.
	U.S. Department of the Treasury, General Revenue Sharing	
11 State and Local Fiscal Assistance Act and 1976 Amendments	Funds may be for program operations, staffing and capital expenses. Revenue sharing funds may be used to match other Federal funds. Since particular consideration is given to non-recurring expenditures these funds are particularly applicable to the development of senior center facilities and the purchase of furniture and equipment. A public hearing is required; senior citizens and their organizations shall have the opportunity to be heard.	Procedure is highly localized. Contact local government (state, county, town, etc.). Provide input into plans for use of these funds through hearings, contact with agency heads, examination of plans now in effect, and state reports of fund allocation. Approach political and budgetary officials for guidance.
	Farmers Home Administration Act, Department of Agriculture	
12 Home Repair and Winterization Housing Act of 1949	Loan money to establish community facilities such as community centers in rural areas or communities with a population of 20,000 or less which are not part of a designated standard metropolitan statistical area.	Contact local county office of the FaHA listed in the telephone directory under U.S. Government—Agriculture.
	ACTION, Domestic Volunteer Services Act of 1973	
13 RSVP; Title II, Part A	RSVP can provide senior volunteer personnel for senior center programs and transportation for the volunteers as needed.	State ACTION office establishes eligibility procedures and issues RSVP forms to applicants. Applications are submitted to state ACTION office.
14 Senior Companions (SCP); Title II, Part B	Stipends for part-time employment of low-income people age 60+, providing supportive services to other older adults.	Contact State ACTION office.
15 VISTA	VISTA can supplement senior center staff with full-time volunteers not exceeding 2 years but not less than 1 year. Volunteers may include professionals and low-income locally recruited individuals.	Contact State ACTION office.
16 Mini-Grant Program; Title I, Part C	Up to $5,000 demonstration grant to mobilize part-time uncompensated volunteers. Amounts over $2,000 must be matched by non-federal funds.	Contact State ACTION office.
	Office of Human Development, HEW, Social Security Act of 1974, Title XX	
17 Social Services	Can be used for staff and other program parts in senior centers in states which have elected to provide any of the following services to older persons in the annual state plan: social group services, telephone reassurance, socialization, friendly visiting, recreational services, and camping services.	Contact the state or local agency (Department of Social Services or Public Welfare) administrating Title XX regarding possible purchase of services contracts with service providers.
18 Public Social Service Training	Can be used for training and retraining of center personnel funded under Title XX. A state training plan must be submitted prior to the beginning of each program year.	Contact the state or local agency (Department of Social Services or Public Welfare) administering Title XX.
	Community Services Administration	
19 Senior Opportunities and Services, Community Services Act of 1974, Title II	Can be used to establish senior center services or to remedy gaps and deficiencies in existing centers and for the expansion of CSA outreach services to low-income elderly.	Community Action Agencies may delegate individual projects by contract to other agencies. Contact regional Community Services Administration office to determine the appropriate local Community Action Agency.
	Bureau of Indian Affairs, Dept. of the Interior	
20 Indian Social Services and Counseling, Snyder Act of 1921	Can be used to fund senior center provision of information and liaison assistance enabling Indians to secure welfare services and assistance from state and local agencies for Indians living on and near reservations, including Indians in Alaska and Oklahoma.	Contact should be made with the local or regional Bureau of Indian Affairs offices.

FEDERAL FUNDING SOURCES FOR MULTIPURPOSE SENIOR CENTER SERVICES AND FACILITIES—Continued

PROGRAM NAME	POTENTIAL SENIOR CENTER USES	APPLICANT PROCEDURE
21 Indian Social Services General Assistance	Can be used to provide senior center services to needy Indians living on or near Indian reservations or in jurisdictions under the Bureau of Indian Affairs in Alaska and Oklahoma.	Contact should be made with the local or regional Bureau of Indian Affairs offices.
	National Endowment for the Arts	
22 Promotion of the Arts-Education, National Foundation on the Arts & the Humanities Act of 1965	Can be used to provide professional artists as staff to instruct center participants in arts activities. Funds can not be used for rehabilitation or construction of facilities.	Contact should be made with the Office of Special Constituencies, National Endowment for the Arts, Washington, D.C.
	National Endowment for the Humanities	
23 Promotion of the Humanities—Public Program Development National Foundation on the Arts and the Humanities Act of 1965.	Can be used to fund center projects which involve humanities programming, i.e., cultural, philosophical and historical dimensions of contemporary public concerns, for center members.	Contact should be made with the Division of Public Programs, National Endowment for the Humanities, Washington, D.C.
	Office of Education DHEW	
24 Lifelong Learning Activities Higher Education Act of 1976, Title I	Can be used to fund senior center learning activities, and the training and retraining of center staff. Instructional materials for older people may be made available under this Title.	Contact should be made with the Office of Education, DHEW.●

"NEITHER SNOW, NOR RAIN, NOR GLOOM OF NIGHT"

● Mr. BAKER. Mr. President, every once in a while, it is a good idea to get a historical perspective on current problems. With all the concern over our mail system, I thought it might be a good idea to call to the attention of my colleagues the fact that in May of this year, delivery of U.S. mail will celebrate its 60th anniversary.

The first days of airmail were rough ones, and early in 1934, the task of carrying mail by air was given briefly to the Army Air Corps. Perhaps the decision to shift airmail delivery from private air carriers to the Air Corps was a stroke of good luck, or perhaps it was carefully planned. In any event, it eventually helped lead to the formation of a separate Air Force.

The story of the Air Corps' brief entry into the mail delivery business has been told in a fascinating article by one who was there, retired Air Force Brig. Gen. Ross G. Hoyt. In the January issue of Air Force magazine, he vividly describes the men and the planes that were the airmail service, and how that experience helped lay the foundation for our U.S. Air Force.

Mr. President, I submit for the RECORD the article "Neither Snow, Nor Rain, Nor Gloom of Night" and I recommend it to my colleagues.

The article follows:

NEITHER SNOW, NOR RAIN, NOR GLOOM OF NIGHT

(By Brig. Gen. Ross G. Hoyt, USAF (Ret.))

Chiseled into the facade of New York City's Main Post Office is a translation from the works of Herodotus, a Greek historian of the fifth century B.C. Describing the fidelity to duty of the Persian mounted couriers carrying messages during the Greek-Persian war of 500 B.C., he wrote: "Neither snow, nor rain, nor heat, nor gloom of night stays these couriers from the swift completion of their appointed rounds."

When, in February 1934, the Air Corps was called upon to provide the aerial couriers to carry the mail, an operation designated Army Air Corps Mail Operation (AACMO), it was confronted with a multitude of additional obstacles. If there is added fog, freezing temperatures in open cockpits, and icing wings; airplanes unsuitable and inadequately equipped for the mission; lack of adequate tools and spare parts resulting in poor maintenance and forced landings; deficiencies in training pilots to fly on instruments and at night, and to following a radio beam; complete unfamiliarity of Air Corps personnel with the organization needed to efficiently carry the mail; unfamiliarity of pilots with the routes they were required to fly; no per diem funds for the first forty-six days of the operation; and an extended period of dangerous flying weather, one has a picture of most, but not all, the problems facing the Chief of the Air Corps, his staff, and, as a matter of fact, the entire Air Corps with the exception of students at service schools and personnel needed to administer Air Corps bases. The Air National Guard also participated in the operation to the maximum of its ability.

When, on February 9, 1934, the Chief of the Air Corps, Maj. Gen. Benjamin D. Foulois, informed Harlee Branch, Second Assistant Postmaster General, that the Air Corps could carry the mail, he was well aware of the Air Corp's deficiencies. He and his predecessors, since the air arm had become a separate branch of the Army, had tried with little success to get remedial measures funded through the War Department budget.

General Foulois, in later years, stated he had reasoned at the time that AACMO would bring Air Corps's deficiencies to the attention of the news media, the Congress, the President, and the nation with a resultant increase in funds. How correct he was is now history, as are the inevitable accidents and deaths, adverse political reactions, accusations, and recriminations caused by those deficiencies. The labor pains were severe and protracted, but there was born an infinitely better-trained, equipped, and eventually better-organized air arm of our national defense.

TEN DAYS TO PREPARE

The Air Corps was given the job of flying the mail with little warning and scant time to prepare. Due to irregularities in the mail contracts between the Post Office Department and the airlines, the contracts were abruptly canceled by Postmaster General James A. Farley with the approval of President Franklin D. Roosevelt.

The rapidity with which the contracts were canceled and the job turned over to the Air Corps is best illustrated by the sequence of events from February 7 through 9, 1934.

On February 7, Karl Crowley, Solicitor General of the Post Office Department, completed a study of domestic airmail contracts and concluded the contracts were illegal by reason of alleged fraud and collusion. Farley concurred and arranged a meeting with the President on February 8. Farley, accompanied by William Howse and Harlee Branch, his First and Second Assistants, and Crowley, recommended to Roosevelt that the domestic airmail contracts be canceled. The President directed Farley to annul the contracts provided Attorney General Homer L. Cummings held the move to be legal.

On February 9, Cummings advised Farley, Branch, and Crowley there were sufficient grounds for the cancellation. That same afternoon Branch informed the Chief of the Air Corps of the contemplated action and asked if the Air Corps could carry the mail. General Foulois requested four to six weeks to prepare. He realized the enormity of the task he had taken upon himself and the Air Corps.

Also on February 9, General Foulois reported to the office of the Chief of Staff of the Army, Gen. Douglas MacArthur, to inform him of the action taken, and found the information had preceded him. Maj. Gen. Hugh A. Drum, Deputy Chief of Staff of the Army, handed General Foulois Executive Order 6591, dated February 9, 1934. It had been prepared in advance by the White House.

The order directed Secretary of War George H. Dern to "place at the disposal of the Postmaster General such airplanes, landing fields, pilots, and other employees and equipment of the Army of the United States needed or required for the transportation of mail during the present emergency over the routes and schedules prescribed by the Postmaster General." Simultaneously, the airlines were directed to cease carrying the mail on February 19, 1934.

There were but ten days in which to prepare, barely time to recover from the shock!

General Foulois knew the Air Corps pilots were the best trained in the world in basic flying techniques. They were not adequately trained in the use of auxiliary equipment essential to flying safety under all weather conditions. The airplanes were nearly all obsolescent—open cockpit pursuit, bombard-

ment, attack, observation, and transport planes lacking instruments and radios. In the case of the smaller types, military equipment had to be removed to provide mail compartments.

Toward the end of AACMO, twelve Martin B–10 bombers, twin-engine monoplanes with closed cockpits, retractable landing gear, and more sophisticated navigation, communication, and instrument flying equipment and capable of carrying a ton of mail, became available for use on the transcontinental airway from Newark to Oakland. Lt. Elwood "Pete" Quesada, now a retired Air Force lieutenant general, flew the last leg of that final AACMO transcontinental airmail flight piloting a B–10. The elapsed time from Oakland to Newark was fourteen hours, including several stops, bettering the best commercial airline time.

ORGANIZING THE OPERATION

On February 10, General Foulois formed an organization to initiate AACMO. Brig. Gen. Oscar Westover, Assistant Chief of the Air Corps, was put in charge with an already functioning staff. Maj. Carl Spaatz (later to become first USAF Chief of Staff) was Chief of the Training and Operations Division, Office Chief of the Air Corps, and acted as General Westover's Chief of Staff. I was G–3 (Operations) under Major Spaatz, and I vividly recall the task placed upon the entire Air Corps during those first ten days and the succeeding months until the airmail was turned back to the airlines on June 1, 1934.

During the first ten days, all Air Corps activities in the continental United States, including those of the Air National Guard, were notified of the impending operation. The National Guard Bureau, the governors and adjutants general of each state, and the commanding generals of the six Army Corps Areas were notified and their cooperation requested.

All Air Corps communications facilities were placed on twenty-four-hour alert; special legislation was requested to obtain funds, since Post Office funds could not be transferred to the Air Corps. This caused the delay in per diem funds, creating some severe hardships. For example, Lt. Paul K. Jacobs, now a retired Air Force colonel, who was control and engineering officer at Pittsburgh, reported the airport to be fourteen miles from the city, six miles from the nearest town, and no accommodations within three miles. This was particularly difficult for mechanics who, after long hours on duty walked to their lodgings if they could obtain credit, before per diem payments started. Some often went hungry and slept on hangar floors or in cockpits.

In cooperation with postal officials, the continental United States was divided into three Air Mail Zones: Eastern, Central, and Western. Each Zone was diveded into routes, and each route into sections with designated airmail stops.

The Eastern Zone, with the most extensive routes of the three, included the territory east of a line from Chicago, St. Louis, and Memphis (all excluded), to New Orleans (included), and was commanded by Maj. Byron Q. Jones, whose headquarters was finally established at Mitchel Field, N.Y., on March 12. The Central Zone, with headquarters at Municipal Airport, Chicago, was commanded by Lt. Col. Horace M. Hickam, and extended from the Eastern Zone boundary to a north-south line through, but not including, Cheyenne. The Western Zone ran from there to the western seaboard and was commanded from headquarters at Salt Lake City Municipal Airport by Lt. Col. Henry H. Arnold.

All Air Corps personnel except those especially exempted and all equipment except a minimum at bases was available to Zone Commanders, subject to coordination with Corps Area commanders and the Chief of the Air Corps.

Basically, there was the transcontinental federal airway with lights, radio beacons, and emergency landing fields, running through all three AACMO Zones from Newark via Cleveland, Toledo, Chicago, Des Moines, Omaha, Cheyenne, Rock Springs, Salt Lake City, Elko, and Sacramento to Oakland. The AACMO routes coincided with those of the airlines, as shown on the accompanying map.

When their contracts were canceled, the airlines were using 500 airplanes and carrying 3,000,000 pounds of mail a year over a 25,000-mile federal airways network.

The route mileage flown by AACMO was less than half that of the airlines. During AACMO, the Air Corps flew 1,600,000 airplane-miles and carried 800,000 pounds. Had the Air Corps continued to fly the airmail for a full year, it would have carried 3,200,000 pounds of mail (more than that carried by the airlines in 1933) with half the number of airplanes.

Upon notification of the impending operation, all Air Corps activities began working round-the-clock to install instruments and radio equipment, and remove all military equipment from many planes to provide mail compartments. Training in night and instrument flying and following the radio beam began, and continued after February 16.

An officer at Langley Field, Va., with a crew of twenty, installed fifty-two radio sets in planes from February 12 to 16. Comparable work was progressing at all major Air Corps stations, Air Corps detachments, and National Guard units. The question arises as to where all those instruments and radios had been reposing prior to the emergency, and why. And why had not a directive been issued previously making it mandatory that all pilots be fully trained in instrument flying?

With the establishment of the routes, the feverish rush began to place personnel (control officers, engineering officers, pilots, and mechanics), airplanes, and spare parts at control points by February 19 or earlier, to allow familiarization flights over the routes.

Morale was high throughout the preparatory period. Everyone was striving to live up to the inscription on the New York City Post Office, in spite of the multitude of additional obstacles encountered along the way. When the accidents, fatalities, but especially criticism started, morale reached a low ebb.

A PYRRHIC VICTORY

Everyone and everything was reported in place by February 19, the day the operation was to begin. I recall standing in the entrance of the Munitions Building in Washington that February morning and not being able to see across Constitution Avenue because of the dense fog. It was a foretaste of the bad weather that dogged AACMO much of the time from February 19 to June 1, 1934. The adverse weather, together with the deficiencies previously mentioned, was responsible for fifty-seven accidents and twelve Air Corps fatalities, all given full publicity.

In a recent conversation with Brig. Gen. Joseph G. Hopkins, then a lieutenant, he described his experience on an airmail flight into Denver in a P–12 open-cockpit pursuit plane. He landed, taxied to the line, stopped the engine, and had to reach over with his right hand to unclench the fingers of his frostbitten left hand from the throttle. Variations of that experience were typical during AACMO operations.

Several fatal accidents were caused by radio failure in bad weather, coupled with lack of instrument flying training, and the inability of pilots to interpret meteorological information.

Lt. Norman D. Sillin, now a retired major general, reported after the death of his roommate, Lt. D. C. Lowry, that he and Lowry, both experienced pilots, had memorized a sentence, each word of which began with one of the ten code letters used by the flashing beacons on each 100-mile segment of the lighted airway. This was all for naught. Lieutenant Lowry crashed fifty miles off the radio beam. His death was attributed to radio failure in bad weather.

Lt. Beirne Lay, Jr., reported his first night practice flight from Chicago to Nashville in a P-12E in which the radio failed, the compass spun, and he had only Rand McNally maps without adequate data. He "climbed from the cockpit at Nashville ahead of schedule, but an old man."

Accidents and casualties in the Eastern Zone were typical: Seven airplanes crashed because of engine trouble. One bomber was abandoned at night, the pilot and two passengers parachuting successfully. When another bomber was landed in a swamp among small trees, the pilot was uninjured but the crew chief was killed and a passenger fractured a collarbone.

In the Western Zone, two accidents in one day resulted in the deaths of three pilots before operations began on February 19. Both airplanes were on familiarization flights, one at night.

At tragic cost, the spotlight of adverse criticism brought into sharp relief the deficiencies of the Air Corps in training and equipment due to the fiscal policy of the War Department and its concept of the Air Corps mission as purely auxiliary to the other branches of the Army.

When the President began receiving adverse criticism from the Congress, the press, radio, and the airlines (they had lost forty valuable contracts), he—apparently wishing to forestall unfavorable political reactions—called Generals MacArthur and Foulois to the White House and blamed the Army and Air Corps for the accidents and deaths. General Foulois, who had considered the accidents and deaths commensurate with the increased flying activity, is reported to have said: "Mr. President, airmail or not, there is only one way to prevent flying accidents and deaths in the Air Corps, and that is to stop flying."

The immediate effect of AACMO was stated in General Foulois's final report: "In the blaze of editorial and congressional reaction to the deaths of army flyers, the President and the Congress were, in my opinion, forced to release funds for immediate use in the Air Corps experimental and research work, for the immediate procurement of advanced types of aircraft and aircraft materiel and for the immediate training of Army Air Corps personnel."

AACMO—CATALYST OF AIRPOWER INDEPENDENCE

There was another far-reaching effect AACMO had on the Air Corps, one that has not heretofore been sufficiently emphasized: a decisive role in the progressive changes in Air Corps organization from an inherent branch of the Army to an independent Department of the Air Force.

In order to establish a line of departure for this evolutionary process, one must retrogress more than a half century to 1921–23 and the sinking of the naval vessels by aerial bombardment off the Virginia Capes and Cape Hatteras under the command of Brig. Gen. William Mitchell, Assistant Chief of Air Service. The sinkings were much to the surprise and no doubt disappointment of the War and Navy Departments. The War Department saw the possibility of losing a branch of the Army. The Navy saw a definite threat to the prestige of the battleship. The War Department should have been delighted,

for it was then engaged in a debate with the Navy Department before the Joint Board as to which should be responsible for coast defense.

The euphoria caused by the brilliant success of General Mitchell's bombers created throughout the Air Service a wave of enthusiasm for a separate air force, expressed volubly and vehemently by those officers who participated in the bombing, and by others. Among those officers, then considered dissidents and undisciplined malcontents by the War Department General Staff, but now looked on by the Air Force as pioneers, far ahead of their times, were General Mitchell; Majs. H. H. Arnold, Herbert Dargue, and Carl Spaatz; Capts, Robert Olds, George Kenney, Harold Lee George, and Donald Wilson; and Lt. Kenneth Walker. All reached general officer rank.

General Mitchell's court-martial in 1925 and the disciplinary action against Major Arnold for his activities in General Mitchell's behalf suppressed outward expression of the movement temporarily, but by 1933 the movement was stirring again. But efforts of the General Staff to suppress any progress toward a separate air force never ceased.

It appears that when the War Department General Staff wished to adopt a new policy or reaffirm an old one, a board was appointed, the results of which confirmed the preconceived ideas of the General Staff.

Accordingly, on August 11, 1933, a special committee of the General Council, known as the Drum Board, was appointed, chaired by Maj. Gen. Hugh A. Drum, Deputy Chief of Staff and a determined opponent of anything smacking of a separate air force. Other members of the Board were the Assistant Chief ci Staff, War Plans Division; the Commandant of the Army War College; the Chief of Air Corps; and the Chief of Coast Artillery. The Board was to review and revise the Air Plan for the Defense of the United States, which the Chief of the Air Corps had been directed to submit for the use of a GHQ (General Headquarters) Air Force in each of three war plans. (A GHQ Air Force did not exist at that time except in war plans.) It had been conceded that such a force was desirable in war, but only under the War Department and the Army commander in the field.

The Drum Board did not accept the recommendations of the Chief of Air Corps, General Foulois. The Board proceeded to "formulate its own views thereon and to embody them in a report of the Committee as a whole as a substitute for the one under consideration." A slap in the face for the Chief of Air Corps.

A detailed study of the Drum Board report reveals how completely the General Staff integrated GHQ Air Force into the Army war plans, tactically, and strategically. The Chief of Air Corps signed the report, thereby concurring. For the time being it was the nadir of hopes for a separate air force. (In those days, the proponents of a separate air force metaphorically defined a Board as something "long, narrow, and wooden.")

In April 1934, because of AACMO experience, but before its termination, Secretary Dern appointed the War Department Special Committee on the Air Corps, known as the Baker Board, chaired by former Secretary of War Newton D. Baker. The Board was charged to "make a constructive study of the adequacy and efficiency of the Army Air Corps for its mission in peace and war."

The Baker Board consisted of six civilians experienced in military aviation including James H. Doolittle, recently resigned from the Air Corps, and four general officers of the General Staff including General Drum as vice chairman, and General Foulois, Chief of the Air Corps.

The Baker Board made many recommendations beneficial to the Air Corps, but always as an integral part of the Army. It concurred with the Drum Board as to control of the GHQ Air Force, probably due to the influence of General Drum and the other three general staff officers. The report stated, "this force, when adequately equipped and organized, will be able to carry out all missions contemplated for a separate or independent air force, cooperate efficiently with the ground forces and make for greater economy." Doolittle submitted a strong minority report in favor of a separate air force. It kept the thought and spirit alive.

However, the Baker Board recommended the organization of the GHQ Air Force, effective March 1, 1935. It consisted of all pursuit, bombardment, and attack units in the continental United States, under the command of a general officer of suitable air experience, with headquarters outside Washington. The first commanding general of the GHQ Air Force was Maj. Gen. Frank M. Andrews. His death in an aircraft accident at Rekjavik, Iceland, early in World War II was a great loss to the Air Force and the nation.

GHQ TO USAF

Even though it remained under the Army, the GHQ Air Force was the first small step toward a Department of the Air Force—a concession that there was a strategic mission for the air arm separate from that of the ground forces and a chink in the armor of the opponents of a separate air force.

Another action for which AACMO was responsible, together with the general burgeoning of aviation at the time, was the appointment by President Roosevelt, in June 1934, of the Federal Aviation Commission (FAC), whose mission was to "make recommendations concerning all phases of aviation." Many Air Corps officers were called to present their views on the future organization of the Air Corps. They were instructed by the General Staff to familiarize themselves with War Department policy and not to testify contrary thereto unless their statements were identified as personal opinion. They expressed themselves in convincing terms in favor of a separate air force.

In view of the fact that the GHQ Air Force was to be organized, the FAC refrained from commenting directly on the matter of an independent air force. However, it did state: "It must be noted that there is ample reason to believe that aircraft have now passed far beyond their former position as useful auxiliaries, and must in the future be considered and utilized as an important means of exerting directly the will of the Commander in Chief. An adequate striking force for use against objectives both near and remote is a necessity." Once again, the principle of an independent air force was expressed.

AACMO, by its disclosure of deficiencies in the Air Corps, triggered actions by the War Department, the Congress, and the President that caused a tremendous upsurge in the technical development and performance of aircraft.

Thus, the tools, in the form of greatly improved fighters and bombers, were provided the USAAF. Operating as a separate air force in World War II, these tools enabled it to destroy German industry, the Luftwaffe, and the will of the German people to effectively resist, and in cooperation with the US Navy to defeat Japan.

Those successes, together with the continued pressure and persuasion of Generals Arnold, Spaatz, Kenney, George, McNarney, Eaker, Norstad, and Kuter along with their converts—President Truman, Generals Marshall, Eisenhower, MacArthur, and many members of Congress—gave sufficient impetus to the movement toward a Department of the Air Force to convince Congress to enact the necessary legislation—the National Security Act of 1947.

General Foulois's "yes," when asked if the Air Corp could carry the mail, set forces in motion that provided the means for the USAAF to prove in combat that it was capable of assuming the role of an independent United States Air Force.●

ENERGY AND LABOR

● Mr. KENNEDY. Mr. President, last week I chaired hearings on how energy policy affects our employment situation. We found that the executive branch does not calculate this effect, even though three witnesses were each able to show research results which reveal great jobs advantages from energy efficiency efforts. We also were shown our tax system favors utilities, large corporations, and energy intensive activities, at the expense of small businessmen, minorities, and the poor.

The real lesson of our hearings is that only through a massive energy efficiency effort can we hope to achieve a full employment economy. This lesson offers much to the labor movement. For without a labor intensive energy strategy more and more jobs will be lost to automation. Barry Commoner has summed up this argument in a February speech to the Canadian Labour Congress. His points are equally applicable to the labor sector in the United States.

Mr. President, without objection I submit a copy of Dr. Commoner's speech for the RECORD.

The speech follows:

SPEECH BY BARRY COMMONER

The theme of this conference—jobs and the environment—is a timely and crucial one. Both are urgent and unsolved problems. Canadian unemployment has jumped from a "normal" rate of 4 or 5 percent to 8.4 percent, the highest since World War II. In the United States, despite a 6.4 percent figure in December, unemployment averaged 7 percent last year. About 15 percent of young workers are unemployed and nearly 40 percent of young, black workers are unemployed. At the same time, in spite of major legislation and a huge effort to clean up the environment, we are still plagued by pollution. Some environmental problems, like toxic chemicals, have become even worse. Their most serious effects, such as sterility and cancer, have been imposed on labor—the workers who produce and use these chemicals.

Now the persistent problems of unemployment and environmental decay have been joined by a third one—the energy crisis. Although there is much confusion about what the energy crisis is, who is to blame for it and even whether it is real, this much is clear: Whatever is done about energy or even if nothing is done, it will have enormous effects on both jobs and the environment, and indeed on all the other issues with which labor is concerned—prices, working conditions and the strength of the economy.

We therefore confront three serious, simultaneous problems: Unemployment, environment and energy. The worst feature of this troublesome triumvirate is that it seems impossible to solve any one problem without making the others worse. When more than 20,000 U.S. steelworkers were laid off in the last six months and steel plants closed, the industry blamed the cost of pollution controls for its inability to compete with steel

imports. Here in Canada you are told that to meet the nation's energy needs, much of Alberta's land and water must be diverted to mining tar sands, and that the resulting environmental damage must be borne as a kind of patriotic duty.

People seem ready to accept the notion that there are built-in, insoluble conflicts among the three goals of employment, energy sufficiency and environmental quality. Compromise seems to be the only way out, trading off jobs for environmental quality and energy for agricultural land and clean waters. "There is no free lunch," we are told; we cannot meet all these goals at once, something has to give. Anyone proposing to solve one of the problems is expected to question the importance of solving the others. The oil companies call for strong incentives for oil and natural gas production, but want environmental controls to be "reexamined" and made "more reasonable." Those of us who are seen as "environmentalists" are expected to argue strongly for environmental quality and energy conservation, making only some sympathetic sounds about the plight of the unemployed.

And inevitably, labor is caught in the middle. Utility executives and business leaders pressure labor to join battle against environmentalists, claiming that their opposition to nuclear power plants will throw people out of work. Auto executives pressure the unions to join in condemning gasoline conservation for fear that it will worsen the economic situation in the auto industry.

Before I examine this situation, let me make my own position unambiguously clear:

If there were in fact a conflict between jobs and environmental quality, or between maintaining the supply of energy and ecological balance, I would personally favor actions that cut unemployment and maintain the flow of energy, and suffer the environmental consequences. I say this because my own interest in the environment and in a sensible energy policy is based on a much more fundamental aim—the improvement of human welfare. And I know of no way to accomplish that aim if people are out of work, if inflation is rampant and the economic system is in a decline.

I'd like to carry this argument even further, and assert that of these three issues, the one which most urgently needs to be solved is unemployment, and the attendant problems of runaway inflation and economic decline. Unless we can solve the unemployment problem, the rest won't matter very much. How long can we tolerate the rejection of one in every five young workers—or two in five if they are black—trying to find their very first job; trying, as every young person must, to discover if they can find a place in society?

It is hard to conceive of a nation finding the will to tackle the enormously complex energy crisis or coping with thousands of chemical pollutants when the new generation which is supposed to reap the benefits of these improvements is condemned to such despair. Or to put it in more practical terms, an economic system incapable of finding work for such a large proportion of its new generation of workers could hardly be expected to muster the huge financial resources needed to clean up the environment and to weather the energy crisis. On these grounds I am convinced that if we were forced to choose among them, the task of reducing unemployment and of rebuilding the faltering economy would have to take precedence over the energy and environmental crisis.

But are we in fact forced to make this desperate choice? Must we sacrifice environmental quality—which is, after all, also essential to human welfare—on the altar of high employment and economic stability? My answer is no.

I am aware that this is a strong claim which seems to fly in the face of common wisdom about our trio of crises. And I would agree, if you are convinced that people are unemployed because they don't want to work, that the Arabs are to blame for the energy crisis and that pollution is due to our sloppy habits, it is indeed hard to see any connections among the three issues. Looked at this way, there does not seem to be a way to harmonize the three goals rather than compromise them; to solve all the crises rather than trying to improve one situation by worsening the others.

But if we look for more fundamental reasons why, like ancient Egypt, we have been afflicted with this series of unexpected plagues, we will discover that they are connected. More than that, we will discover that the only way to meet the fundamental needs of labor—to reduce unemployment and inflation and reverse the present economic decline—is to adopt a policy that would at the same time make sense out of the energy crisis and reduce pollution. The reverse is also true: the only sound energy and environmental policy—a policy that can best give the nation a stable energy supply and a clean environment—is one that serves these needs of labor. This is the main point of my remarks, in which I hope to demonstrate why I have reached these conclusions.

To begin with, we must recognize that the place where labor works, where energy is produced and used, and where most environmental problems are created, is the same: the productive enterprise—the mine, the factory, the farm. This means that the relation between the availability of jobs, the production and use of energy and impact on the environment depends on how these productive enterprises are designed and operated—more generally, on the technology of production.

In turn, the design and operation of a mine, a factory or farm involves economic factors: the wages paid to labor, the price of energy and other necessary inputs, the amount of capital needed to buy or build the productive machinery, the value of the goods that are produced and the expected rate of profit.

The welfare of labor—the availability of jobs, for example—depends on how this complex system operates, and that, in turn, depends on how all of its different technological and economic elements are connected. What labor requires from this system, simply stated, is that it should operate at its highest possible capacity; that it should provide, for all who can work, decent jobs at decent pay, in conditions that protect safety and health; that the goods which it produces should be sold at prices that labor can afford; that inflation, which erodes the standard of living, should be controlled; that labor should be free to organize and to take part in the decisions which affect its welfare.

Our task here is to learn how the production and use of energy and the quality of the environment affect these requirements which labor—and indeed society as a whole—must place on the production and economic system. Specifically, we need to ask what energy policy will encourage strong economic activity, ample job opportunities, control inflation and enable labor to play its proper role.

The first, most obvious feature of such a policy is that energy must be available. It is a simple, but often overlooked fact that every form of production—in factories, farms, transportation, offices—requires energy and cannot operate without it. This is the inescapable result of the physical laws which govern the production and use of energy. These laws tell us that work must be done if we wish anything to happen that won't happen by itself (for example, producing an auto) and that work can be done only if there is a flow of energy. Any block in the flow of energy means that production stops—and people lose their jobs. And a small interruption in the flow of energy can have a much larger effect on the economy. For example, when the Midwest ran out of natural gas last winter—because Texas producers preferred to make an extra profit of $1 per thousand cubic feet by selling gas within the state rather than shipping it north at a lower, regulated price—the resulting economic dislocation involved losses, in wages alone, many times greater than the cost of the missing fuel. No matter what else is done about energy, it must continue to flow if goods are to be produced and people are to remain at work.

The second basic point is that the availability of energy depends on its price. People have frozen to death because they couldn't afford to pay their utility bill. In turn, the price of energy has a heavy influence on general inflation and worsens its damaging effects: reduced purchasing power, lowered demand for goods, depressed production and unemployment.

Because energy is used in producing all goods and services, when the price of energy rises it inevitably drives up the cost of everything else. When the price of energy, which was essentialy constant for 25 years, suddenly began escalating in 1973, wholesale commodity prices followed suit. Before 1973 commodity prices had been inflating at a modest rate of about 2 percent a year. After 1973 they took off, going into double-digit figures in 1974, and since then running at more than 10 percent a year.

The prices of goods that are particularly dependent on energy are hardest hit by inflation. Unfortunately, these energy-intensive goods include housing (which depends on the cost of fuel and electricity), clothing (most of which is now made from petroleum-based synthetic fabrics) and food (which now heavily depends on fertilizers and pesticides, chemicals made out of petroleum and natural gas). This puts a particularly heavy burden on the poor. In the United States, the poorest fifth of all families use about 25 percent of their budget to buy such energy-intensive items; the wealthiest fifth of the families use only 5 percent of their budget for this purpose. When the price of energy rises the poor suffer most.

The rising price of energy also damages the economy and increases unemployment because of its influence on economic predictability. This is an important factor in a new industrial investment because an entrepreneur needs a reliable prediction of the long-term cost of the energy needed to operate it. This is how the rate of return on the investment is computed—the famous "bottom line" which determines whether or not an investment will be made. The price of energy is now rising at a rate unprecedented in the history of the United States. In the ten years before 1973 the energy price index increased at about 3.7 percent per year; in 1973-76 it increased at the rate of 25 percent per year. The problem for the businessman is not so much the actual price of energy, since in most cases he can pass the cost—and usually a little more—along to the consumer. What the businessman cannot cope with is the rate of increase, because when the rate is very high it is also uncertain, making future energy costs highly unpredictable. Several business commentators have pointed to such uncertainties as a major cause of the present slow rate of investment—which means that plants are not built, and job opportunities are lost.

Unfortunately, nearly all of our energy

now comes from sources that must, inevitably, rapidly increase in price. Nearly all of our energy comes from oil, natural gas, coal and uranium. These are nonrenewable resources. They are limited in amount. We are "running out" of them. At this point some people tend to visualize oil and gas supplies slowing down to a trickle as the underground pools run dry. But that is not the way it works.

What happens as oil, for example, is taken out of the ground is that the easiest oil to produce is produced first. As a result, the cost of producing oil inevitably escalates as more oil is produced. The law of diminishing returns is at work. As production of oil, natural gas and, more recently, uranium, increased it became necessary to drill deeper, to tap smaller deposits and to use more expensive recovery methods. Inescapably, whenever the limited supply of a nonrenewable fuel is sufficiently depleted, its price begins to rise exponentially—that is, the higher the price, the faster the price increases. (In the case of oil this is sometimes blamed on OPEC and the Arab states' embargo. But in fact two years before the embargo, the OPEC oil ministers got their cue from a massive and detailed report published by the U.S. National Petroleum Council. The NPC—which should know, since it is composed of the officers of the U.S. oil companies—predicted that the price of domestic U.S. oil, which had been essentially constant for the previous 25–30 years, would, beginning in 1972–73, need to rise exponentially if the oil companies were to maintain their rate of return on investment. The OPEC oil ministers believed their American colleagues and took steps to see that they were not left behind.)

In sum, the situation is this: As long as we continue to use nonrenewable energy sources, the prices of energy will continue to escalate, causing a series of disastrous economic effects—rapid inflation, an erosion of the standard of living of poor families and uncertainties about investments in new production—all of which depresses the economy and worsens unemployment. Continued dependence on nonrenewable energy sources inevitably hurts the country, and labor in particular.

A third basic link between energy and the economy is provided by capital. We now hear frequent complaints in the financial columns that the present weakness of the economy is in good part due to the lag in new capital investment. This is an ominous sign, for a slow rate in investment in new productive enterprises today means much lower productive capacity—and job opportunities—tomorrow. The availability of capital, and the willingness of investors to risk it in new productive enterprises, is a crucial feature of the economy's health.

There is a close connection between the flow of energy and of capital. It is widely recognized that the availability of capital strongly influences energy production. Utilities have been forced to abandon new construction projects (especially nuclear power plants) and investors have been forced to abandon synthetic oil and shale oil projects for lack of the necessary capital. What is less well-known is that the opposite connection is also important: The ways in which we now produce and use energy strongly influence the availability of capital, and therefore the rate of new investment which depends on it.

Various methods of producing energy differ considerably in their capital productivity—that is, in the amount of energy (for example, BTU's) produced annually per dollar of capital invested. One dollar invested in oil production (in 1974) produced about 17 million BTU's of energy per year. But that same dollar invested in producing strip-mined coal yielded only 2 million BTU per year; in shale oil about 400,000 BTU per year; and nuclear power brings up the rear with the equivalent of 20,000 BTU per year. Thus, any energy policy which emphasizes the production of electricity (particularly from nuclear power plants), rather than direct burning of fuel; which favors the use of coal over oil and natural gas; or which emphasizes the production of synthetic or shale oil, would worsen the energy industry's already serious drain on the availability of capital.

Each of the different ways of producing energy also has its own particular demand for labor. For example, in 1973 for every unit of energy yielded (trillion BTU's), oil and natural gas extraction created six jobs; strip mining, six jobs; deep coal mining, 18 jobs. As a result of these differences, and differences in capital productivity, the same amount of capital invested in different ways of producing energy can have very different effects on unemployment. For example, one calculation shows that a given amount of capital would produce two to four times as many jobs if invested in solar energy rather than electricity generation. A report to the New York State Legislative Commission on Energy Systems calculated that investment in energy conservation would produce about three times as many jobs as the same capital invested in nuclear power.

Finally, the impact of different forms of energy production on working conditions and on the general environment also vary a great deal. The physical dangers of work in coal mines and the risk of diseases such as black lung are well known. In the nuclear power industry, uranium miners are exposed to particularly high risks of radiation-induced cancer. The risks of radiation to other workers in the industry are still poorly understood, but some recent studies suggest that they may be higher than most earlier estimates. Shale oil production and conversion of coal to synthetic fuels produce highly carcincgenic substances; workers in a pilot coal conversion plant operated in West Virginia in the 1960's suffered 16–37 times the incidence of skin cancer as comparable workers in different jobs. There may be similar problems in tar sands operations.

The environmental impact of different energy sources closely parallels their impact on the workers' health. Coal mining, shale oil and tar sands oil production devastate the land and use large amounts of scarce water. Coal conversion operations are heavy polluters of the air. Coal-burning power plants pollute the air with nitrogen oxides, sulfur dioxide and carcinogens.

The nuclear power industry has yet to solve its serious environmental problems, such as safe disposal of radioactive wastes. Recent reports show that radiation leaking from reactors has contaminated milk from nearby dairies with unsafe levels of strontium 90. When energy is conserved all of these difficulties are, to that extent, reduced. And if solar energy were used instead of these conventional sources, environmental impact would be very sharply reduced.

From these considerations it is apparent that the effect of energy production on major factors which govern the welfare of the nation, and of labor in particular—inflation, employment, the availability of capital, working conditions and environmental quality—varies greatly depending on the form of energy which is produced. While a continuous flow of energy in some form is essential to keep the production system going and the economy strong, the way the flow is sustained can have the opposite effect. For example, if we were to choose to sustain the necessary flow of energy by relying heavily on very capital-intensive sources of energy (such as nuclear power, shale oil production and the production of synthetic fuels from coal) the enormous drain on capital would hinder investments in the productive enterprises that use the energy and seriously disrupt economic development. It is true that continued production of energy is essential to the economy. But it is also true that we could literally bankrupt the economy by investing heavily in the wrong kinds of energy production.

Perhaps the most striking example of this danger is nuclear power, as Saunders Miller, a prominent utilities investment counselor, has pointed out:

"Based upon thorough in-depth analysis, the conclusion that must be reached is that, from an economic standpoint alone, to rely upon nuclear fission as the primary source of our stationary energy supplies will constitute economic lunacy on a scale unparalleled in recorded history, and may lead to the economic Waterloo of the United States."*

If we turn now from the ways in which we produce energy to a consideration of the ways in which we use it, we see once more that there are profound differences which seriously affect both labor and the national welfare. Here we need to consider how efficiently energy, capital, and labor are used in production processes. A convenient way to measure these efficiencies is in terms of productivity of an enterprise, such as a particular manufacturing operation. This measures how much economic gain—usually expressed as value added—is produced per unit of energy, capital or labor used. Thus, three basic productivities need to be considered:

Energy productivity, or how efficiently the enterprise converts the energy that it uses into value added. This is measured as: dollars of value added per BTU used in production.

Capital productivity, or how efficiently the enterprise converts the capital invested in it into value added. This is measured as: dollars of value added per dollar of capital invested.

Labor productivity, or how efficiently labor is converted into value added This is measured as: dollars of value added per man-hour.

Let us compare the productivities of two industries which produce competing materials: leather products and the chemical industry which produces the plastics that have so heavily replaced leather and other natural materials. Of the two industries, leather production is about 4.5 times more efficient in converting capital into value added, and nearly 13 times more efficient in its use of energy. This relationship between capital and energy productivity is quite general among different industries. Five industries, petroleum products, chemicals, stone, clay and glass products, primary metals and paper, account for about 59 percent of electricity and 77 percent of the total energy used in manufacturing. They also have the lowest capital and energy productivities of all major sectors of manufacturing. There is a good correlation between energy productivity and capital productivity because energy is used to run the machines purchased by capital; the more capital (machinery) involved in an industry, the more energy it uses. And in many cases, this means fewer jobs, since the energy is often used to replace human labor. For example, for the same economic output the chemical

* "The Economics of Nuclear and Coal Power," Miller, S.: New York: Praeger Publishers, 1976; p. 109.

industry uses less than one-fourth the amount of labor than the leather industry.

Another important feature of the relation between energy and the economic system is that—strange as it may seem in the light of supposed economic principles—capital and energy tend to flow toward those enterprises that use them least efficiently. Capital used in industrial production flows heavily toward those sectors which are low in both energy productivity and capital productivity. For example, the five industries cited earlier that use energy and capital least efficiently use nearly one-half of the capital invested in all manufacturing industries. In contrast, the seven most energy-efficient industries (such as leather production) use only 7 percent of the capital invested in manufacturing.

As pointed out earlier, various methods of producing energy also differ significantly in their capital productivity (i.e., how efficiently capital is used to produce energy). Here too capital tends to flow toward those enterprises which use it least efficiently. For example, although electric power represents only 21 percent of the total amount of energy which we use, it consumes 56 percent of the capital invested in energy production. At the same time, due to thermodynamic limitations, no more than one-third of the fuel used to drive a power plant is converted into electricity. Electric power is therefore by far the most expensive form of energy in terms of capital expenditure.

When electricity is used to produce space heat, more than 97 percent of the thermodynamic value of the original energy is wasted. Yet about a fifth of U.S. electric power is used in this way—an enormous waste, not only of energy, but also of the capital needed to produce job-generating factories and homes.

In recent years industries with high energy and capital productivity (such as leather) have given way to industries with low capital and energy productivities (such as plastics). This is particularly true of the displacement of natural products (leather, cotton, wool, wood, paper and soap) by synthetic ones (plastics, synthetic fibers and synthetic detergents). For the reasons cited earlier, this displacement not only drains supplies of energy and capital, but also worsens unemployment. In the U.S. about half of the unemployment is "technological"—that is, job opportunities lost when such new production technologies are introduced and cut the overall demand for labor—and usually disproportionally increase the demand for energy and capital.

Now we can see the basic links among energy, the economic system and the environment: The same shifts in production technology that reduced the productivity of capital and energy and have cut the number of jobs usually increased the impact of production on the environment. As synthetic products replaced natural materials more petroleum and natural gas were used both as raw materials and for fuel, polluting the environment with combustion products and toxic chemicals. The petrochemical industry demonstrates the close links among the wasteful use of energy and capital, the assault on the environment and unemployment.

Thus, we find that unemployment is part of the same economic trends that generated the energy crisis and the environmental crisis: Energy has been produced increasingly in forms (especially electric power, and nuclear power in particular) which use a great deal of capital relative to the amount of energy that they yield. As a result, energy production has claimed an increasing proportion of the capital available for business investment, making it less available for investment in new job-creating enterprises. (In 1960, energy production claimed 26 percent of the capital invested in industry; by 1980 it is expected to claim more than a third.) At the same time, industries which use energy inefficiently also use capital inefficiently; they also pollute the environment most heavily and are often least effective in creating jobs. In sum, the same economic tendencies—the displacement of labor by energy-driven machines—that have worsened employment carry a good deal of the responsibility for the energy crisis and the environmental crisis. The crises in employment, energy, and the environment are, in this sense, the same crisis.

Against this background what can be said about Carter's National Energy Plan, which is the United States' first effort to establish a comprehensive energy policy? Judged by the standards developed above, most of the plan must be given rather bad marks, especially for its effect on labor. The plan is based on the strategy of raising energy prices as a means of encouraging energy conservation. Leaving aside that the plan would in fact accomplish very little conservation (only 16 percent of the increased demand for energy between now and 1985 would be met by conservation) this approach will only worsen inflation, and with it unemployment and all the economic ills which trouble labor. The plan mandates a sharp increase in the present rate of nuclear power plant construction and in the use of coal—with a resulting doubling in the contribution of electricity to the energy to be acquired between now and 1985. This means heavy reliance on the ways of producing energy that are most wasteful of capital, a step that is certain to add to our present economic difficulties. At the same time, by increasing the availability of electricity (relative to direct use of fuel) the plan would encourage those industries that are power-intensive—and which are thereby likely to use little labor. Finally, the plan would create enormous new environmental difficulties, because it relies so heavily on the two methods of producing energy that most severely threaten the environment—the use of coal and nuclear energy.

In sum, the National Energy Plan is likely to aggravate the energy crisis rather than solve it, for it would worsen the main effects of the energy crisis: inflation, unemployment and economic uncertainty. This means, I fear, that if the plan is enacted in anything remotely resembling its present form, we would be confronted even more by the divisive antagonisms among those concerned with unemployment, energy and the environment that only contribute confusion to a national debate that cries out for clarity.

Is there no way out? There is. There are alternatives to the nuclear power plants, the strip mines, the coal gasification projects, to the continued use of oil and natural gas which will rise in price forever. The alternative is, of course, solar energy.

Now at this point many people will react with a far-away look in their eyes, and perhaps with some impatience and frustration, expecting to hear another one of those pie-in-the-sky schemes about a beautiful solar future. But that is not what I am talking about. I am not going to tell you that all will be well if we do more research on solar energy, set up a few more demonstration houses or learn how to build a solar power plant in space. What I am going to tell you —and not on my own authority, but on the authority of U.S. government agencies—is that for most methods of using solar energy the technology is already in hand, and can be introduced at once in most parts of the country, for a wide variety of uses, at economically competitive costs.

To many people, and apparently to some government officials, this is news. But it is good news, for the most important thing about solar energy is that unlike conventional energy sources it will stabilize the price of energy, slow inflation and improve investment planning; it will create rather than destroy jobs; it can turn the country's faltering economy around. It can give us a real energy plan that solves the energy crisis rather than making it worse—the kind of energy plan that meets the needs of labor.

Here are a few reminders about what solar energy is all about.

First, unlike oil, natural gas, coal or uranium, solar energy is renewable; it will never run out (or at least not in the next few billion years). Because solar energy is renewable it is not subject to diminishing returns—which means that its price, instead of escalating like the price of present energy sources, will be stable and even fall as the cost of devices continues to decline. By stabilizing the price of energy, solar energy reduces the threat of inflation and eases the task of planning investments in new productive enterprises, thus relieving two of today's worst economic problems.

Second, the use of solar energy does not depend on any single technique. There are different sources of solar energy, some forms more available in one place and other forms in other places. Everywhere that the sun shines solar energy can be trapped in collectors and used for space heat and hot water. Of course, the amount of sunshine varies from place to place, but not as much as most people think. The sunniest place in the United States, the Southwest, gets only twice as much sunshine as the least sunny place, the Northwest. In some places the most available form of solar energy may be wind (the wind blows because the sun heats the air on the earth's surface unevenly). In agricultural areas solar energy will be available in the form of organic matter (which is produced by plants, through photosynthesis, from sunshine): manure, plant residues, or crops grown to be converted into methane (the fuel of natural gas) or alcohol. In forested areas, waste wood, or even wood grown for the purpose, can be converted into heat, either directly, or by being made into gas. And wherever the sun shines, photovoltaic cells can be used to convert solar energy directly into electricity.

Third, for each of these solar processes the scientific basis is well understood and the technological devices have been built and are in actual use. Solar collectors are used all over the world, and were once (about 30 years ago) common in Florida and California; small windmills used to dot the farm landscape; methane plants are in operation in hundreds of thousands of Indian and Chinese villages; alcohol produced from grain was used extensively, mixed with gasoline, to run cars and trucks during World War II; photovoltaic cells now power satellites and remote weather stations. Of course solar energy needs to be stored during the night or over cloudy periods. This can be done in batteries, in tanks of alcohol or methane, in silos full of grain, as standing timber, or for that matter in piles of manure. All these items exist.

The main questions are, once again, economic: Granted that most solar technology exists, does it pay to introduce it? More precisely the question is not whether it will pay, but when. The cost of conventional nonrenewable fuel is now rising exponentially and will do so indefinitely. Since it is renewable, the cost of solar energy is fixed only by the cost of the equipment, which will fall in price as experience is gained. Place these two curves on the same time scale and inevitably they will sooner or later cross. Solar energy, which a few years ago was more expensive than the conventional alternatives, will inevitably equal them in

price and then each year become cheaper relative to conventional energy.

Estimates of when and how solar energy systems become economically advantageous have now been made by the Solar Energy Task Force of the Federal Energy Administration (now part of the new Department of Energy). Here are the main features of the task forces "National Solar Energy Plan":

Solar heating: In most of the central part of the United States, if the government would provide low-cost loans, it would today pay a householder who uses electricity or oil for space heat and hot water to replace about half of it with a solar collector system. Even borrowing all the necessary funds at eight percent interest, with a 15-year amortization period, would cut the average annual heating bill by 19–20 percent.

Photovoltaic electricity: Here is the biggest surprise. For a long time even those of us most optimistic about solar energy were convinced that this technology—a wonderfully simply way to produce electricity from sunshine—was unfortunately so expensive as to remain uncompetitive for some time to come. Now the FEA report shows that the production of electricity from photovoltaic cell systems can compete with conventional power sources and exactly how that can be accomplished. The report shows that, beginning immediately for the more expensive installations such as gasoline-driven field generators, within two years for road and parking lot lighting, and within five years for residential electricity in the southwest, photovoltaic units can compete, economically, with conventional power. All that is required to achieve this remarkable accomplishment is to invest about $0.5 billion in the purchase of photovoltaic cells by the federal government. This would allow the government to order about 150 million watts capacity of photovoltaic cells. This order would allow the industry to expand its operations sufficiently to reduce the price of the cells from the current price of $15/watt (peak) to $2–$3/watt in the first year; to $1/watt in the second year and to $0.50/watt in the fifth year, achieving the competitive positions noted above and successfully invading the huge market for conventional electricity. A similar federal (or state) purchase plan could bring large-scale power-generating windmills down to a competitive price, according to the FEA report.

Methane and alcohol production from organic matter: While methods of commercializing these sources of solar energy have not yet been worked out by the FEA task force, current research already begins to show how that can be done. Public works funds can be used effectively to rebuild urban garbage and sewage-sludge disposal systems so that they generate methane, which can help meet a city's energy demand. In certain farm operations—such as a dairy with 200 or more cows or a farm raising 5,000 or more chickens—it is already economical to replace current manure-disposal systems with methane generation, using it, for example, to produce electricity to drive farm machinery and heat to warm the barns. In Texas, one company has already begun to sell methane produced from feed-lot manure to the natural gas pipelines. Several Midwestern states are actively developing alcohol production from grain, as a partial substitute for gasoline in cars, trucks and tractors.

The most important aspect of solar energy, I believe, would be its effect on employment and economic recovery, but solar energy has another unique feature—it has no economy of scale. In all conventional energy production, there is a very large economy of scale—the cost of the energy falls sharply with the size of the unit. Solar energy is very different. When a farmer wants to produce more corn he does not produce bigger corn plants, but plants more of them over a larger area. And each corn plant operates at the same efficiency, so that one acre of corn traps solar energy as efficiently as 1,000 acres of corn. The same is true of all solar techniques, such as photovoltaic cells. You can run a flashlight or a whole house on photovoltaic cells, at the same energetic efficiency.

In conventional energy production the large economy of scale means that only very large corporations can compete (that explains why the energy corporations are such big ones). In solar energy production a small or middle-sized company (or a household) can do as well as a corporate giant. As a result, huge, centralized solar installations are unneeded. The power can be produced on a scale that matches its use, where it is used, thus eliminating the need for heavy transmission systems (although light ones will be useful to balance out production and demand). It is easy to see that the introduction of solar energy would mean a rebuilding of not only our system of energy production, but also many of the ways in which energy is used in manufacturing, agriculture and transportation. This would mean a vast program of new construction; it would create new jobs, and in doing so begin to control inflation.

The point of the foregoing analysis of the economic consequences of different ways of producing and using energy is not so much to support this particular theory about the role of energy in the production and economic system. What I wish to emphasize is the basic point that all energy sources and ways of using energy in production, are not alike in their effects on jobs, inflation and economic stability—and therefore on the interests of labor. Yes, some form of energy must be available if production and the economy is to continue—if goods are to be produced and if people are to have jobs and afford to buy what they need. But it makes a big difference which form of energy is chosen to support production, and how it is used. Choose the wrong form of energy and the effort to support the economy and create jobs will have the reverse effect. The economy will suffer and jobs will be lost.

Consider, for example, the often repeated claim that nuclear power plant construction is a good way to produce energy, support the economy and create jobs. This claim simply does not stand up before the facts. When compared with alternative ways of producing the needed energy it becomes clear that nuclear power is not the best way to sustain the economy and to provide jobs. Here is a concrete example: The Fiat Company, in Italy, has just announced the availability of a cogeneration unit ("TOTEM") which uses natural gas, or methane produced from a solar source, to drive a converted gasoline engine, producing electricity and recapturing the normally wasted heat as a source of space heat. About 67,000 TOTEM units would produce a total of about 1,000 megawatts of power—the capacity of a typical U.S. nuclear power plant. However, whereas the nuclear plant would cost about $1 billion, the TOTEM units would cost only $191 million, and they would produce electricity at about one-fourth of the cost of electricity from the nuclear plant.

The economic efficiency of such cogeneration units, as compared with nuclear power means not only lower electricity prices, but also a more effective use of capital, therefore more opportunities for productive investment of captal—and more jobs. Because they can run on methane—a renewable solar fuel—such units can help bridge the gap between our present dependence on nonrenewable fuels and a solar economy. As should be evident from Fiat's accomplishment, such units could readily be manufactured in U.S. and Canadian auto plants, where they could take up the slack created by the disruptive effects of the energy crisis.

It is also informative to compare nuclear power with photovoltaic cells. If the proposed U.S. federal purchase plan were carried out, in five years or so the photovoltaic industry would expand enough to begin to allow local installations to compete economically with nuclear power in many parts of the United States. Again, many more jobs would be created by the solar technology than the nuclear one.

The widespread availability of competitive photovoltaic cells would also create many opportunities for new types of industrial production. For example, it would encourage the development of battery operated handtools, since batteries could readily be recharged by a photovoltaic unit mounted on the factory roof.

These are only two examples of the choices that are now open to us, and I mention them only to emphasize that there are choices. There is only one way in which the familiar arguments that pit jobs against the environment, that put labor leaders on the side of nuclear utility executives, makes sense. And that is if we accept the assumption that the alternatives to a new nuclear power plant is no new electricity and that the alternative to massive strip mining is no new sources of heat. In other words, this argument holds only if we give up the right to choose, among the different ways of producing energy, those which best serve the nation's—and labor's—needs. Then, of course, the bitter choice between jobs and the environment must be made, for if the flow of energy is disrupted we will surely suffer massive unemployment and economic disaster.

I am aware that labor groups have often decided to support nuclear power, shale oil production, coal conversion and similar energy sources which, on the basis of the foregoing analysis, seem to be not in labor's interests. But I know of no instance in which such support has been based on an actual comparison with alternative sources of energy. In every case, it is not a matter of making the wrong choice, but of avoiding a choice—in the belief that energy is essential for production and jobs (which is correct) and that all forms of energy will yield the same beneficial effects (which is not correct). Resolutions have been passed by labor groups which in one place strongly urge a fight for jobs and against inflation, and elsewhere urge the development of all forms of energy, listing sources such as nuclear power and coal conversion—which are bound to do employment and inflation more harm than good—alongside solar energy, which is labor's most powerful weapon against energy-driven inflation and unemployment.

If labor is to win its fight for jobs, for reasonable prices, for decent working conditions and for a strong economy, it must accept the responsibility of deciding, for itself, which forms of energy and which ways of using it will best sustain these aims. Up to now these decisions have not been made by labor, but by management. And now that management's choices—for nonrenewable sources such as oil and capital-intensive sources such as nuclear power, rather than the solar alternative—have precipitated the energy crisis, the decisions are being made by government executives and legislators. But, again, labor is on the sidelines.

Unless labor enters into the debate—on its own terms, making its own decisions about what energy policy best serves the needs of society, and labor in particular—we will make the same disastrous mistakes once more.

Nor is it enough for labor to rely on "environmentalists" and other people of good will to suggest the right way to produce and use energy. There is no guarantee, for example, that an energy policy will be free of serious economic and social disadvantages just because it is based on solar energy. De-

votion to solar energy is not, after all, proof against indifference to social welfare, greed or simple foolishness.

Consider for example two different ways to achieve a transition to solar energy. One option is to deliberately increase the price of conventional energy, so that solar technologies will become more quickly competitive. The other is to hold down the price of conventional energy as much as possible and use public funds to cut the cost of solar alternatives and make them competitive. For the reasons already given, the first approach would place an intolerable economic burden on the people, especially the poor and the minorities who suffer most from unemployment. At the same time, wealthier people would benefit from the transition. This strategy would increase both the general cost of energy and the price the consumer needs to pay to shift to a solar source. Poor people, unable to afford the high price of the new solar technology, would be forced to pay higher fuel prices, while wealthy people, who could afford the solar investment, could avoid buying the high-priced fuel. The strategy of rising fuel prices in order to encourage solar energy would tax the poor and favor the rich, justifying the suspicion already being voiced that public movements for energy conservation and solar energy are likely to be more in the interest of the wealthy than of the poor and the unemployed.

Perhaps the most serious dangers of this approach arise from a feature which in some quarters would be regarded as a virtue—the strategy relies on the "free marketplace" to govern the introduction of solar technologies. Bluntly stated, this means that the introduction of each solar technology would be governed by a single criterion—that it generate a profit for its producer greater than one he might obtain from an alternative investment. Such a strategy would please the companies now entrenched in the energy field. The oil companies would, of course, benefit from higher oil and natural gas prices. Even if the price increase were generated by taxes, it would make the oil companies' holdings in coal and uranium more valuable, and help support the price of oil in the world market—in which most of the U.S. companies are also involved. Private utilities could also benefit, by using their position in the consumer market and their access to capital to sell or lease to their customers whatever solar technologies are most profitable and least damaging to their centralized operations.

The last to gain from such a solar transition would be the poor. They would need to wait for benefits until, in the course of time, the massive substitution of solar energy for conventional sources stabilized the rising price of energy, and reduced the rate of general inflation. Finally, when the cost of the solar technologies fell far enough, the poor could afford them too. Such a profit-oriented transition would mean that the benefits of solar energy would be allowed, as usual, only to trickle down to the mass of people.

Clearly, it would not serve labor's interests—or for that matter, the nation's—to rely on such an approach to an environmentally-sound system of solar energy. Rather, labor and the nation need an approach which permits rational planning of the development, testing and introduction of solar technologies in keeping with their efficacy in the overall process of transition rather than on the basis of the narrow criterion of profitability. This approach would, of course, challenge the widely fostered notion that private profit is the sole acceptable basis for new productive investments. But this has happened before, in connection with the development of energy resources—notably in the development of hydroelectric projects, in particular the Tennessee Valley Authority, rural electrification and most recently nuclear power. In each case the creation of the system required public initiative and at least the initial investment of public funds. The issue is not necessarily one of public ownership, since in the case of nuclear power, the decision to develop it and the design of the technology was determined socially, while the ownership and operation of most of the industry has been in private hands. The example of nuclear power should also remind us that social governance of such decisions is by no means a guarantee that they will be in the best interest of society. Social governance is a necessary but not sufficient condition for maximizing social welfare.

An independent labor position on energy could provide a powerful remedy for some of the serious economic difficulties in U.S. and Canadian industry. Many industries—auto, steel, textiles, shoes and electronics—are being forced to cut back because they cannot compete with imports. These industries face the enormously difficult job of overcoming the economic advantages of foreign producers, achieved by their more modern productive facilities, in order to regain their share of the market. Meanwhile, plants close and people are thrown out of work. From what has been said earlier it should be evident that to cope with the energy crisis all industrial countries will need to develop new renewable sources of energy and new energy and capital-efficient production technologies. Promising examples are photovoltaic cells and cogeneration units such as Fiat's TOTEM. Consider this very sobering thought—that U.S. and Canadian industry, still locked in the old pattern of producing and using energy—will not move quickly enough to develop photovoltaic cells and cogeneration units, failing to meet the inevitable demand for them. If that happens we will soon see Japanese photovoltaic cells and Italian cogeneration units capturing not just a part of the North American market, but all of it. We will have been frozen out of a good chunk of the enormous world-wide industrial transformation that is certain to take place under the impetus of the energy crisis.

I believe that labor can protect us from that fate, strengthen economic development and create jobs by taking its rightful place in the decision-making process that will determine our response to the energy crisis. Labor has the most to lose from the wrong decisions, and the most to gain from the right ones. Labor has the experience to understand how old production facilities can be converted to new uses and how to train workers in the new skills. Labor has the experience to defeat the notion, already being heard in some quarters, that union labor would drive prices up and make the solar transition that much harder, and to show that non-union labor would mean shoddy workmanship that could only hold back the new technologies. Finally, only labor has the political strength to break the corporate stranglehold on energy and to help society apply the power of public governance to the creation of a new energy system that can truly serve human welfare.●

TIPPING THE SCALES OF JUSTICE

● Mr. MATHIAS. Mr. President, last August Congressman PAUL SIMON and I were joined by a number of our colleagues in petitioning the President to declare the conviction of Dr. Samuel Alexander Mudd in the Lincoln assassination conspiracy null and void. It is our belief, supported by extensive evidence, that Dr. Mudd treated John Wilkes Booth's broken leg as any dedicated doctor would routinely treat anyone who was suffering.

Since last summer the White House has sought and received the views of the Justice Department on the case and on the validity of our request. Action by the White House could be forthcoming at any time.

There has been wide popular response to this petition—all of it favorable. This leads me to hope that the President too will find it in his heart to overturn Dr. Mudd's conviction.

If further inducement for favorable Presidential action is necessary, I think I have found it. It comes in the form of letters to Dr. Richard D. Mudd, grandson of Dr. Samuel Alexander Mudd, from students in Mrs. Kern's second grade class at Schluckebier School in Bridgeport, Mich. It pleases me especially that these delightful and persuasive letters come from Michigan schoolchildren because for many years our distinguished colleague from Michigan, the late Senator Philip Hart, was the prime mover in the effort to clear Dr. Mudd's name.

I submit for the RECORD the letters written by Mrs. Kern's second graders, with no editorial changes. I only regret that there is no way to include the pictures which some of the students did instead of letters. Their caliber is equally high.

The letters follow:

DEAR DR. RICHARD MUDD, We have studied about your grandfather. And he did not know that Booth killed Abraham Lincoln. He killed Abraham Lincoln when he was watching a movie. And Booth jumped out of the window and broke his leg. And then that is how he got into the big big prison. But I am very very sorry that your grandfather dide. I am sorry that your son dide in the air plane. But thank God your still alive. I lik you even if I have never even seen you. But we have talked about you. And you seem like a nice man. But do you know what hapend to Abraham Lincoln well? his mother died of milk sick and they tride to do every thing they could. But she still dide and all of her Uncles and Aunds got milk sick. But when Abe was a boy he use to do devilish thing. like number one he got his friend to hold him up and that is how he walked on the seiling. Now we can get back to your grand father when he was put in prison those walls were 8 feet thick. and runing water around the hole prison. and on top of that it was alligaters in the water. And still on top of all that they wep him from his wife and his kids And they put chains on him and did not giv him a nice dinner. And I hop you like your letter that I wrote. And I hop you wife can read this letter with you. And that is the truth about all of this letter.

Love MONTY. And all of thes class and my teacher and my friends.

(Monty Brown).

DEAR DR. MUDD: We read about you and my teacher read us the fort Jefferson. President Lincoln got shot in the back of the head. He was shot by John both. Dr. A Mudd was in a vary big prison for a year. Abraham Lincoln was born in Kentucky. Lincoln's mom was kild from milksik, and his friends where kild to Abraham was born in 1809 and he was kild in July 1865. I'em sorry that your grendfather was in prison. He got out of prison because he helped the people from yellow fever. In the water there are alligaters surroundings it. Abe and his friend played a trick the well was pained his frniend lft him up and he

(anonymous)

DR. SAMUEL MUDD: We were studying about Abraham Lincoln we read a story about Abraham Lincoln in the story we herd his mom died when he was 8 from mike sick and his Aunt and uncle died from mike sick too. He work in losts of places and he like to read books and he playd ticks on people like when he did foot marks on the ciling. I'm sorry your grandfathen got put in prison.

COLLEEN.

DEAR DR. MUDD: we have ben studing about Abraham Lincoln. And Abraham Lincoln was born in 1809 and Dr. Samuel Mudd was but in jail in 1865. When Abraham Lincoln was pore when he was little. And we all love Abraham Lincoln. And John Wilkes booth killed Abraham Lincoln. And Dr. Samuel Mudd fixed John Wilkes booth lag. And after he fixed he's lag. And he got put in jail. And was in jail fore 2 year's. decause he halp the sike people. And there was all water around it.

BONNIE WENDT.

DEAR DR. RICHARD MUDD: We have been studying about you. and we Read about you being in prison. and I Read about Abraham Licoln geting shot by John wilkes Booth. and He Lincona always like to Read Books to. and He use to fool people. and we heard that your son Dieb in a plan cras. and I am sorry that your dad was in prison. For 2 years. Well I have to now.

(anonymous)

DR. RICHARD MUDD: We have ben suding a little about you and Abraham Lincoln. MRS. kerns read a old news paper. Abraham Lincoln was born in 1809 and he was a nice little boy. I feel sad for your granfather because he did not now about the guy. The mans name was John Wilkes Booth. Dr. Samuel Mudd got put in the jail because he fixed John Wilkes Booth. Abraham Lincoln was a very nice man to the slaves. His mom died of milk sick and his aunt and Uncle. Dr. Samuel Mudd helped the people who was sick. Abraham Lincoln had a sister her name was Sara was a year older than Abraham Lincoln.

MITZI WIL.

DEAR DR. MUDD: We have been studying about your grandfather and Abraham Lincoln. I believe that Dr. Samuel Mudd did not have anything to do with the President being killed. Dr. Samuel Mudds home state was Maryland. Dr. Samuel Mudd was put in prison just for doing his job. They took him to Florida and put him in prison. The walls were eight feet thick.

JILL STEDRY.

DEAR DR. MUDD: I habe ben studying. A lot. And I have ben reading a lot. And John Wilkes shot Abraham Lincoln in the neck at the Theater. Abraham Lincoln grew up to be a nice president. And Dr. Mudd got put in prisin.

JEFFERY ALAN MCKINSTRY.

DEAR RICHARD MUDD: We have been studying about Abraham Lincoln. Mrs. Kerns read us one book of Abraham Lincoln and she is starting another one. Abraham Lincoln got shot in the back of the head. Abraham Lincoln was born in 1809. And was shot in 1865. Mrs. Kerns told us you live in Saginaw. John Wilks booth went to Dr. Samuel's house and said, Dr. Dr. you gotta help me so the Dr. fixed John booth's leg. Abraham Lincoln was a good President. from

JULEI SLIVA.

DEAR DR. MUDD: We have been studying about you. Abraham Lincoln got shot in the back of the head. I feel very sory about this. I hope they believe you Dr. Mudd. Dr. Samuel Mudd lived in Maryland. He was a very nice Doctor. Abraham Lincoln lived in Kentucky. I feel very sory for you him. Dr. Samuel Mudd helped peple from yellow fearver so they let him out of prison. The End.

LISA RAE KEITH.

DEAR DR. MUDD: We have studi about Abraham Lincoln. Aunt and Uncle died of milk sick. Abraham was a good President. Mr. Mudd I feel bad about our grandfather died. Abraham Lincoln got shot thew his head. We have ben study about you and our gand father

MARIE ELLIS.

DEAR DR. MUDD: we have studied alot about Abraham Lincoln. He was a nice Pressident and he fighted a war just for the country the people who did not want slavery one the war. When Abraham Lincoln was in a theater he got shot in the head. When he was a boy his parints painted the seeling he got his friend to lift him up and walked acrost the seeling. And on a Sunday Abraham Lincoln fell in the river when he wasint supposet o go swiming. Abe and his frend liked to get in troble. I'm sas that your granfather went to the big big prison. for two years.

MICHAEL CROSS.

DEAR DR. MUDD: We have been study about Abraham Lincoln. Abraham Lincoln got shot in the back of the head. Abraham Lincoln was a poor boy. Lincoln was born in 1809 and got shot in 1865. Lincoln got shot by John Wilkes Booth. John Booth jump on to the stage and broke is leg. The next day John Booth went to Dr. Samuel Mudds house. Dr. Samuel Mudd fixed is leg. And then some people came ovr and said "You fixed the prson that killed Abraham Lincoln", You have to go to prison and he stayed in there for tow years. There was no excapd.

Love,

DEANNA LYNN LEHMAN.

DEAR DR. MUDD: We have learned about Abraham Lincoln got shot in the neck by John Wilkes Booth. And Abraham Lincoln's mom died from milksick. Abraham Lincoln died one hundred years ago. Abraham Lincoln moved to Kentucky in, 1809 he was just a little boy then. Then he moved to Indiana in, 1819. Abraham Lincoln was the sixteenth President and he was in a war.

TODD MICHAEL HARTMAN.

DEAR DR. SAMUEL A. MUDD: We had leard about Abraham Lincoln. Dr. Samuel Mudd is one of are spelling word. Abraham Lincoln got shot in the neck. He died in July 1865. He like to read every day. He like to play every day. Abraham Lincoln was a very good President. Abraham Lincoln He was born in Kentucky. He had lols of friends. Abraham Lincoln was born in 1809. Abraham Lincoln had a war of seth.

WALTER JAMES GRANGER.

DR. RICHARD MUDD: We have been learning about Abraham Lincoln they lifted in Maryland. I'm sorry If your grandfather was put in prison. I know who kill Abraham Lincoln? John Wilkes Booth kill Abraham Lincoln. fort Jefferson was either feet long.

MARC R.

DEAR DR. RICHARD MUDD: I know your grandfather did his job like he was suppose to do. Then he got put in prison for about two years. The first year in prison he wrote notes to his wife. The second year he did the same again. Abraham Lincoln's mother Nancy Lincoln died from milksick. The cows get sick and give the milk. I remember when little Abe fell into the water.

(anonymous)

DEAR DR. MUDD: I'm sorry thet your grandfather was in prsin. Abraham Lincoln was the 16 President we hav ben studding a dot you. I love you

MARY JO.

DEAR DR. MUDD: We have been studying about Abraham Lincoln. And slavery. And I am interested in it. I know that When Abraham Lincoln was a boy he was very pore. And he lived in Kentucky. He liked to played tricks on people. He lived in a log cabin. And his mothers name was Nancy. And his fathers name was Thomas. Abraham had one sister Sarah. Abraham's and Sarah's autn and uncle came over. Abraham and Sarah loved to here the grownups talk. They had lot's of fun. But the fun didn't last for long. Milksick came. Abraham's and Sarah's uncle and aunt deid and so did his mother. A long time later when Abraham was a president he went to a theater and John Wilkes Booth shoot Abraham Lincoln. The end.

(anonymous)

DEAR DR. MUDD: I feel bad about your grand father put in prision. We have been studing about you and Abraham Lincoln. Abraham Lincoln was a good President.

(anonymous) ●

INFLATION

● Mr. BENTSEN. Mr. President, inflation has become one of the most serious social problems of the 1970's. It continues to erode the confidence of average Americans in their free enterprise system. It systematically hits hardest those least able to defend their own economic interests—the poor, the elderly, and the hard pressed hourly wage earner. It ultimately destroys jobs because higher prices mean lower consumer purchasing power and hence less sales, less production, and less jobs. In short, inflation poses a grave threat to the economic well-being of all Americans.

Our inability to bring inflation under control is an understandable frustration to responsible, serious minded public policymakers. So it is perhaps not surprising that a majority of my distinguished Democratic colleagues on the Congressional Joint Economic Committee, honestly and intensely searching for a way to break the back of inflation, have once again approved a recommendation for mandatory wage and price controls.

That recommendation is contained for the second year in a row in the Joint Economic Committee's Annual Report. The report recommends that legislation be enacted giving the Council on Wage and Price Stability authority to "require prenotification of planned price increases from selected industries and to delay for modest periods wage or price increases which could have serious inflationary effects on the economy." Since the authority to delay wage or price increases is logically the authority to fix and control wages and prices, the committee is in fact calling for a limited system of mandatory wage and price controls.

In my opinion the committee recommendation is a serious mistake.

This proposal is likely to spark a healthy renewal of public discussion re-

garding the advisability of mandatory wage and price controls as a tool to fight inflation. Because of my deeply held belief that price and wage controls provide only the illusion of fighting inflation, I want to be one of the first to participate in the public dialogue about to be renewed.

Government dictation of wages and prices has never worked to control inflation in peacetime. Wage and price controls attack the symptoms of the disease, but not the disease itself. They may provide a temporary disguise, they may present a comforting illusion, but sooner or later consumers will confront the harsh reality of shortages, low quality products and hundreds of devices designed to circumvent the controls. Price and wage controls put the economy in a straightjacket which invariably results in inequities among both workers and business enterprises.

Wage and price controls cannot be imposed on our economy without exacting a heavy cost in the form of serious misallocation of resources, inefficient production, and the potential domination of our daily lives by faceless Government bureaucrats. Excessive Government regulation of business, which results in waste and inefficient production, is one of the major reasons for our inability to bring down the cost of living. It is one of those ironies of life that the Joint Economic Committee itself is making a recommendation that would add substantially to the regulatory burden thrust upon the people of this country.

Overregulation by Government is not a new problem.

The great British historian of the last century, Thomas Babington Macaulay, wrote:

> Nothing is so galling to a people as a meddling government . . . which tells them what to read and say and eat and drink and wear.

Almost 150 years after those words were written the people of this country are confronted by a government that not only meddles but, as often as not, does an incompetent job of it.

If we want to fight inflation, to keep prices from rising so rapidly, the way to do it is not by adding on more Government regulation in the form of wage and price controls.

One of the most positive steps we can take to reduce inflation is to reduce Government regulation. Federal regulation in 1976 cost American business and the American consumer some $65 billion—$300 for every man, woman, and child in this Nation.

Most leaders of business and labor strongly oppose the concept of wage and price controls. Businessmen know that controls will result in less investment, low productivity, and slow growth. Labor leaders know that it is more difficult for workers to circumvent wage controls than it is for business to get around price controls. Both business and labor leaders correctly recognize that there is no easy, simple solution to the problem of inflation. We will bring inflation under control when in addition to reducing excessive Government regulation business, we develop ways to encourage competition through the entry of new businesses into our Nation's marketplaces; when we provide adequate incentives for business to invest in more productive machinery and equipment, and when we bring the Federal budget under control.●

COMMITTEE CONFIRMATION PROCEDURES ADOPTED

● Mr. RIBICOFF. Mr. President, in accordance with the provisions of the Legislative Reorganization Act of 1970, I now submit for publication the rules, and an amendment to the rules, of the Committee on Governmental Affairs. The amendment was adopted by the committee on March 20, 1978.

The amendment (rule 8) establishes confirmation standards and procedures for Presidential nominees referred to the committee.

The procedures adopted in the rule have been used by the committee, on an interim basis, since last October. That period of time allowed the opportunity to refine and clarify the process. In formulating the rule, the committee considered the helpful proposals advanced last fall by Common Cause in its study of confirmation. The rule also reflects the findings and recommendations of the committee's own review of the confirmation process, contained in volume I of our "Study on Federal Regulation."

Thus, rule 8 results from what I consider to have been careful and informed consideration of the strengths and weakness of the confirmation process, as it has existed in the past.

Promulgation of this rule does not, in my opinion, detract from the importance of adoption by the Senate of confirmation procedures applicable to all committees. I continue to support Senate Resolution 258, which contains comprehensive Senate-wide confirmation reforms. That measure is cosponsored by Senators PERCY, JAVITS, MATSUNAGA, and myself. The situation that warranted introduction of that resolution last year has not been altered by the passage of time.

Advice and consent is a fundamental constitutional responsibility of the Senate. The power to appoint is shared coequally by the President and the Senate. The Constitution is plain on that important principle: The President "shall nominate, and by and with the advice and consent of the Senate, shall appoint" public officials. In my opinion the Constitution does not envision a passive role for the Senate, merely approving what is presented to it by the President. It is the combined wisdom of the President and the Senate which places a person in a position of public trust. Both are properly held accountable to the people for the subsequent performance and fitness of that official. I believe that the public has a right to expect as much care and deliberation from the Senate in the confirmation process as it does from the President in the selection process.

The exercise of that important responsibility requires published standards and procedures. I believe the committee rule satisfies that requirement. Without sacrificing needed flexibility, it assures a complete and even-handed inquiry into the background and integrity of nominees.

The committee rule guards against unwarranted and unnecessary invasions of personal privacy. Only information essential to an informed judgment by the Senate will come to light. Moreover, it insures fair and even treatment of all nominations. Hereafter all nominees will know, in advance, the requirements and stages of our committee confirmation process. The committee rule recognizes the human dimension of confirmation.

Essentially, the confirmation process is a judgment on the character and suitability of individuals for particular positions. Of course such appraisals mark all selection decisions. But Senate confirmation is in that regard distinctive, because those judgments occur in public. Nominees are subject to general examination and comment in public hearings, public discussions, and public votes. A person's reputation and career could be damaged, even destroyed, by that decision and the manner in which it is reached.

Senate confirmation must not be a trial by fire process. Reasonable expectations of privacy and fair treatment must be guaranteed. To do otherwise would result in discouraging the very people we hope will be attracted to high Federal office. Obviously, the objectives of a careful confirmation process would be defeated if that occurred.

On the other hand, the Senate must know the nominees it is asked to confirm. The Senate must be convinced that nominees are affirmatively qualified for Federal office. How else can the Senate discharge its public trust of advice and consent? All of that requires information, which can only result from a reasonable inquiry into the background and integrity of Presidential nominees. Confirmation, also by its nature, is and must be a public process. Accepting nomination necessarily involves some sacrifice of personal privacy. Background information will come to light, and will be considered.

I believe our committee rule strikes a delicate balance between those competing considerations.

First, there will be a thorough process and established standards. A careful inquiry into the nominee's experience, qualifications, suitability, and integrity will be conducted. Financial and biographical information will be provided by nominees as a requirement of confirmation. The investigative summaries on nominees, prepared by the FBI and other executive agencies, will be reviewed. The nominee will be interviewed, and will be questioned under oath at a public hearing. Real and potential financial conflicts of interest will be considered.

A written report on the background of the nominee will be presented to the committee. That report will detail any unresolved or questionable matters that may have arisen during the course of the inquiry. The committee will recommend confirmation, upon a finding that the nominee has the necessary integrity and is affirmatively qualified by reason of

training, education, or experience to hold the office to which he or she was nominated.

However, the committee process also insures impartial treatment of nominees, and careful handling of sensitive background information. Responsibility for the inquiry will be focused in designated persons, and information will not be distributed pell mell. Financial information provided by nominees will be made available for public inspection, but will not be published.

The committee inquiry will be conducted by experienced investigators, designated by the chairman and ranking minority member. Those individuals will have regular access to reports on nominees prepared by the FBI and other agencies. Every effort will be made to substantiate concerns about a nominee before they are considered by the committee. The written report will be made available in the committee office for inspection by members of the committee.

In summary, I believe that rule 8 will result in an informed confirmation process without unnecessary or haphazard infringements on reasonable expectations of privacy.

I submit the committee rules, including our new rule on confirmation standards and procedures, for the RECORD.

The material is as follows:

RULES OF PROCEDURE ADOPTED BY THE COMMITTEE ON GOVERNMENT AFFAIRS

PURSUANT TO SECTION 133B OF THE LEGISLATIVE REORGANIZATION ACT OF 1946, AS AMENDED

Rule 1. Meetings and meeting procedures other than hearings

A. *Meeting dates.* The committee shall hold its regular meetings on the first Thursday of each month, when the Congress is in session, or at such other times as the chairman shall determine. Additional meetings may be called by the chairman as he deems necessary to expedite committee business. (Sec. 133(a), Legislative Reorganization Act of 1946, as amended.)

B. *Calling special committee meetings.* If at least three members of the committee desire the chairman to call a special meeting, they may file in the offices of the committee a written request therefor, addressed to the chairman. Immediately thereafter, the clerk of the committee shall notify the chairman of such request. If within three calendar days after the filing of such request, the chairman fails to call the requested special meeting, which is to be held within seven calendar days after the filing of such request, a majority of the committee members may file in the offices of the committee their written notice that a special committee meeting will be held, specifying the date and hour thereof, and the committee shall meet on that date and hour. Immediately upon the filing of such notice, the committee clerk shall notify all committee members that such special meeting will be held and inform them of its date and hour. If the chairman is not present at any regular, additional or special meeting, the ranking majority member present shall preside. (Sec. 133(a), Legislative Reorganization Act of 1946, as amended.)

C. *Meeting notices and agenda.* Written notices of committee meetings, accompanied by an agenda enumerating the items of business to be considered, shall be sent to all committee members at least three days in advance of such meetings. In the event that unforeseen requirements of committee business prevent a three-day notice, the committee staff shall communicate such notice by telephone to members or appropriate staff assistants in their offices, and an agenda will be furnished prior to the meeting.

D. *Open business meetings.* Meetings for the transaction of committee or subcommittee business shall be conducted in open session, except that a meeting or portions of a meeting may be held in executive session when the committee members present, by majority vote, so determine. The motion to close a meeting, either in whole or in part, may be considered and determined at a meeting next preceding such meeting. Whenever a meeting for the transaction of committee or subcommittee business is closed to the public, the chairman of the committee or the subcommittee shall offer a public explanation of the reasons the meeting is closed to the public. This paragraph shall not apply to the Permanent Subcommittee on Investigations.

E. *Prior notice of first degree amendments.* It shall not be in order for the Committee, or a subcommittee thereof, to consider any amendment in the first degree proposed to any measure under consideration by the Committee or subcommittee unless a written copy of such amendment has been delivered to each member of the Committee or subcommittee, as the case may be, and to the office of the Committee or subcommittee, at least 24 hours before the meeting of the Committee or subcommittee at which the amendment is to be proposed. This subsection may be waived by a majority of the members present. This subsection shall apply only when at least 72 hours written notice of a session to mark-up a measure is provided to the Committee.

F. *Agency comments.* When the Committee has scheduled and publicly announced a mark-up meeting on pending legislation, if executive branch agencies, whose comments thereon have been requested, have not responded by the time of the announcement of such meeting, the announcement shall include the final date upon which the comments of such agencies, or any other agencies, will be accepted by the Committee.

Rule 2. Quorums

A. *Reporting legislation.* Nine members of the committee shall constitute a quorum for reporting legislative measures or recommendations. (Sec. 133(d), Legislative Reorganization Act of 1946, as amended.)

B. *Transaction of routine business.* Five members of the committee shall constitute a quorum for the transaction of routine business, provided that one member of the minority is present.

For the purpose of this paragraph, the term "routine business" includes the convening of a committee meeting and the consideration of legislation pending before the committee and any amendments thereto, and voting on such amendments. (Rule XXV, Sec. 5(a), Standing Rules of the Senate.)

C. *Taking sworn testimony.* Two members of the committee shall constitute a quorum for taking sworn testimony: *Provided, however,* That one member of the committee shall constitute a quorum for such purposes, with the approval of the chairman and the ranking minority member of the committee, or their designee. (Rule XXV, Sec. 5(b), Standing Rules of the Senate.)

D. *Taking unsworn testimony.* One member of the committee shall constitute a quorum for taking unsworn testimony. (Sec. 133(d)(2), Legislative Reorganization Act of 1946, as amended.)

E. *Subcommittee quorums.* Subject to the provisions of section 5(a) and 5(b) of Rule XXV of the Standing Rules of the Senate, and section 133(d) of the Legislative Reorganization Act as amended, the subcommittees of this committee are authorized to establish their own quorums for the transaction of business and the taking of sworn testimony.

F. *Proxies prohibited in establishment of a quorum.* Proxies shall not be considered for the establishment of a quorum.

Rule 3. voting

A. *Quorum required.* No vote may be taken by the committee, or any subcommittee thereof, on any measure or matter unless a quorum, as prescribed in the preceding section, is actually present.

B. *Reporting legislation.* No measure or recommendation shall be reported from the committee unless a majority of the committee members are actually present, and the vote of the committee to report a measure or matter shall require the concurrence of a majority of those members who are actually present at the time the vote is taken. (Sec. 133(d), Legislative Reorganization Act of 1946, as amended.)

C. *Proxy voting.* Proxy voting shall be allowed on all measures and matters before the committee, or any subcommittees thereof, except that, when the committee, or any subcommittee thereof, is voting to report a measure or recommendation, proxy votes shall be allowed solely for the purposes of recording a member's position on the pending question and then, only if the absent committee member has been informed of the matter on which he is being recorded and has affirmatively requested that he be so recorded. All proxies shall be addressed to the chairman of the committee and filed with the chief clerk thereof, or to the chairman of the subcommittee and filed with the clerk thereof, as the case may be. All proxies shall be in writing and shall contain sufficient reference to the pending matter as is necessary to identify it and to inform the committee as to how the member wishes his vote to be recorded thereon. (Sec. 133(d), Legislative Reorganization Act of 1946, as amended.)

D. *Announcement of vote.* (1) Whenever the committee by rollcall vote reports any measure or matter, the report of the committee upon such measure or matter shall include a tabulation of the votes cast in favor of and the votes cast in opposition to such measure or matter by each member of the committee. (Sec. 133(d), Legislative Reorganization Act of 1946, as amended.)

(2) Whenever the committee by rollcall vote acts upon any measure or amendment thereto, other than reporting a measure or recommendation, the results thereof shall be announced in the committee report on that measure unless previously announced by the committee, and such announcement shall include a tabulation of the votes cast in favor of and the votes cast in opposition to each such measure and amendment thereto by each member of the committee who was present at that meeting. (Sec. 133(b), Legislative Reorganization Act of 1946, as amended.)

(3) In any case in which a rollcall vote is announced, the tabulation of votes shall state separately the proxy vote recorded in favor of and in opposition to that measure, amendment thereto, or recommendation. (Sec. 133 (b) and (d) Legislative Reorganization Act of 1946, as amended.)

Rule 4. Chairmanship of meetings and hearings

The chairman shall preside at all committee meetings and hearings except that he shall designate a temporary chairman to act in his place if he is unable to be present at a scheduled meeting or hearing. If the chairman (or his designee) is absent ten minutes after the scheduled time set for a meeting or hearing, the senior Senator present of the chairman's party shall act in his stead until the chairman's arrival. If there is no member of the chairman's party present, the senior Senator of the committee minority present shall open and conduct the meeting or

hearing until such time as a member of the majority enters.

Rule 5. Hearings and hearing procedures

A. *Announcement of hearings.* The committee, or any subcommittee thereof, shall make public announcement of the date, place, time and subject matter of any hearing to be conducted on any measure or matter at least one week in advance of such hearing, unless the committee, or subcommittee, determines that there is good cause to begin such hearing at an earlier date. (Sec. 133A (a), Legsliative Reorganization Act of 1946, as amended.)

B. *Open hearings.* Each hearing conducted by the committee, or any subcommittee thereof, shall be open to the public unless the committee, or subcommittee, determines that the testimony to be taken at that hearing may (1) relate to a matter of national security, (2) tend to reflect adversely on the character or reputation of the witness or any other individual, or (3) divulge matters deemed confidential under other provisions of law or Government regulations. (Rule XXV, Sec. 7(b), Standing Rules of the Senate.)

C. *Radio, television, and photography.* The committee, or any subcommittee thereof, may permit the proceedings of hearings which are open to the public to be photographed and broadcast by radio, television or both, subject to such conditions as the committee, or subcommittee, may impose. (Rule XXV, Sec. 7(c), Standing Rules of the Senate.)

D. *Advance statements of witnesses.* A witness appearing before the committee, or any subcommittee thereof, shall file a written statement of his proposed testimony at least one day prior to his appearance, unless this requirement is waived by the chairman and the ranking minority member, following their determination that there is good cause for failure of compliance. (Sec. 133A(c), Legislative Reorganization Act of 1946, as amended.)

E. *Minority witnesses.* In any hearings conducted by the committee, or any subcommittee thereof, the minority members of the committee shall be entitled, upon request to the chairman by a majority of the minority to call witnesses of their selection during at least one day of such hearings. (Sec. 133A(e), Legislative Reorganization Act of 1946, as amended.)

Rule 6. Committee reports

A. *Timely filing.* When the committee has ordered a measure or recommendation reported, following final action the report thereon shall be filed in the Senate at the earliest practicable time. (Sec. 133(c), Legislative Reorganization Act of 1946, as amended.)

B. *Supplemental, minority, and additional views.* A member of the committee who gives notice of his intention to file supplemental, minority or additional views at the time of final committee approval of a measure or matter, shall be entitled to not less than three calendar days in which to file such views, in writing, with the chief clerk of the committee. Such views shall then be included in the committee report and printed in the same volume, as a part thereof, and their inclusion shall be noted on the cover of the report. In the absence of timely notice, the committee report may be filed and printed immediately without such views. (Sec. 133(e), Legislative Reorganization Act of 1946, as amended.)

C. *Draft reports of subcommittees.* All draft reports prepared by subcommittees of this committee on any measure or matter referred to it by the chairman, shall be in the form, style, and arrangement required to conform to the applicable provisions of the Standing Rules of the Senate, and shall be in accordance with the established practices followed by the committee. Upon completion of such draft reports, copies thereof shall be filed with the chief clerk of the committee at the earliest practicable time.

D. *Cost estimates in reports.* All committee reports, accompanying a bill or joint resolution of a public character reported by the committee, shall contain (1) an estimate, made by the committee, of the costs which would be incurred in carrying out the legislation for the then current fiscal year and for each of the next five fiscal years thereafter (or for the authorized duration of the proposed legislation, if less than five years); (2) a comparison of such cost estimates with any made by a Federal agency; or (3) a statement of the reasons for failure by the committee to comply with these requirements as impracticable, in the event of inability to comply therewith. (Sec. 252(a), Legislative Reorganization Act of 1970.)

Rule 7. Subcommittees and subcommittee procedures

A. *Regularly established subcommittees.* The committee shall have six regularly established subcommittees. The subcommittees are as follows:

Permanent Subcommittee on Investigations.

Intergovernmental Relations.

Governmental Efficiency and the District of Columbia.

Federal Spending Practices and Open Government.

Energy, Nuclear Proliferation and Federal Services.

Civil Service and General Services.

B. *Ad hoc subcommittees.* Following consultation with the ranking minority member, the chairman shall, from time to time, establish such ad hoc subcommittees as he deems necessary to expedite committee business.

C. *Subcommittee membership.* Following consultation with the majority members, and the ranking minority member, of the committee, the chairman shall announce selections for membership on the subcommittees referred to in paragraphs A and B, above.

D. *Subcommittee meetings and hearings.* Each subcommittee of this committee is authorized to establish meeting dates and adopt rules not inconsistent with the rules of the committee.

E. *Subcommittee budgets.* Each subcommittee of this committee, which requires authorization for the expenditure of funds for the conduct of inquiries and investigations, shall file with the chief clerk of the committee, not later than January 10 of that year, its request for funds for the 12-month period beginning on March 1 and extending through and including the last day in February of the following year. Each such request shall be submitted on the budget form prescribed by the Committee on Rules and Administration, and shall be accompanied by a written justification; addressed to the chairman of the committee, which shall include (1) a statement of the subcommittee's area of activities, (2)its accomplishments during the preceding year; and (3) a table showing a comparison between (*a*) the funds authorized for expenditure during the preceding year, (*b*) the funds actually expended during that year, (*c*) the amount requested for the current year, and (*d*) the number of professional and clerical staff members and consultants employed by the subcommittee during the preceding year and the number of such personnel requested for the current year. (Sec. 133(g), Legislative Reorganization Act of 1946, as amended.)

Rule 8. Confirmation standards and procedures

A. Standards. In considering a nomination, the Committee shall inquire into the nominee's experience, qualifications, suitability, and integrity to serve in the position to which he or she has been nominated. The Committee shall recommend confirmation, upon finding that the nominee has the necessary integrity and is affirmatively qualified by reason of training, education, or experience to carry out the functions of the office to which he or she was nominated.

B. Information Concerning the Nominee. As a requirement of confirmation, each nominee shall submit on forms prepared by the Committee the following information:

(1) A detailed biographical resume which contains information relating to education, employment and achievements;

(2) A financial statement which lists assets and liabilities of the nominee; and

(3) Copies of other relevant documents requested by the Committee, such as a proposed blind trust agreement.

At the request of either the Chairman or the Ranking Minority Member, a nominee shall be required to submit a certified financial statement compiled by an independent auditor.

Information received pursuant to this subsection shall be made available for public inspection; provided, however, that tax returns shall, after review by persons designated in subsection (C) of this rule, be placed under seal to ensure confidentiality.

C. Procedures for Committee Inquiry. The Committee shall conduct an inquiry into the experience, qualifications, suitability and integrity of nominees, and shall give particular attention to the following matters:

(1) A review of the biographical information provided by the nominee, including any professional activities related directly to the duties of the office to which he or she is nominated;

(2) A review of the financial information provided by the nominee, including tax returns for the three years preceding the time of his or her nomination;

(3) A review of any actions, taken or proposed by the nominee, to remedy conflicts of interest; and

(4) A review of any personal or legal matter which may bear upon the nominee's qualifications for the office to which he or she is nominated.

For the purpose of assisting the Committee in the conduct of this inquiry, a Chief Investigator shall be designated by the Chairman and a Minority Investigator shall be designated by the Ranking Minority Member. The Chairman, Ranking Minority Member, and the designated Investigators shall have access to all investigative reports on nominees prepared by any Federal agency, including the Federal Bureau of Investigation. The Committee may request the assistance of the General Accounting Office in conducting an audit of financial information provided by nominees.

D. Report on the Nominee. After a review of all information pertinent to the nomination, a confidential report on the nominee shall be submitted to the Chairman and the Ranking Minority Member. The report shall detail any unresolved or questionable matters that have been raised during the course of the inquiry. Copies of all relevant documents and forms, except any tax returns, submitted pursuant to subsection (B) shall be attached to the report. The report shall be kept in the Committee office for inspection by Members of the Committee.

E. Hearings. The Committee shall conduct a public hearing during which the nominee shall be called to testify under oath on all matters relating to his or her suitability for office, including the policies and programs which he or she will pursue while in that position. No hearing shall be scheduled until at least 72 hours after the following events have occurred: the nominee has responded to pre-hearing questions submitted by the Committee; and the report required by subsection (D) has been submitted to the Chairman and Ranking Minority Member, and is

made available for inspection by Members of the Committee.

F. Action on Confirmation. A mark-up on a nomination shall not occur on the same day that the hearing on the nominee is held. In order to assist the Committee in reaching a recommendation on confirmation, the staff shall make an oral presentation to the Committee at the mark-up, factually summarizing the nominee's background and the steps taken during the pre-hearing inquiry.

G. Application. The procedures contained in subsections (C), (D), (E), and (F) of this rule shall apply to persons nominated by the President to positions requiring their full-time service. At the discretion of the Chairman and Ranking Minority Member, those procedures may apply to persons nominated by the President to serve on a part-time advisory basis.●

TWO STATE LEGISLATURES OPPOSE DISMEMBERMENT OF USDA

● Mr. TALMADGE. Mr. President, I bring to the attention of the Senate two resolutions adopted in recent weeks by the Legislatures of Colorado and Idaho.

House Joint Resolution 1013, sponsored by several members of the Colorado House and Senate, opposes the transfer of the Soil Conservation Service and the U.S. Forest Service from the Department of Agriculture to the Department of the Interior. The resolution urges the Federal Government to "move cautiously in its deliberations regarding any change in the organization for management of the Nation's renewable resources."

I think the Colorado Legislature should be commended for its action. But the resolution adopted by the Idaho Legislature may be even more significant.

Since leaving the governorship of Idaho to become Secretary of the Interior, Cecil Andrus has made no secret of his desire to capture the Forest Service from the Department of Agriculture in the President's reorganization process.

A joint memorial of the Idaho House and Senate to the President, to the Secretary of Agriculture, to Secretary Andrus, and the Congress opposes the transfer of the Forest Service from Agriculture to Interior.

As I said in my press statement of December 27, 1977, there are powerful forces at work in this Government that would tear the Department of Agriculture to pieces. Once again I wish to serve notice that I will oppose these forces with all my ability. I welcome the support of these great State legislative bodies, as well as endorsements I have received for my position from the National Association of Counties, the American Forestry Association, the National Association of Conservation Districts, the National Rural Electric Cooperative Association, the Forest Farmers Association, and others.

Mr. President, I submit the resolutions adopted by the Colorado and Idaho Legislatures for the RECORD.

The resolutions follow:

H.J.R. 1013

Whereas, President Carter has approved a plan to study whether federal responsibilities for natural and environmental programs are effectively organized and to consider possible improvements; and

Whereas, The scope of the study includes a proposal to remove the United States Forest Service and the United States Soil Conservation Service from the United States Department of Agriculture to the United States Department of the Interior; and

Whereas, Because approximately thirty-six percent of the land in Colorado is federally owned, said Forest Service and said Soil Conservation Service have a vital role in Colorado, and their operation in a manner consistent with the needs of the rural areas of Colorado is crucial; and

Whereas, The United States Department of Agriculture has a long history of land management with resource capabilities for carrying out land programs and related activities and has the expertise and facilities for carrying out such programs and related activities on a cooperative basis with ranchers and farmers; and

Whereas, There is a close relationship between land resources and the production of food and fiber which has been historically administered by the United States Department of Agriculture; and

Whereas, When land and water resource management is viewed as the mutual responsibility of government and the private sector, the United States Department of Agriculture is centrally involved, in that ninety percent of the land area of this nation is affected by its programs and policies for conservation and its use of renewable resources; and

Whereas, It is in the interest of all of the residents of Colorado to consider the impact of legislation concerning federally owned land and privately owned land contiguous thereto; and

Whereas, The United States Department of Agriculture has historically managed to balance the demands on public lands and has more experience in the multiple use concept of public lands than any other federal department or agency; and

Whereas, Such actions as are being proposed which concern the transfer of certain functions of the United States Department of Agriculture to other departments will relegate said Department to less than a cabinet-level department of the federal government and leave it without a voice concerning the economic growth of this nation; now, therefore,

Be It Resolved by the House of Representatives of the Fifty-first General Assembly of the State of Colorado, the Senate concurring herein:

That this General Assembly opposes the transfer of the United States Forest Service and the United States Soil Conservation Service from the United States Department of Agriculture to the United States Department of the Interior and that the federal government move cautiously in its deliberations regarding any change in the organization for management of the nation's renewable resources.

Be It Further Resolved, That copies of this Resolution be transmitted to the President of the United States, to the Natural Resources Environment Division of the United States Office of Management and Budget, and to each member of the Congress of the United States from the State of Colorado.

HOUSE JOINT MEMORIAL No. 17

Whereas, the United States Forest Service, established in 1905 within the Department of Agriculture, was created and designed to serve the interests of the public through the management of the forest resources of this nation; and

Whereas, over the span of nearly three-quarters of a century, members of the agricultural community have participated with the Forest Service in beneficial use of forest lands, including grazing of livestock and harvesting of timber in ways which contribute to a sound economy and a wise management of resources; and

Whereas, a long tradition of operation through the Department of Agriculture should not be disturbed without a significant demonstration that the existing organizational structure has failed to serve the public interest; and

Whereas, proposals are now under consideration which would transfer the Forest Service to the Department of Interior or other possible umbrella agency and interrupt the history of service and progress which has served the people of the State of Idaho and of this Nation.

Whereas, we find that the existing structure has served well for nearly seventy-five years, and we encourage the Congress to carefully consider this history of service and accomplishment.

Now, therefore, be it resolved by the members of the Second Regular Session of the Forty-fourth Idaho Legislature, the House of Representatives and the Senate concurring therein, that we urge the Congress and the President to reject proposals for the transfer of the Forest Service from the Department of Agriculture.

Be it further resolved that the Chief Clerk of the House of Representatives, be, and he is hereby authorized and directed to forward copies of this Memorial to the President of the United States, Jimmy Carter, the Honorable Secretary of the Department of Agriculture, Robert S. Bergland, the Honorable Secretary of the Department of Interior, Cecil D. Andrus, the President of the Senate and the Speaker of the House of Representatives of Congress, and the honorable congressional delegation representing the State of Idaho in the Congress of the United States.●

SOCIAL SECURITY TAX CREDITS

● Mr. EAGLETON. Mr. President, on almost any day this year, we have been able to pick up the newspaper and read stories, editorials, and letters to the editor about the Social Security Amendments of 1977. The theme of much of this coverage has been the American public's outrage at the staggering new tax rates included in those amendments. The people are telling us that these new payroll taxes are simply too much to bear.

During the past months, several bills have been introduced in response to this public outcry. These bills would pump general revenue funds into the social security system, thereby enabling us to roll back some of the 1977 payroll tax increase. I am glad to see such legislation introduced this year; as my colleagues will recall, I unsuccessfully advocated partial general revenue funding during last year's debate on the social security amendments.

Unfortunately, the prospects for this type of legislation still do not appear favorable. The President, the distinguished chairman of the Senate Finance Committee, and the distinguished chairman of the House Ways and Means Committee all are presently opposed to any use of general revenue funds for social security. I am enough of a political realist to know, Mr. President, that the formidable opposition of these three gentlemen will make it practically impossible for any legislation of this type to be enacted this year.

The calls for relief continue to be heard from our constituents, however, and we are compelled to offer some relief. One possible avenue of such relief can be found in connection with President Carter's tax cut proposal, which was sent to the Congress earlier

this year. My colleagues will recall that part of the President's reason for offering this income tax cut was to compensate for the higher social security payroll taxes. However, as the details of the President's proposal were made available, it became apparent that an amendment to the plan would be needed. This is because the President has proposed that all taxpayers share equally in the benefits of the income tax cut, even though not all taxpayers will share equally the burden of the new, higher social security tax rates.

This flaw in the Carter proposal is best illustrated by a hypothetical example. Let us imagine two identical families of four, the Smiths and the Joneses, who live side-by-side in identical houses. Both families have $20,000 annual incomes. The only difference between them is that Mr. Smith works for the Federal Government, while Mr. Jones works in private industry.

In 1979, Mr. Smith, who works for the Government, will find that his income tax bill is $270 less than it was in 1978, thanks to the Carter income tax cut. Furthermore, since Smith, as a Federal worker, does not participate in social security, he pays no additional social security tax. He therefore realizes a net benefit of $270. If Smith responds according to the President's plan, he will spend that money and stimulate the economy.

Next door at the Jones House, Mr. Jones also discovers that his 1979 income tax liability is $270 less than his 1978 payment. However, Jones also notices that his social security withholding for 1979 went up in the amount of $261 over 1977, leaving him with a net increase in income of only $9. Obviously, this is not fair. Smith and Jones have identical income and dependents, and they should receive approximately equal net benefits from the tax cut.

This is the object of a bill (S. 2459) which I introduced on January 31, 1978. Under the terms of my bill, an individual would be allowed a credit against income tax equal to 15 percent of the individual's social security tax payments during the tax year. This credit would assure that a portion of the benefits of the income tax cut, specifically the portion aimed at compensating for higher social security taxes, would go only to those who actually pay social security taxes. Remaining benefits of the income tax cut would be shared equally by all income taxpayers.

As I mentioned earlier, direct infusion of general revenue funds into social security proved unacceptable to the Congress last year, and most likely again will prove unacceptable this year. That being the case, I would like to suggest to my colleagues one other possible way to respond to the avalanche of mail from back home seeking relief from the new social security payroll tax rates. That way is to join in cosponsoring my bill, which would provide immediate relief to beleaguered social security taxpayers.●

ALEXANDER GINZBURG

Mr. JACKSON. Mr. President, I wish to take this opportunity to remind my colleagues in the Congress of the plight of the young, heroic Russian, Alexander Ginzburg.

He has already served 7 years in Soviet forced labor camps. He was arrested for a third time on February 3, 1977. Since then, he has been held incommunicado in Kaluga Prison. He has been charged with no crime. He has been permitted no visitors. He cannot communicate with his family or his friends; they do not know whether their communications are allowed to reach him.

Why was Alexander Ginzburg arrested?

He was arrested because he administered a humane charity for political prisoners, and because he spoke the truth about Soviet noncompliance with international accords to which the Soviets themselves are a party.

Alexander Ginzburg was the administrator of the Russian Social Fund, a charitable organization founded by Mr. Solzhenitsyn from the proceeds of the Gulag Archipelago to aid political prisoners confined for their beliefs in Soviet camps, jails, and psychiatric hospitals and to assist their suffering families with food, clothing, and medicine.

He has also been one of the resolute activists on behalf of human rights. In the face of repeated arrests and harassment, he stayed the course. As one of the founders of the Helsinki Watch Group, he spoke out about the Soviet Government's violations of the Helsinki Accords and other international human rights agreements.

The Alexander Ginzburg Defense Committee sums up the matter this way:

If Alexander Ginzburg is brought to trial, it will mean that it is a crime in the Soviet Union to dispense mercy; and that it is a crime in the Soviet Union to speak the truth about violations of law and international agreements.

At this stage, public attention and exposure are the only factors which might bring about some improvement in the fate which looms over this kind, goodhearted, and courageous man. I call upon my colleagues to join in focusing public attention on the story of Alexander Ginzburg.

In this spirit, I submit for the RECORD the text of the recent appeal of Andrei Sakharov on behalf of Alexander Ginzburg.

The material follows:

DR. ANDREI SAKHAROV'S APPEAL

Exactly a year ago, Alexander Ginzburg, manager of the Russian Social Fund of help to political prisoners and their families and member of the Helsinki Accords Watch Group in the USSR, was arrested. He has two small children and is his old mother's only son. He is a kind and generous man, an active man, always compassionate and attentive to other people's sufferings. Our friend, our Alik.

He is still in a prison cell, under investigation, awaiting trial. None of his relatives and friends know what he is being charged with. So many things have happened since Ginzburg's arrest, and yet his imprisonment continues being for us a fact of the greatest importance, a highly alarming fact of which we think with invariable deep bitterness.

Ginzburg became known to the whole world ten years ago, when our country's intelligentsia launched a vast campaign to defend him and his companions against an unjust and harsh sentence. His friend, the poet Yuri Galanskov, who was sentenced during the same trial, perished in a forced labor camp. Over one thousand people at that time signed letters of protest in their defense, thus clearly demonstrating their attitude towards the repressive policy of our regime.

What Ginzburg is facing today is even more unjust and more cruel. His defense must be most energetic and worldwide. Ginzburg's arrest has been the beginning of a tide of political repression. Members of the Helsinki Watch Group have been singled out particularly as victims of this repression.

Ginzburg's defense is at the same time the defense of all his companions and a fight against political repression as such.

February 2, 1978 Andrei Sakharov

TAXPAYERS STANDING TO CHALLENGE IRS RULES

● Mr. KENNEDY. Mr. President, during the tax reform debate in the 94th Congress, I proposed an amendment to authorize judicial review of certain Internal Revenue Service determinations and regulations. My amendment—No. 1966—would have allowed any person to seek judicial review of a private tax ruling if the ruling decreased the tax liability of another person by an aggregate amount of $1 million or more for any taxable year, or of any ruling raising a substantial question of infringement of Federal constitutional rights. In my statement on the amendment, appearing in the July 26, 1976, CONGRESSIONAL RECORD at page 23886, I cited specific examples of giveaway rulings and the basic legal argument for authorizing judicial review of those rulings. Unfortunately the amendment was not adopted by the Senate.

The Congress did, in that tax reform legislation, provide that IRS rulings were to be made public. The publication of rulings will, of course, make clear on a regular basis to the Congress and the public the nature and magnitude of private IRS determinations. To insure greater equity in the ruling process and to allow the public an independent avenue of redress when a ruling which is unconstitutional or otherwise illegal winds up giving away large amounts of Federal dollars, judicial review should now be made available.

A recent article appearing in Tax Notes by Prof. Michael Asimow makes a strong case for Congress' renewing its consideration of this standing issue. Professor Asimow states that—

It is time . . . to sweep away the anachronistic rules precluding suits which challenge lenient tax rules.

After an exhaustive and documented analysis of the arguments for and against a new judicial review statute, he concludes:

The arguments against such a statute, whether on constitutional or policy grounds, are unpersuasive. Erroneously lenient tax rules threaten the horizontal and vertical equity of our tax structure. They also threaten public confidence in the independence of the Treasury and the fairness of the taxing system. As prescribed by a carefully drawn statute judicial review would be good medicine for these ills.

Professor Asimow has proposed his own taxpayer standing statute which,

while similar in objective, differs in a few ways from the one I proposed almost 2 years ago. I believe that it is important that both of these approaches receive careful examination by the Treasury Department, the public, and ultimately the Congress. I intend to introduce legislation on this subject again after I have obtained the views of the IRS. To that end I have asked Commissioner Kurtz for his views on both my earlier amendment and Professor Asimow's proposed statute.

I submit for the RECORD the article entitled "Standing to Challenge Lenient Tax Rules."

The article follows:

STANDING TO CHALLENGE LENIENT TAX RULES: A STATUTORY SOLUTION

(By Michael Asimow)

The Treasury Department is a rulemaking factory. On its assembly line, thousands of pages of regulations and hundreds of thousands of public and private tax rulings have been produced. Although the product is generally of acceptable quality, occasional rules are defective because they are inconsistent with the Internal Revenue Code.

Usually, of course, the effect of the disputed rule is to increase the taxes of a particular taxpayer or group of taxpayers. Present law provides ample protection to aggrieved taxpayers in the form of comprehensive judicial review of the legality of rules which cost them money. But a second, much smaller, class of defective rules have the effect of decreasing the taxes of a particular taxpayer or group of taxpayers. These rules will be referred to in this article as "lenient rules." This article addresses the appropriateness of judicial review of lenient tax rules and the means by which it can be obtained.

1. THE NEED FOR JUDICIAL REVIEW OF LENIENT RULES

The persons whose taxes are directly affected by a rule are not the only ones with an interest in it. In many situations, the competitors of the favored taxpayer must bear a higher tax burden and are thereby injured by the rule. In other situations, the employees or the customers of the beneficiary of a lenient rule may be harmed by the rule.

Even if no person suffers particularized harm from a lenient rule, everyone in the United States may suffer an injury. All of us, as citizens and fellow taxpayers, should be distressed when the horizontal equity of the tax structure is disrupted by a rule which fails to treat similarly situated persons equally.

By the same token, all taxpayers are injured by rules which undercut the progressive character of our tax system by favoritism to high-bracket taxpayers. A failure to collect taxes which legally could be collected will increase the federal budgetary deficit, with a corresponding effect on the rate of inflation, the money supply, and the interest burden on the federal debt. Large budgetary deficits also preclude Congress from initiating or expanding social programs and militate against a decrease in tax rates. In short, a lenient tax rule which is inconsistent with the statute inflicts a spectrum of injuries—perhaps only the pinprick of principle, perhaps a serious wound.

The scope of the problem

It is impossible to document in any rigorous way the scope of the problem of Treasury leniency in rulemaking. Every tax professional has his or her own list of detested (or cherished) rules of dubious legality. Often, for obvious reasons, the beneficiary of the rule is not anxious to publicize it, so many such rules have no notoriety. At this point, I shall list a number of rules whose consistency with the Internal Revenue Code could reasonably be questioned. Some of these rules still exist; others have been weeded out, but only after having thrived for years.

(a) Scholarships given the children of private university faculty members (at their own institutions or at other institutions) are not taxed to the parent or the child, even though the parent's services created an entitlement to the scholarship.[2] This rule illustrates a rather common phenomenon: it has created a substantial reliance interest. Many academic employers make use of this fringe benefit and it is taken for granted by its recipients. The Service recently proposed regulations which would tax such scholarships,[3] but the proposals were withdrawn after they met a barrage of protests.[4]

(b) The deduction of five years' prepaid interest was permitted for many years.[5] This rule gave rise to a huge volume of tax avoidance transactions [6] before it was ultimately revoked.[7]

(c) Free travel fringe benefits given to airline employees are not taxable.[8]

(d) Professionals, such as doctors and lawyers, are given far more favorable treatment than other self-employed persons in applying the maximum tax on personal service income.[9]

(e) The Treasury traditionally viewed group life insurance protection provided by an employer as nontaxable to an employee.[10] This fringe benefit ultimately became so significant that it was legitimized by statute.[11] Perhaps this anomalous statutory provision would never have been enacted but for the reliance interest created by prior rulemaking.

(f) For several years the Treasury viewed a stock option given by an employer to an employee as nontaxable on exercise if "noncompensatory." [12] As a result, stock options became so popular that Congress ultimately enacted legislation conferring generous tax treatment on restricted stock options.[13]

(g) A regulation providing an option to immediately deduct intangible drilling costs of productive oil and gas wells was probably contrary to the statute.[14] However, an enormous reliance interest was created by the regulation; when it was judicially questioned, Congress enacted a theoretically unjustified statute which sanctioned the practice.[15] The case casting doubt on the lenient regulation arose only because of an unusual difference of opinion between the Commissioner of Internal Revenue and the Secretary of the Treasury.

(h) Rulings allowing the immediate deduction of prepaid intangible drilling costs and prepaid state and local income or property taxes [16] seem vulnerable to attack.

(i) The Treasury ruled that a distribution from a qualified pension plan occurring by reason of a reorganization produced a capital gain, even though the employee continued in the same job for a new entity.[17] Although the Tax Court thought this ruling erroneous,[18] it was powerless to alter the situation. Ultimately, the ruling was revoked.[19]

(j) Regulations which classify entities as partnerships or corporations [20] have been heavily criticized by many commentators.[21] These regulations preclude the IRS from treating as corporations many limited partnerships organized to exploit tax shelters. As often occurs, the favorable regulation now has powerful political backing which apparently forestalls the Treasury from revoking the regulation.[22] The Treasury is pinning its hopes on litigation by which it seeks to circumvent the terms of its own regulation.[23]

Undoubtedly, any person working in the tax field could extend this list by adding his or her own favorites.[24] Some of the rules on the list will strike most tax professionals as vulnerable to judicial challenge (either now or at the time they were outstanding); others may seem probably correct. Some of the rules remain outstanding; some have been corrected by the Treasury itself, but only after substantial periods of time.[25] Still others have been confirmed by Congress, a decision reflecting the almost irresistible political pressure generated by threats to a long-standing lenient rule.

Avenues of protection

If the presence of defectively lenient tax rules presents an important problem of tax administration, what avenues of protection are available? Certainly, reconsideration by the Treasury is the swiftest and best approach. The Treasury can and does re-examine its own rules; such reviews may be stimulated by outsiders who criticize the rules or by petitions to reconsider the rules.[26] They may be prompted by internal changes of position. However, Treasury reconsideration of its rules is not an entirely satisfactory solution to the problem. No agency enjoys admitting that a prior position was erroneous, and none relishes exhuming a matter thought to be forever settled.

Moreover, it is commonly suspected by outsiders that the political and economic importance of the beneficiary of lenient rules led to adoption of the dubious rule in the first place [27] and precludes an even-handed reconsideration. Indeed, it seems fairly obvious that well-organized political pressures can abort threatened changes in popular rules.[28] The fact that the beneficiaries of lenient rules are often such powerful interests as the oil and gas industry, important charities, private universities, or the real estate construction industry, gives rise to justifiable doubts that the agency can be relied upon to correct an unwarranted rule on its own.[29]

Many people would also argue that Congressional oversight is sufficient protection against dubiously lenient tax rules. Certainly, Congress has often acted, usually to confirm such rules after they have been questioned.[30] And the important policy issues raised by lenient rulings should ultimately be resolved by Congress.[31]

The shortcomings of congressional review

But many lenient tax rules are sufficiently obscure that they will never be called to the attention of Congress. Needless to say, the beneficiaries of the rules generally prefer to keep them as obscure and unknown as possible. Other rules do not lend themselves to legislative solution.[32]

But most significantly, the political posture in which Congressional reconsideration arises casts grave doubt on this avenue of protection. The persons seeking tax reform (through correction of erroneous lenient rulings) have no national constituency, typically, they are poorly organized and thinly financed. However, the beneficiaries of the largesse are frequently well organized, lavishly financed, and very highly motivated. They may well have the Treasury on their side. Thus, the prospects for an even-handed Congressional evaluation of the propriety of tax rules are dim.

Another shortcoming of reliance on Congressional review of lenient rules is the inertia factor. Persons who question rules are attacking the status quo; it is they who must try to initiate the change, over the opposition of the beneficiaries of the rule (and often the Treasury). Congress is a powerful, but very sluggish monster; it is unlikely to initiate change unless powerful interests are demanding it. This simple observation tends to explain why so few favorable tax rulings are ever reversed by Congress (in the absence of urging by the Treasury).

However, if a judicial decision invalidates a tax rule, the Congressional inertia factor then favors tax reformers. If the courts invalidate a lenient rule, it is the beneficiaries of the rule who must initiate change through the legislative process and undergo all the

Footnotes at end of article.

difficulties and frustrations of moving Congress to act. It is true, certainly, that these difficulties have been overcome at times and the beneficiaries of questioned or invalidated tax rules have succeeded in reincarnating them.[33] But the Treasury may well switch sides after its position has been disapproved by a court. This would, in many cases, effectively thwart Congressional reinstitution of invalidated lenient rules.

A role for the courts

If administrative review and Congressional oversight are important but insufficient checks on lenient tax rules, what of judicial review? Should the courts have a role to play in assessing the legality of such rules? At present, judicial review is unavailable.[34] However, in the opinion of the author, judicial review of lenient tax rules would serve a salutary purpose of tax administration.

In evaluating judicial review, it is essential to place the problem in perspective. Judicial review of agency rules has become the norm. Nonreviewability is the rare exception. Today, in administrative law, it is almost a truism that judicial review is to be favored, to be presumed. Judicial review is widely considered a wise antidote to administrative lethargy and control of administrative agencies by regulated interests. No longer is judicial review considered an unwarranted interference by the courts in the affairs of the agencies; on the contrary, the courts and agencies are viewed as engaged in a collaborative effort in implementing the will of Congress.[35]

In interpreting federal statutes, the courts strain to find that review has not been precluded [36] or committed to agency discretion.[37] Many rules that once would have been considered not ripe for review are today routinely reviewed.[38] The barrier of sovereign immunity has been removed by statute[39] and other statutory changes have simplified jurisdictional and venue problems.[40] The courts often feel at liberty to impose procedural requirements on agency action[41] and to take a "hard look" at the assumptions, hypotheses, and factual data on which agency rules rely.[42] It is no exaggeration to say that judicial review of agency rules has undergone a revolutionary change in a brief span of years.[43]

Historically, the standing requirement has been a serious obstacle to those seeking judicial review of administrative rules. But in recent years, the law of standing has been entirely recast, and many plaintiffs now have standing to obtain review without benefit of any statute more specific than the Administrative Procedure Act, [44] even though prior law would have required dismissal of the case. Today it is well recognized that a television viewer has standing to complain of FCC leniency toward a licensed company; [45] any person with even a remote and tangential interest in an environmental issue can complain in court of regulatory policies destructive of the environment.[46] Competitors, or others in a business relationship to persons receiving favorable regulatory treatment, can attack such treatment.[47] Consumers have free rein to attack rules harmful to their interests.[48] Judicial review has become the norm; nonreviewability the rare exception. Why should judicial review of lenient tax rules be the exception rather than the rule?

The next section of this paper details briefly the difficulties presently confronting challengers of Treasury leniency in the courts. Then a statutory solution will be suggested. Finally, the proposed statute will be explained and defended; and some of the reasons why judicial review of lenient tax rules might be opposed will be discussed.

2. OBSTACLES TO JUDICIAL REVIEW OF TREASURY LENIENCY

Recent developments in the law of standing have made it virtually impossible for anyone to mount a judicial challenge of a lenient tax rule. These developments contrast sharply with the general broadening of the standing rules for other plaintiffs. This section will sketch the standing problem briefly, and will set the stage for a detailed discussion of a statute specifically conferring standing to challenge lenient tax rules.[49]

Persons whose only interest in a dispute is as a citizen or as a taxpayer clearly lack standing in the absence of a statute conferring it. In *Flast* v. *Cohen*,[50] the long-established rule that a federal taxpayer lacks standing [51] was relaxed to a limited extent. The plaintiff challenged a federal spending program as violative of the establishment clause of the First Amendment. The *Flast* decision established that the plaintiff must have a personal stake in the dispute to have standing. This restriction on standing is based on the case or controversy limitation of Article III; additional standing restrictions are merely "prudential."

The Supreme Court found the requisite personal stake in the *Flast* situation because there was a nexus between plaintiff's status (taxpayer) and the program (taxing and spending); moreover, plaintiff alleged a specific (rather than general) constitutional inhibition on the spending program. Unfortunately, the *Flast* decision is not clear on whether these requirements—that plaintiff challenge a spending rather than a regulatory program, and that a specific constitutional limitation bar the expenditure—are constitutional or prudential limitations.[52]

The *Flast* case, originally hailed as a "cornerstone" of the law of standing,[53] has proved to be little more than an aberration. All attempts to expand it have failed.[54] For example, persons challenging primarily executive action (as distinguished from Congressional exercise of the spending power) have no standing under *Flast*.[55] Similarly, citizens, as opposed to taxpayers, have no standing.[56] Thus, *Flast* confers standing to challenge violations of the establishment clause through appropriations—and apparently that is all. Taxpayers challenging Treasury interpretations of tax laws cannot meet the *Flast* criteria.[57] However, it should be noted that *Flast* did establish one essential point: a federal taxpayer can suffer an injury sufficient to confer Article III standing. *Flast* is, therefore, a hopeful portent for a statute conferring standing on taxpayers.

The EKWRO case

Persons challenging tax interpretations, and claiming an injury more particularized than that imposed on taxpayers in general, have met with no recent success.[58] The leading case is *Simon* v. *Eastern Kentucky Welfare Rights Organization* (hereinafter referred to as *EKWRO*).[59] The plaintiffs in *EKWRO* were poor people who had been turned away when they sought reduced charge medical care at private hospitals. The dispute concerned the correctness of an IRS ruling [60] that a private hospital could be "charitable" even though it charged poor persons the full price for all nonemergency services.

The plaintiffs in *EKWRO* claimed standing under section 702 of the Administrative Procedure Act, claiming to be adversely affected or aggrieved within the meaning of a relevant statute. This claim was indeed a plausible one, in light of earlier Supreme Court interpretations of this statute which required only an "injury in fact." [61] However in *EKWRO*, the Court imposed strict rules based on causation and remediability. The plaintiffs lacked standing because their pleading failed to provide a causal link between the IRS ruling and the hospitals' decision to deny them service. Similarly, they could not allege that a court-ordered change in the ruling would cause the hospitals to provide them service.[62]

The *EKWRO* decision was the first to impose strict requirements of causation and remediability in a case challenging an administrative rule as being inconsistent with statutory requirements. However, *EKWRO* drew on several earlier constitutional cases which imposed these requirements. For example, in *Warth* v. *Seldin*,[63] plaintiffs were both poor people and builders who attacked a system of exclusionary zoning. The poor people lacked standing since they failed to point to a specific housing project which they could have afforded and which would have been built but for the zoning requirements. Similarly the builders lacked standing since they failed to allege any specific project currently thwarted by the zoning law.[64] Although it is not crystal clear, it would appear that the causation and remediability requirements imposed by *Warth* and *EKWRO* are constitutional, rather than prudential.[65]

The *EKWRO* causation requirement apparently will stifle complaints against lenient tax treatment brought by a competitor as well as a customer of the favored taxpayer. In the *ASTA* case,[66] travel agents attacked the legality of IRS' failure to tax the profits from promoting tours which were earned by a charity. The court observed that a change in the IRS' policy might well produce no benefits to the travel agents. Imposing a tax might not change the price of the services offered by the charity; even if the charity's price rose, the clients might continue to patronize the charity rather than the plaintiffs.

The zone of interest test

Another barrier to the standing of plaintiffs attacking Treasury leniency has been a strict application of the zone of interest test which requires that the interest asserted by a plaintiff be "arguably" within the zone of interests either protected or regulated by the statute in question.[67]

In *Tax Analysts & Advocates* v. *Blumenthal*,[68] the plaintiffs attacked rulings which granted the foreign tax credit to royalties paid by international oil companies. Plaintiff's standing was based on his ownership of a domestic well; he received only a deduction, not a credit, for his royalties. The court found that this competitive disadvantage supplied the necessary injury in fact,[69] but ruled that the interest asserted by plaintiff was outside the zone of interest arguably protected or regulated by the foreign tax credit. That provision was designed only to protect taxpayers operating abroad from double taxation, not to either benefit or penalize their domestic competitors.[70]

Thus it seems unlikely that anyone—whether it is a taxpayer, a customer, or a competitor—has standing under present law to attack lenient tax rules.[71] If such rules should be judicially reviewed, it is necessary to consider a statute which would confer standing. A proposed statute which would grant standing to challenge lenient tax rules is set forth in the box.

3. THE CONSTITUTIONALITY OF THE PROPOSED STATUTE

Undoubtedly, constitutional attacks would be leveled against such a statute. Consequently, the first task in defending it is to inquire concerning its constitutionality. In the author's opinion, the statute is constitutional.

(a) Taxpayer Standing by Statute:

It seems unlikely that serious Article III problems will arise in connection with a statutory grant of standing to anyone who has an injury defined by the statute.[72] Congressional authorization of the suit solves the problem of separation of powers perceived to be present in so-called public actions.[73] Sensitive to becoming a modern counterpart of the Council of Revision, the Court is reluctant to become the repository of every statutory or constitutional grievance which a plaintiff brings to it. But, if Congress has determined that the challenge is appro-

Footnotes at end of article.

priate, the judiciary does not overstep its proper limits by entertaining the challenge.

Moreover, Congressional approval of the action should dispel concern about whether the plaintiff can be expected to present his case with appropriate vigor and whether the parties are sufficiently adverse, both as required by Article III.[74] Indeed, the vigor of the plaintiff's presentation and the adverseness of the parties has never been strongly correlated with the nature and extent of plaintiff's injury.[75] Thus, a finding by Congress that the requisite vigorous presentation and adversity is likely to be present should weigh heavily with the Court. Finally, the issues presented (whether a statute and a rule are consistent, or whether procedural requisites for rulemaking have been met), and the relief sought (a declaratory judgment that the rule is unlawful), are the sorts of business routinely done by the federal courts. The issues are therefore presented in a "form historically viewed as capable of judicial resolution." [75a]

A statute conferring standing on all citizens would probably be constitutional, if the statute first defined a right possessed by all citizens and allowed any citizen to sue to vindicate that right.[76] For example, under the Freedom of Information Act,[77] any person has the right to request information from the government, regardless of need; if the information is not forthcoming, a right of action is provided. The constitutionality of this statute apparently has not been questioned. The plaintiff has the requisite constitutional injury because he has been denied a benefit to which the statute entitles him. Similarly, Congress has granted standing to "any person" to challenge the failure of the Environmental Protection Agency to perform a nondiscretionary duty owed to anyone (including the United States) in violation of emission standards of limitations.[78] Presumably, the basis of this provision is that everyone in the United States has a right to be free from environment-degrading action or inaction by the EPA.

Congress can grant standing by statute

Justice White's frequently cited concurring opinion in *Trafficante*[79] is significant authority for the proposition that Congress can create a right and then give a particular plaintiff standing to enforce that right, even though, in the absence of statute, the plaintiff would have no standing. *Trafficante* involved a complaint by a white resident of an apartment complex that the landlord was discriminating against minority tenants. The legislative history of the applicable federal statute suggested that the harm done by racial discrimination in housing extended to the whole community, not merely to minority victims. The statute provided that anybody who claimed to be injured could complain to the agency and had a right to sue. Justice White explained that the case or controversy requirement was met where a statute gave a right to sue to everyone who is authorized to complain to the agency, even though that same complainant would have no Article III standing in the absence of the statute.

Thus, the proposed statute begins by declaring that every taxpayer is injured by Treasury rules which are inconsistent with the Code or otherwise unlawful. The injury (which could be elucidated by legislative history or written directly into the statute) is that lenient Treasury rules interfere with both horizontal and vertical equity, reduce tax collections, and increase inflation, government borrowing, and the interest burden of the national debt. These effects tend to preclude the possibility of cuts in tax rates as well as increased appropriations for new or existing programs. Since the statute states that all taxpayers are economically injured by rules which have this effect, it should follow that all of them suffer injury in fact in the constitutional sense.

To be sure, the injury suffered by all taxpayers is generalized, not particularized. The generality of the injury would preclude judicial review in the absence of statute.[80] But in *Warth* v. *Seldin*,[81] the Court made it clear that the requirement of particularity of the injury was prudential, not constitutional. Therefore, this requirement can be removed by statute. Moreover, in a real sense, the injury is particularized; the statute requires a plaintiff first to petition for the repeal of the rule. If this relief is denied, the plaintiff has suffered a particularized injury in the same way as a Freedom of Information Act plaintiff suffers an injury from being denied the information requested.[82]

Finally, it seems clear that taxpayers suffer an injury in fact sufficient to meet Article III standards, at least with the aid of a statute. How else to explain *Flast v. Cohen*,[83] allowing a federal taxpayer to challenge a taxpaying-spending decision under the Establishment Clause? Surely, the impact upon a taxpayer from a failure to tax other taxpayers is identical to the injury described in *Flast*—unlawful spending. To be sure, the *Flast* decision contains a further limitation: the taxing-spending provision must contravene a *specific* constitutional limitation. But the requirement is attributable to the fact that no statute conferred a right to sue. Therefore, it was necessary to establish that the plaintiff as a taxpayer had an interest which the Court could vindicate. The Establishment Clause provided such an interest.[84] But where Congress has first defined a right possessed by taxpayers, and conferred standing to vindicate that right. *Flast* would be strong authority for upholding the statute. Moreover, the Court has traditionally entertained taxpayer actions appealed from state courts, provided there is a genuine "pocketbook injury" to the taxpayer plaintiffs.[85] Since Article III standards are applied in such cases, it seems clear that a taxpayer can suffer economic injury which is sufficiently "distinct and palpable" [85a] from taxing or spending decisions, where the right to be vindicated is defined by the Constitution or by a federal or state statute.

(b) Competitor or Customer Standing by Statute:

The proposed statute attempts to overrule *EKWRO* [86] and *ASTA*[87] by providing that persons suffer economic injury in fact when their interests are impaired directly, indirectly, or incidentally, by a rule or regulation.[88] Such persons are then given standing to sue to remedy this injury.[89] Surely, the patients denied standing in *EKWRO*, or the competitors denied standing in *ASTA*, can meet this standard.

However, the constitutionality of this provision is arguable, for it abrogates the strict causation and remediability requirements of *EKWRO*.[90] It may be that these requirements are incorporated within the irreducible minimum of injury necessary to meet the standing rules of Article III. However, it seems unlikely that the Court would so hold. As previously explained, it seems clear that Congress can create a right to be free from a particular form of government injury, and then give standing to vindicate that right.[91] This is precisely what the statute attempts; it confers a right on persons who are indirectly or incidentally injured by an unlawful rule benefiting their competitor (or someone else in a business relationship with them) to be free of such injury, and gives standing to sue to remedy the injury. Since the right is to be free from indirect or incidental harm, surely persons suffering such harm will have standing.

Moreover, the causation and remediability requirements seem to be instances of the broader rule that nonstatutory standing cannot be based on an injury which is too speculative or hypothetical.[92] But whether particular injuries are too speculative is very much a matter of degree, not an absolute distinction. Accordingly, it seems clear that Congress would have power to define where the line should be drawn, whether such power flows from Congress' power to define the jurisdiction of the federal courts [93] or whether it flows from the taxation power together with the necessary and proper clause.[94]

(c) Standing to Recover the Penalty:

Subsection (e) of the proposed statute provides for a $100 payment b ythe government to a prevailing party (other than the Attorney General). This provision is designed to bring the statute under the authority of the cases supporting qui tam actions. A qui tam action is one brought pursuant to a statute which orders that the plaintiff recover a bounty for a successful suit. For example, in *United States ex rel Marcus* v. *Hess*,[95] the statute allowed anyone to file suit against a person who had defrauded the United States. It provided that any damages recovered would be shared between the United States and the plaintiff. The Supreme Court upheld the validity of the statute, construing it very generously in the plaintiff's favor.

The $100 bonus given a successful plaintiff under the proposed statute would seem akin to the potential recovery of damages under the statute involved in the *United States ex rel Marcus v. Hess*. It seems that the pecuniary benefit to the plaintiff, if he wins the case, is sufficient to give him standing under Article III.[96] At the same time, the $100 bonus is hardly sufficient to attract a rash of litigation since it would be far less than the attorney's fees likely to be incurred in the case.

(d) Standing to Represent the United States:

Still another technique is employed in the proposed statute to assure its constitutionality. The statute first confers standing on the Attorney General to sue the Secretary of the Treasury in the event the Attorney General believes that a Treasury rule is unlawful.[97] It then provides that if the Attorney General declines to sue, a private individual can then sue on behalf of the United States asserting the same claims that the Attorney General could have asserted.[98]

Apart from constitutional concerns, it seems quite appropriate to lodge the primary enforcement responsibility in the Attorney General. The claim that a lenient tax rule is unlawful is really a claim on behalf of the public interest. It would seem that the Attorney General is the most appropriate party to vindicate the interests of the public at large. Therefore, the proposed statute requires that any taxpayer, competitor, or other aggrieved person must petition the Attorney General to bring suit. [99] Only if the Attorney General declines to do so, whether because he believes the rule is lawful or because he lacks personnel ir other resources to conduct the litigation, can the private plaintiff proceed.[100]

The constitutional argument in favor of the suit runs as follows: The Attorney General clearly has standing to sue to vindicate the public interest.[101] Indeed, his standing has often been recognized even in the absence of statute.[102] Consequently, with the aid of a statute, there could be no doubt that he is an appropriate party under Article III.

Moreover, the Attorney General clearly can be given standing to sue another officer of the federal government. Many Supreme Court cases have sustained the standing of a federal government representative (such as the Attorney General) to seek judicial review of the decisions of another federal agency.[103]

Finally, it would seem that Congress could lodge this law enforcement responsibility in any person it chooses, even though that person is not a paid employee of the executive branch.[104] Thus, Congress could decide that a "private attorney general" [105] in the most

Footnotes at end of article.

literal sense could litigate on behalf of the United States.[106]

4. IN DEFENSE OF THE PROPOSED STATUTE

This section will discuss the criticism that might be directed at the proposed statute (aside from constitutional arguments).

(a) Floodgates. It could be argued that this statute would open the floodgates to a huge amount of litigation which would tie the IRS in knots and congest the courts.[107] I think that this floodgates argument, like those forthcoming whenever an expansion of standing doctrine is at issue, is greatly exaggerated. For one thing, taxpayer actions against states and municipalities are almost universal; these actions permit taxpayers or private citizens to challenge any city or state expenditure, even though in many cases the action questioned actually has nothing to do with taxing or spending. The literature contains no complaints that any courts have been flooded or that any agency has been unduly hampered in its job by such litigation.[108]

The proposed statute contains no provision for attorney's fees to the prevailing party. Therefore, it will not attract a pack of hungry lawyers. Surely the $100 payment to the plaintiff would not begin to compensate for the costs of extended litigation through trial and appeal. Moreover, the costs of suit (other than attorney's fees) are imposed on the plaintiff if he loses, a not substantial item in protracted litigation.[109] (Indeed, if Congress wished to do so, it could impose a requirement that, in the court's discretion, the plaintiff be required to post security to cover the costs borne by defendants if plaintiff loses.)[110] The tremendous costs and burdens of protracted federal court litigation will discourage all but the most determined and vigorous plaintiffs from attacking Treasury rules.[111]

One quite valid concern with a statute like the one proposed is that it will attract tax protestors. There are many persons who appear to devote all their time and energy to battling the IRS. Such persons might welcome an opportunity to litigate the taxes of others. The statute deals with this problem by giving the trial judge the power to dismiss the action if it appears that the plaintiff does not fairly and adequately represent the interests of all taxpayers.[112] Thus, persons litigating the matter pro se or with only a perfunctory investment in research could be hastened from the court.

To further limit the impact of the statute, the definition of attackable rules excludes any that could be effectively challenged through the ordinary procedures in the Tax Court, the District Court, or the Court of Claims.[113] This provision is designed to avoid undercutting the policies behind the Anti-Injunction Act and the Declaratory Judgment Act[114] which require that taxpayers harmed by a rule forego litigation until the rule is actually applied against them (or against someone else) by the IRS. Therefore, the statute will not affect the rules prescribed in such cases as *Bob Jones Univ. v. Simon*[115] which prevent premature litigation of tax rules which increase someone's taxes.

Considering the limitations imposed by the section, and the high costs of litigation, it simply is not credible that the section will open the floodgates. If the section does produce an unexpectedly large amount of litigation, Congress can easily introduce further limitations.

(b) Adversaries of the Treasury. A valid concern with a statute conferring standing to challenge lenient rules is that the Treasury may not be wholehearted in its defense. Indeed, it may be sympathetic with the plaintiff's position. This might occur in cases (like that of the rule which excludes scholarships given the children of faculty members) where the Treasury's attempt to change its pro-taxpayer policy was apparently forestalled by vehement opposition.

This problem is dealt with by the statute in several ways. First, it provides an absolute right of intervention for a person who claims that his interests would be damaged by a decision in favor of the plaintiff.[116] Thus, the beneficiaries of the largesse clearly can enter the suit and take part in each aspect of the litigation. However, in order to prevent delays or confusion attendant upon the presence of too many intervenors, the court would have power to control the case by limiting either the number of intervenors or the mode of their participation. These provisions would be parallel to rules for mandatory intervention presently embodied in Rule 24 of the Federal Rules of Civil Procedure.

In addition, the statute provides that if the court is concerned that the interests of the beneficiary may be impaired or impeded, the court is empowered to order the joinder of one or more additional persons as necessary parities.[117] Thus, if no beneficiaries intervened, or if the intervenors mounted an inept defense of the rule (and the Treasury's defense was also inadequate), the interests of other beneficiaries might, as a practical matter, be injured and the court could and should order them (or some of them) to be joined.

The decision in a case in favor of the plaintiff would collaterally estop the Treasury and any intervenor or necessary party from relitigating the issues involved. It would not bind any other person, who, in litigation involving his own taxes, later seeks to assert that the regulation or rule was correct all along.[118] Needless to say, however, the decision in the plaintiff's favor would probably be followed as a matter of stare decisis but it need not be.[119]

(c) *IRS Has Opportunity to Consider.* One objection to a statute allowing standing to challenge lenient rules is that such an action usurps the independence of the Treasury to modify its own rules. Thus, an important limitation upon the rights of any plaintiff to bring suit under the proposed statute is that notice must be given the Treasury prior to filing, by means of a petition to revoke the rule.[120] The Treasury is given 120 days to consider the petition.[121] In some cases, therefore, the lawsuit may be mooted by repeal or modification of the rule.[122]

(d) *Ripeness problems.* Another valid concern with a statute conferring standing is that some rules might not be ripe for judicial consideration in the absence of actual application. In some cases, the judicial decision might be facilitated by concrete, particularized facts. In such cases, the court can still dismiss the action as unripe for review.

However, many rules, including interpretive rules and policy statements, have been reviewed by the courts in advance of actual application.[123] Under the *Abbott Laboratories*[124] formula, the variables are the plaintiff's need for immediate review and the fitness of the issue for judicial resolution. Of course, the plaintiff's need for immediate review would vary, depending upon whether the plaintiff was a competitor or customer[125] of the favored taxpayer, or only an aggrieved taxpayer. Another factor might be the magnitude of the revenue loss incurred as a result of the rule.[126] The fitness of the issue for review would turn upon the extent to which purely legal issues were presented which would not be further illuminated by subsequent developments. Also relevant are the degree of formality and finality involved in the rule. For example, the court might be more willing to find a regulation ripe for review than a private ruling issued at a relatively low level by the Service with apparently relatively little consideration.[127]

Thus, there may well be lenient tax rules which are not ripe for immediate review. However, the ripeness doctrine should be applied cautiously in this context. There may never be a time which is more appropriate for judicial review, since the agency will never actually "apply" its rule. The favored taxpayer will simply engage in private conduct and the agency will do nothing. And the circumstances of the private conduct might be difficult or impossible for the plaintiff to ascertain. Moreover, the variable concerning the plaintiff's need for immediate review should be applied cautiously, assuming Congress decides that every taxpayer suffers an injury from an unlawful erroneous rule. There will be no time at which such injury is demonstrably greater than some other time.

(e) Prospectivity of decision. If a judicial decision striking down a lenient rule were retroactive in effect, there would be real concern that unexpected tax consequences would be visited on transactions entered into in good faith reliance on the rule.[128] Ordinarily, Treasury revocation of rules is prospective in effect.[129] The same should be true of judicial decisions invalidating lenient rules.[130] The degree to which the decision should be retroactive or prospective, and the precise terms of a prospective decree, would be left in the sound decision of the trial court.

5. CONCLUSION

Although the courts were once reluctant to review administrative rules in advance of their application, such review has now become commonplace. Where suits were once dismissed for lack of standing or ripeness, or because of sovereign immunity, or because the action was committed to agency discretion or review was precluded, or for reasons relating to jurisdiction or venue, today the petitions are routinely heard. Although the scope of review of rules has not changed, the actual degree of scrutiny by the federal courts of both substance and procedure has greatly intensified.

It is time for this current of change to sweep away the anachronistic rules precluding suits which challenge lenient tax rules. Although the courts are reluctant to intrude into tax administration by hearing such suits, such concern should dissipate in the wake of statutory sanction. If Congress approves judicial oversight of IRS rulemaking, the courts should have no difficulty in providing it. The arguments against such a statute, whether on constitutional or policy grounds, are unpersuasive. Erroneously lenient tax rules threaten the horizontal and vertical equity of our tax structure. They also threaten public confidence in the independence of the Treasury and the fairness of the taxing system. As prescribed by a carefully drawn statute, judicial review would be good medicine for these ills.

Proposed taxpayer standing statute

(a) Rights of taxpayers—it is hereby declared:

(1) Taxpayers in general—That every taxpayer, as defined in subsection (i), suffers an economic injury in fact by reason of a rule or regulation as defined in subsection (g), which is inconsistent with the provisions of the internal Revenue Code, or otherwise unlawful;

(2) Competitors, etc.—That any person whose economic or competitive interests are impaired, directly, indirectly, or incidentally, by a rule or regulation, as defined in paragraph (g), suffers economic injury in fact if such rule or regulation is inconsistent with the provisions of the Internal Revenue Code, or otherwise unlawful;

(3) Right of review—That every person who suffers an injury described in subsection (1) or (2) has a right to be free of such injury and can enforce such right by maintaining a suit for judicial review as provided in subsection (b).

Footnotes at end of article.

(b) Authorization—The following persons shall have the right to obtain judicial review of any rule or regulation as defined in subsection (g):

(1) Attorney General—The Attorney General of the United States;

(2) Any taxpayer—Except as provided in subsection (h), any person described in subsection (a)(1).

(3) Competitor, etc.—Except as provided in subsection (h), any person described in subsection (a)(2).

(c) Prerequisites to suit—Before any person described in subsections (b)(2) or (b)(3) may obtain judicial review:

(1) Petition to repeal—Such person must petition the Secretary of the Treasury to revoke the rule or regulation in question.

(2) Petition to Attorney General—If the Secretary of the Treasury declines to revoke the rule or regulation in question, or 120 days elapse from the date of the petition to the Secretary, whichever occurs first, such person must petition the Attorney General of the United States to file suit to obtain judicial review of the rule or regulation in question. If the Attorney General declines to seek judicial review, or 60 days elapse from the date of the petition to the Attorney General, whichever occurs first, such person may file suit to obtain judicial review. If the Attorney General files suit for judicial review during the 60-day period described in the preceding sentence, no action may be brought by the persons described in subsections (b)(2) or (b)(3) unless the suit by the Attorney General is not vigorously pursued or is concluded without a decision on the merits.

(d) Rights of plaintiffs—A person described in paragraph (b)(2) or (b)(3) may assert any claims concerning the invalidity of the rule or regulation which the Attorney General could have asserted.

(e) Costs and payment—The costs of an action brought under authority of this section shall be assessed in accordance with section 2412, Title 28. If a person described in paragraph (b)(2) or (b)(3) is the prevailing party, such person shall be entitled to payment of $100 by the United States.

(f) Procedural rules—The following rules shall apply to actions brought under this section:

(1) Jurisdiction and venue—Actions under this section may be brought without regard to the amount in controversy in the United States District Court for the district in which the plaintiff (or any one of the plaintiffs) resides, or in the District of Columbia.

(2) Intervention—Any person who claims that his interests would be damaged if the plaintiff prevails shall be entitled to intervene in the action, but the Court shall have discretion to limit the number of intervenors, or limit their participation in the action, upon a finding that such limitation is needed to avoid undue delay or prejudice to the adjudication of the case.

(3) Joinder—The Court may require that any person be made a party if he is so situated that the disposition of the action in his absence may as a practical matter impair or impede his ability to protect his interests.

(4) Dismissal—The Court shall dismiss the action if it appears that the plaintiff does not fairly and adequately represent the interests of all taxpayers (if he is a person described in subsection (b)(2)) or others similarly situated (if he is a person described in subsection (b)(3)).

(5) Prospective relief—In the discretion of the Court, the relief to be granted a plaintiff may be prospective only.

(g) Rules which may be challenged—Any rule or regulation relating to any tax imposed by the Internal Revenue Code, which is published in the Federal Register, the Internal Revenue Service Cumulative Bulletin, or comparable medium of publication, or which is a written determination, as defined in section 6110(b)(3)(A), can be challenged under this section, except:

(1) Certain policies—A rule consisting of the Treasury's policy concerning whether to litigate or not to litigate particular issues, whether it will follow or not follow the decision of any court, or whether it will rule or not rule on particular transactions;

(2) Procedural rules—A rule of agency organization, procedure, or practice.

(h) Rules which increase taxes—No action shall be brought by a person described in subsections (b)(2) or (b)(3) if the lawfulness of the rule or regulation could be effectively challenged by the plaintiffs through litigation in the Tax Court or through an action for a refund in the Federal District Court or the Court of Claims.

(i) Taxpayer—For purposes of this section, a taxpayer is a person who has paid, or expects to pay, any tax imposed by the Internal Revenue Code during the calendar year in which the action described in this section is filed.

(j) Partial invalidity—If any provision of this statute, or the application thereof to any person or circumstance, is held invalid, the validity of the remainder of the statute and the application of such provision to other persons and circumstances shall not be affected thereby.

FOOTNOTES

[1] Administrative rules which are inconsistent with the statute are unlawful. In addition, a rule might be invalidly adopted because of procedural defects in the rulemaking process. *See*, e.g., *Simon* v. *Eastern Kentucky Welfare Rights Org.*, 506 F.2d 1278, 1290–91, n.30, (maj. op.), 1291–92 (diss. op.), 1293 (dissent to denial of petition for rehearing en banc), *rev'd on other grounds*, 426 U.S. 26 (1976).

[2] Reg. § 1.117–3(a). *But see Armantrout* v. *Commr.*, 67 T.C. 996 (1976), on appeal (7th Cir.)

[3] Prop. Reg. § 1.117–3(a),–(c), 41 Fed. Reg. 48132 (Nov. 1, 1976).

[4] 42 Fed. Reg. 3181 (Jan. 13, 1977). *See* Teschner, *The Tuition Remission Skirmish*, 55 Taxes 240 (1977). The withdrawal of the proposed regulations may have been prompted by a cryptic statement by the Ways and Means Committee that it intended to study the tax treatment of scholarships. H. Rep. 94–658, 94th Cong. 1st Sess. p. 427. This proposed "study" might be in response to taxpayer protests about the Service's policy concerning taxation of forgiven student loans as well as tuition remission programs.

[5] I.T. 3740, 1945 C. B. 109.

[6] *See* Asimow, *Principle and Prepaid Interest*, 16 U.C.L.A. L. Rev. 36, 37–45 (1968).

[7] Rev. Rul. 68–643, 1968–2 C.B. 76. *See* IRC § 461(g) which codifies the ruling disallowing immediate deduction of prepaid interest.

[8] *See* Prop. Regs. 1.61–16 (f), ex. 1 and 2, —— Fed. Reg. ——, (Sept. 11, 1975), withdrawn, —— Fed. Reg. ——, (Dec. 17, 1976). *See generally* Note, 89 Harv. L. Rev. 1141 (1976).

[9] *See* Reg. § 1.1348–3(a)(2), (a)(3)(ii).

[10] L.O. 1014, 2 C.B. 88 (1920). *See Enright* v. *Commr.*, 56 T.C. 1261 (1971).

[11] I.R.C. § 79.

[12] Reg. 101, § 22(a)–1, –3(1939). This regulation prematurely conceded the correctness of *Geesman* v. *Commr.*, 38 B.T.A. 258 (1938), acq. 1939–1 C.B. 13, a decision favorable to the taxpayer, which was ultimately repudiated in *Commissioner* v. *LoBue*, 351 U.S. 243 (1956).

[13] Int. Rev. Code of 1939 § 130A. After many years of paring, the qualified stock option (the lineal descendant of the restricted stock option) was finally phased out by § 603 of the Tax Reform Act of 1976.

[14] *See F.H.E. Oil Co.* v. *Commr.*, 147 F.2d 1002, *reh. den.* 149 F.2d 238, *reh. den.*, 150 F.2d 857 (5th Cir. 1945).

[15] Int. Rev. Code of 1939 § 711(b)(1)(I) (excess profits tax) and Int. Rev. Code of 1954 § 263(c). *See* H. Con. Res. 50, 79th Cong. 1st Sess. (1945) which gives retroactive approval to the regulation.

[16] Rev. Rul. 71–252, 1971–1 C.E. 146 (intangible drilling costs), I. T. 4054, 1952–2 C.B. 36 (state income tax).

[17] Rev. Rul. 58–94, 1958–1 C.B. 194.

[18] *Gittens* v. *Commr.*, 49 T.C. 419 (1968).

[19] Rev. Rul. 72–440, 1972–2 C.B. 225.

[20] Reg. § 301.7701–2 and –3.

[21] *See, e.g., Hyman, Partnerships and "Associations": A Policy Critique of the Morrisey Regulations*, 3 J. Real Est. Tax. —— (1976).

[22] Proposed regulations which would have taxed most limited partnerships as corporations were almost immediately withdrawn.

[23] In *Larson* v. *Commr.*, the Tax Court first issued an opinion which read the regulations with extreme hostility in order to hold a limited partnership taxable as a corporation this opinion was later withdrawn in favor of a second one which read the regulations more literally and held that the partnerships were to be taxed as partnerships. 66 T.C. 159 (1976). The case is now on appeal to the 9th Circuit.

[24] Some additional examples:

a) Royalties paid by oil companies to foreign countries in the form of income taxes qualify for the foreign tax credit. *See Tax Analysis & Advocates* v. *Blumenthal*, ------ F.2d ------, 77–2 U.S.T.C. Para 9478, (D.C. Cir. 1977) pet. for cert. pending.

b) The failure to tax profits earned by a charity from organizing tour groups as unrelated business income. *See American Society of Travel Agents* v. *Blumenthal*, ------ F.2d ------, 72–2 U.S.T.C. Para. 9484 (D.C. Cir. 1977), pet. for rehearing pending (hereinafter cited as ASTA).

c) For more than 20 years, I.R.S. rulings allowed a "cost company" engaged in mining to avoid being treated as a taxpaying entity. *See* Rev. Rul. 77–1, 1977–1 I.R.B. 16, revoking Rev. Rul. 56–542, 1956–2 C.B. 327.

[25] Many egregiously doubtful rules have been changed by the Treasury, although often they remained outstanding for many years. For example, consider the rulings on prepaid interest, lump sum distributions, and proprietary stock options, discussed at text accompanying notes 5–7, 12–13, and 17–19 *supra*.

[26] See 5 U.S.C.A. § 553(e).

[27] Thus, it seems likely that vigorous lobbying by the private hospital industry caused the Treasury to rule that private hospitals can be tax-exempt even though all patients are charged full rates. Rev. Rul. 69–545, 1969–2 C.B. 117, further discussed at notes 59–65 *infra*. Similarly, many suspect some sort of political interference was behind the Treasury's ruling (later revoked) that the ITT-Hartford transaction qualified as a tax-free reorganization. *See generally International Telephone & Telegr. Corp.* v. *Alexander*, 396 F. Supp. 1150 (D. Del. 1975); *ITT-Hartford Rulings Issue: Did the Transaction Add Up to a Tax-Free Reorg?*, 41 J. Tax 4 (1974).

[28] Consider, for example, Treasury withdrawal of proposed regulations which challenge compensatory scholarships and limited partnerships. *See* text at notes, 2–4, 21–23 *supra*.

[29] The fact that many of the dubiously lenient rules used as examples have in fact been revoked by the Treasury should not suggest that most such rules are, in fact, revoked. Revocation of a rule by the Treasury is a sufficiently notorious event that it calls attention to the prior ruling. But the vast majority of lenient rules gain no notoriety because neither the Treasury nor their beneficiaries have highlighted them.

[30] For example, after commentators had questioned the asset depreciation range regulations, Congress wrote most, but not all of them, into law. *See* Bittker, *Treasury Au-*

thority to Issue the Proposed "Asset Depreciation Range Systems" Regulations, 49 Taxes 265 (1971); IRC § 167(m), 263(e). Similarly, consider the intangible drilling cost rules and the stock option rules, discussed at text accompanying notes 12–15, *supra*.

[31] *See* Thrower. *Public Interest Litigation to Affect Substantive Tax Decisions*, 27 Ntl. Tax J. 389 (1974) and Jaffe, *The Citizen as Litigant in Public Actions: The Non-Hohfeldian or Ideological Plaintiff*, 116 U. Pa. L. Rev. 1033 (1968). Jaffe analogizes judicial review of agency action to the role of the courts in checking state laws which unduly burden interstate commerce. Although Congress can and should resolve the issues raised by such laws through preemption statutes, the Supreme Court has played an indispensable role in protecting the national market through its commerce clause decisions.

[32] This may well be the case with the problem of distinguishing partnerships from corporations for tax purposes. *See* text accompanying notes 20–23 *supra*. But a decision invalidating the regulations could force the Treasury to draft new ones.

[33] Thus, the beneficiaries of favorable rules on stock options and intangible drilling costs managed to have the rules written into law after the courts of the Treasury had tried to alter them. *See* text at notes 12–15 *supra*.

[34] *See* text at notes 49–71 *infra*.

[35] *See Environmental Defense Fund* v. *Ruckelshaus*, 439 F.2d 584 (D.C. Cir. 1971).

[36] *See*, e.g., *Abbott Laboratories* v. *Gardner*, 387 U.S. 136 (1967).

[37] *See* e.g., *Citizens to Preserve Overton Park* v. *Volpe*, 401 U.S. 402 (1971).

[38] *See*, e.g., *Abbott Laboratories* v. *Gardner*, *supra* note 36; *National Automatic Laundry & Cleaning Council* v. *Schultz*, 443 F.2d 689 (D.C. Cir. 1971).

[39] P.L. 94–574, which amends 5 U.S.C.A. § 702.

[40] E.g. P.L. 94–574, amending 28 U.S.C.A. § 1331(a) to eliminate the amount in controversy requirement; § 1391(e) concerning venue and joinder, 28 U.S.C.A. § 1361 concerning mandamus.

[41] E.g. *Thompson* v. *Washington*, 497 F.2d 626 (D.C. Cir. 1973).

[42] E.g. *Greater Boston Television Corp.* v. *F.C.C.*, 444 F.2d 841 (D.C. Cir. 1970), *cert. den.* 403 U.S. 923 (1971).

[43] *See generally K. Davis. Administrative Law of the Seventies* 646–687 (1976).

[44] 5 U.S.C.A. § 702 states, in part, "Any person suffering legal wrong because of agency action, or adversely affected or aggrieved by agency action within the meaning of a relevant statute, is entitled to judicial review thereof."

[45] *United Church of Christ* v. *F.C.C.*, 359 F.2d 994 (D.C. Cir. 1966).

[46] *See*, e.g., *United States* v. *SCRAP*, 412 U.S. 669 (1973); *Scenic Hudson Pres. Conf.* v. *F.P.C.*, 354 F.2d 608 (2d Cir. 1965), *cert. den.* 384 U.S. 941 (1966).

[47] E.g. *Association of Data Processing Serv. Orgs.* v. *Camp*, 397 U.S. 150 (1970); *Barlow* v. *Collins*, 397 U.S. 159 (1970).

[48] *See*, e.g., *Reade* v. *Ewing*, 205 F.2d 630 (2d Cir. 1953); *Federation of Homemakers* v. *Hardin*, 328 F. Supp. 181 (D.D.C. 1971), *aff'd*, 466 F.2d 462 (D.C. Cir. 1972).

[49] The standing issue has been discussed in many excellent and comprehensive law review articles. *See*, e.g., Tushnet, *The New Law of Standing: A Plea for Abandonment*, 62 Cornell L. Rev. 663 (1977); Albert, *Standing to Challenge Administrative Action: An Inadequate Surrogate for Claims for Relief*, 83 Yale L.J. 425 (1974); Monaghan, *Constitutional Adjudication: The Who and When*, 82 Yale L.J. 1363 (1973); Scott, *Standing in the Supreme Court: A Functional Analysis*, 86 Harv. L. Rev. 645 (1973); Jaffe, *supra* note 31; Davis, *Standing: Taxpayers and Others*, 35 U. Chi. L. Rev. 601 (1968); Berger, *Standing to Sue in Public Actions: Is it a Constitutional Requirement*, 78 Yale L.J. 816 (1969); Jaffe, *Standing to Secure Judicial Review: Public Actions*, 74 Harv. L. Rev. 1265 (1961).

[50] 392 U.S. 83 (1968).

[51] *Frothingham* v. *Mellon*, 262 U.S. 447 (1923).

[52] The plaintiff in *Flast* challenged the program as unauthorized by the statute as well as unconstitutional. Unfortunately, the Court did not discuss the statutory claim, so it is not clear whether plaintiff had standing to assert it.

[53] Davis, *supra* note 49 at 601.

[54] *See generally* Note, *Taxpayer Standing to Litigate*, 61 Georg. L. Rev. 747 (1973).

[55] *Schlesinger* v. *Reservists Comm.*, 418 U.S. 208 (1974); *United States* v. *Richardson*, 418 U.S. 166 (1974); *Public Citizen. Inc.* v. *Simon*, 539 F.2d 211 (D.C. Cir. 1976).

[56] *Schlesinger* v. *Reservists Comm.*, *supra* note 55.

[57] Since there is no specific constitutional limitation violated by the rule. Moreover, the rule might not be considered as a Congressional exercise of the taxing and spending power. *See Tax Analysts & Advocates* v. *Blumenthal*, *supra* note 24.

[58] In several cases involving racial discrimination, plaintiffs were found to have standing to challenge IRS rulings which granted tax exemptions and assured deductibility for contributions. In *Green* v. *Kennedy*, 309 F. Supp. 1127 (D.D.C. 1970) (3 judge court), subseq. op. sub nom. *Green* v. *Connally*, 330 F. Supp. 1150 (1971), *aff'd* mem. sub nom. *Coit* v. *Green*, 404 U.S. 997 (1971), plaintiffs attacked the tax benefits given a segregated private school. The plaintiffs (school children and parents) had standing because the tax benefits provided a source of funds for private schools which undermined a court-ordered unitary public school system. In *McGlotten* v. *Connally*, 338 F. Supp. 448 (D.D.C. 1972) (3 judge court), plaintiff was a disappointed applicant for membership in a segregated fraternal order. His claimed injury was that the tax benefits generated funds to enable the order to maintain its segregated policies, and also that the tax exemptions constituted an endorsement of discrimination by the federal government. It is unclear whether these cases, arising in the unique context of racial discrimination, would survive EKWRO, discussed in text at notes 59–65 *infra*. At the very least, the cases are severely threatened by the strict causation requirements imposed by EKWRO.

In *Tax Analysts & Advocates* v. *Shultz*, 376 F. Supp. 889 (D.C. Cir. 1974), the court conferred standing to challenge a lenient gift tax ruling which enhanced the influence on political campaigns of large donors (thus reducing that of small donors). The plaintiff was a small campaign contributor. The court relied on the theory that a diminution in voting power is sufficient for standing citing *Baker* v. *Carr*, 369 U.S. 186 (1962). This case may be limited to the fact that it concerns voting in federal elections. However, like the race cases discussed in this footnote, much of the reasoning seems at war with *EKWRO*.

[59] 426 U.S. 76 (1976).

[60] Rev. Rul. 69–545, 1969–2 C.B. 117, revoking Rev. Rul. 56–185, 1956–1 C.B. 202.

[61] *Assoc. of Data Proc. Serv. Orgs.* v. *Camp*, *supra* note 47; *Barlow* v. *Collins*, *supra* note 47. These cases also require that plaintiff meet the "zone of interest" test, discussed at notes 67–70 *infra*. The "zone of interest" test was not discussed in *EKWRO*.

[62] The *EKWRO* majority opinion seems vulnerable to a criticism levelled by the dissents: it imposes unduly strict pleading requirements. If the plaintiffs had been allowed discovery, it is possible that they could have surmounted the causation and remediability problems through admissions by the hospitals that the decision to deny service in fact resulted from the IRS ruling, rather than from an economic decision unrelated to tax consequences.

[63] 422 U.S. 490 (1975). Similarly, see *Linda R. S.* v. *Richard D.*, 410 U.S. 614 (1973) *Linda R. S.* involved a constitutional attack by the mother of an illegitimate child against a Texas law which imposed support duties upon legitimate, but not illegitimate fathers. The Court observed that even if the law were struck down, and even if the father were prosecuted and convicted for nonsupport, the mother still might not receive any money.

[64] The *Warth* hurdle was surmounted in *Village of Arlington Hts.* v. *Metropolitan Hous. Dev. Corp.*, 97 S. Ct. 555 (1977). Both the builder and a buyer successfully pleaded a desire to build and buy houses in a project which had been specifically blocked by the city.

[65] See *American Society of Travel Agents* v. *Blumenthal*, *supra* note 24. *But see Tax Analysts & Advocates* v. *Blumenthal*, *supra* note 24.

[66] *American Society of Travel Agents* v. *Blumenthal*, *supra* note 24. *But see Tax Analysts & Advocates* v. *Blumenthal*, *supra* note 24, which held that a domestic competitor of international oil companies met the injury requirement. The plaintiff argued that giving the international companies a tax credit, rather than a deduction, for oil royalties was competitively harmful to him. Not only were his taxes higher, even though his economic situation was identical, but the value of his properties was decreased (vis-a-vis foreign properties) by the differential. However, it is far from clear whether this analysis is correct. The injury to plaintiff might be too indirect to meet constitutional requirements. The *ASTA* logic seems more consonant with *EKWRO*. Merely because a competitor is leniently taxed might make little or no difference in one's competitive position or the value of his investment. Similarly, the injuries claimed in *TAA* might well be considered excessively speculative or hypothetical to meet constitutional standards. *See O'Shea* v. *Littleton*, 414 U.S. 488 (1974); *Metcalf* v. *Nat'l Petroleum Council*, 553 F.2d 176 (D.C. Cir. 1977).

[67] The zone test was first promulgated by *Association of Data Processing Serv. Org.* v. *Camp*, and *Barlow* v. *Collins*, both *supra* note 47. The test was applied with considerable latitude by the Supreme Court in *Investment Co. Inst.* v. *Camp*, 401 U.S. 617 (1971). The zone test applies to plaintiffs whose standing is based on section 702 of the Administrative Procedure Act. The test is clearly not a constitutional requirement; it is either a prudential requirement imposed by the Court or an interpretation of the language of section 702. *EKWRO*, 426 U.S. at 39, no. 19.

[68] *Supra* note 24.

[69] *But see* note 66 *supra*.

[70] With unwarranted strictness, the court ruled out examinations of legislative history in applying the zone test (unless it provided a very clear indication); it also refused to look to any statutory provisions except the foreign tax credit. Finally, it refused to find a negative inference in the foreign tax credit which would deny the credit for royalties which were not, in substance, income taxes, thus protecting domestic competitors who paid identical royalties. For a similar strict interpretation of the zone test. *Rhode Island Committee on Energy* v. *Gen'l Serv. Admin.*, 561 F.2d 397 (1st Cir. 1977). For a more liberal interpretation, *see Int'l. Tel. & Tel. Corp.* v. *Alexander*, 396 F. Supp. 1150 (D. Del. 1975).

[71] Of course, it may be that *Tax Analysis and Advocates*, *supra* note 24, was correct on the injury in fact test, but wrong on zone of interests; and that *ASTA*, *supra* note 24, was wrong on the injury in fact test, but right on zone of interests. In that case, competitor standing would still be possible, notwithstanding *EKWRO*. Similarly, it may be that the race cases described in note 58 were cor-

rectly decided (perhaps on the ground that encouragement of racial discrimination by tax rulings harms racial minorities). But in the wake of *EKWRO* it is difficult to imagine the Supreme Court endorsing taxpayer standing in any case. This was the view of Justice Stewart, concurring in *EKWRO:* nobody has standing to challenge another's taxes. 426 U.S. at 46.

[72] This is the consensus of the commentators. *See* Tushnet, *supra* note 49 at 665–670; Monaghan, *supra* note 49 at 1375–79. Case law contains broad dicta to the effect that the Article III standing problems would not arise in the presence of a statute conferring standing. *See Linda R.S.* v. *Richard D., supra* note 63 at 617 n.3; *Sierra Club* v. *Morton,* 405 U.S. 727, 732 n.3 (1972); *United States* v. *Richardson, supra* note 55 at 178 n. 11; *Schlesinger* v. *Reservists Comm., supra* note 55 at 224 n.14; *Flast* v. *Cohen, supra* note 50 at 120, 130–33 (Harlan, J. dissenting); *Trafficante* v. *Metropolitan Life Ins. Co.,* 409 U.S. 205, 212 (1972) (White, J. concurring). More recent dicta have been more cautious. *See EKWRO, supra* note 59 at 41 n.22; *Warth* v. *Seldin, supra* note 63 at 501. They point out that even after Congress has acted, the plaintiff must allege a distinct and palpable injury to himself, whether or not it is shared with others.

[73] *See,* e.g., *United States* v. *Richardson, supra* note 55 at 188–97 (Powell, J. concurring).

[74] *See Flast* v. *Cohen, supra* note 50 at 106.

[75] *See* e.g., Scott, *supra* note 49 at 669–82.

[75a] *Flast* v. *Cohen, supra* n. 50 at 101.

[76] *See* Tushnet, *supra* note 49 at 669–70. Tushnet's excellent discussion of the issue focuses on the necessary and proper clause; if creation of the underlying statutory scheme is constitutional, it follows that the creation of citizen standing to enforce it would be necessary and proper in implementing a constitutional power.

[77] 5 U.S.C.A § 552(a) (3.

[78] Sec. 304 of the Clean Air Act Amendments, 42 U.S.C.A. § 1857h–2(a). Similarly, § 307 confers standing without any limitations at all. Id. § 1857h–5(b) (1). The constitutionality of these provisions has been queried by some courts. *See NRDC* v. *EPA,* 481 F.2d 116 (10th Cir. 1973); *NRDC* v. *EPA,* 507 F.2d 905 (9th Cir. 1974). Others have expressed no doubts about their validity. *See NRDC* v. *EPA,* 484 F.2d 1331 (1st Cir. 1973); *Metro. Wash. Coal. for Clean Air* v. *Dist. of Colum.,* 511 F.2d 809 (D.C. Cir. 1975). *See generally,* Currie, *Judicial Review under Federal Pollution Laws,* 62 Iowa L. Rev. 1221 (1977). Very broad grants of standing are not unusual in recent statutes. For example, "any person" can secure judicial review of rules under the Toxic Substances Control Act, 15 U.S.C.A. § 2618, and "any person" can sue anyone who violates any rules under the Act or the Administrator to compel him to perform a nondiscretionary act. 15 U.S.C.A. § 2619. Moreover, the Act provides for "citizen's petitions" to initiate or repeal a rule; it requires the Administrator to explain his reasons for denying such petitions and provides for judicial review to force the institution of a rule making proceeding 15 U.S.C.A. § 2620. The legislative history lists a number of similar statutes. S. Rep. 94–698, pp. 9, 12, 27–29, 1976–4 U.S. Code Cong. & Adm. News, 4499, 4502, 4517–19.

Another good example is 2 U.S.C.A. § 437h (a), giving standing to any person eligible to vote in a presidential election to bring suit to construe the constitutionality of the Federal Election Campaign Act. In *Buckley* v. *Valeo,* 96 S. Ct. 612, 631 (1976), the Court entertained challenges to the constitutionality of the statute; however, at least some of the parties had more concrete interests than those to be asserted by any voter. Consequently, the Court held that the action was appropriate under Article III without reaching the issues that would have been presented if only voters had been plaintiffs.

[79] *Trafficante* v. *Metropolitan Life Ins. Co., supra* note 72 at 212.

[80] *See Schlesinger* v. *Reservists Committee, supra* note 55; *United States* v. *Richardson, supra* note 55; *Sierra Club* v. *Morton, supra* note 72; *Frothingham* v. *Mellon, supra* note 51.

[81] *Supra* note 63 at 499.

[82] *See Trafficante* v. *Metropolitan Life Ins. Co., supra* note 72. Similarly, see the provision allowing a citizen petition to the EPA to institute or repeal a rule under the Toxic Substance Control Act. 15 U.S.C.A. § 2620, discussed in note 78, *supra.* This provision allows any such petitioner to obtain judicial review of denial of his petition; if successful, he can compel the administrator to institute a rulemaking proceeding.

[83] *Supra* note 50. There is some indication in *Flast* that the Court believes in a "best plaintiff" principle: that it would prefer to have the case brought by the person most directly injured. Consequently, it distinguished between taxpayers suing to vindicate a claim under the establishment clause (where nobody has a particularized injury) and under the free exercise clause (where presumably someone will have a direct injury). *Id.* at 104 n.24. *But see id* at 98, n.17. As in an establishment clause case, there may be no better plaintiff in a case involving a lenient ruling than a taxpayer or occasionally the customer-competitor denied standing by *EKWRO.*

[84] In contrast, in *Frothingham* v. *Mellon, supra* note 51, a taxpayer action attacking a federal spending program under the Tenth Amendment, the Court held that the Constitution conferred no rights to vindicate federalistic principles on individuals or states. This point was aptly made in *Schlesinger* v. *Reservists Comm., supra* note 55 at 224, n. 14, where the Court contrasts the plaintiff's action (under the incompatibility clause of the Constitution) with an action to vindicate the same interests but brought under a hypothetical federal conflict of interest statute. The Court stated that the requisite injury necessary to establish standing could flow from an invasion of the rights conferred by such a statute. Similarly, *see United States* v. *Richardson, supra* note 55 at 178 n.11. For the connection between standing doctrine and the requirement that plaintiff plead a right to be free of the injury done by the defendant, *see* Albert, *supra* note 49.

[85] *See Doremus* v. *Bd. of Educ.,* 342 U.S. 428 (1952) which held that a taxpayer had no standing in a case questioning Bible reading in the schools since there was no alleged or proved "pocketbook injury." In an earlier taxpayer's suit, *Everson* v. *Board of Education,* 330 U.S. 1 (1947), questioning expenditures for school busses, the Court heard the case. *Doremus* is cited with approval in *Flast* v. *Cohen, supra* note 50 at 102.

[85a] *Warth* v. *Seldin, supra* note 63 at 501.

[86] *See* text at note 59 *supra.*

[87] *See* text at note 24 *supra.*

[88] Stat. § (a) (2).

[89] Stat. /(b) (2).

[90] As well as those stated in *Warth* v. *Seldin, supra* note 63, and *Linda R.S.* v. *Richard D., supra* note 63.

[91] *See* text at notes 72–85 *supra.*

[92] *See, e.g., EKWRO, supra* note 59 at 41–46; *O'Shea* v. *Littleton, supra* note 66.

[93] Constitution, Article III, sec 2 *Cf. Katzenbach* v. *Morgan* 384 U.S. 641 (1966).

[94] Art. 1, sec. 8, clause 18. *See* Tushnet, *supra* note 49 at 669–70. Other constitutional objections to the proposed statute would appear to have little substance. It is not an attempt to Interfere with the prosecutorial discretion of the executive, since it involves only rulemaking, not adjudication. *Compare Linda R.S.* v. *Richard D., supra* note 63; *Dunlop* v. *Bachowski,* 421 U.S. 560, 575 n.12 (1975). Nor would the statute call for an advisory opinion. *See Tushnet, supra* note 49 at 677–79; K. Davis, *Administrative Law Treaties* § 21.01 (1958).

[95] 317 U.S. 537 (1943). See *also Marvin* v. *Trout,* 199 U.S. 212, 225–26 (1905).

[96] *See EKWRO,* n. 59 at 39, which states: "The necessity that the plaintiff who seeks to invoke judicial power stand to profit in some personal interest remains an Article III requirement." Similarly see *Harrington* v. *Bush,* 553 F. 2d 190 (D.C. Cir. 1977), which declares that the basic purpose of the doctrine of standing is that the individual complaining party have a connection to the controversy so that its outcome will demonstrably cause him to win or lose in some measure. Presumably, the prospect of winning the $100 bounty would be sufficient to meet this test.

[97] Stat. § (b) (1).

[98] Stat. § (d).

[99] Stat. § (c) (2).

[100] Should the Attorney General file suit but fail to prosecute the matter diligently, or should the case be dismissed without a decision on the merits, private plaintiffs could sue. Stat. § (c) (2).

[101] *See,* e.g., *United States* v. *Raines,* 362 U.S. 17 (1960) (clearly appropriate to give standing to Attorney General to litigate to protect private rights); *United Steelworkers* v. *United States,* 361 U.S. 39 (1959) (United States may be given standing to enjoin a strike to protect public rights).

[102] *See,* e.g., *New York Times Co.* v. *United States,* 403 U.S. 713, 741–48 (1971) (only Justice Marshall questioned the standing of the United States to sue to enjoin publication of Pentagon Papers); *United States* v. *City of Jackson,* 318 F. 2d 1, *reh. den.* 320 F.2d 872 (5th Cir. 1963); Note, *Nonstatutory Executive Authority to Bring Suit,* 85 Harv. L. Rev. 1566 (1972).

[103] *See,* e.g., *United States* v. *Nixon,* 418 U.S. 683 (1974); *Federal Maritime Bd.* v. *Isbrandtsen Co.,* 356 U.S. 481, 483 n. 2 (1958); *Secretary of Agriculture* v. *United States,* 347 U.S. 645 (1954); *United States ex rel Chapman* v. *FPC,* 345 U.S. 153 (1953); *United States* v. *ICC,* 337 U.S. 426 (1949); *ICC* v. *Jersey City,* 322 U.S. 503 (1944), *See Associated Ind. of N.Y.* v. *Ickes,* 134 F.2d 694, 704 (2d Cir. 1943), *vacated as moot,* 320 U.S. 707 (1943).

These cases require that conflicts between officers of the executive branch present issues traditionally justiciable and the litigants must be in fact adverse to one another. The question of whether a regulation is consistent with a statute is surely one which is traditionally justiciable. Presumably, the Attorney General would not institute litigation unless he believed the regulation was unlawful; vigorous presentation of the issues would be likely. Of course, if a particular suit appeared to be collusive or nonadverse, it could be dismissed.

[104] This theory could well be the basis for upholding actions by plaintiffs under qui tam statutes; they are private attorneys general enforcing the rights of the United States. *See* text at 95–96 *supra.*

It might be appropriate to make clear in the statute that a decision against the plaintiff would be res judicata against the Attorney General and all other persons seeking to represent the public interest.

[105] The phrase was coined by Judge Frank in *Associated Industries of New York* v. *Ickes, supra* note 103, and has often been employed in administrative law to describe the situation on which a plaintiff given statutory standing is allowed to represent the public interest in litigation. *See,* e.g., *Trafficante* v. *Metropolitan Life Ins. Co., supra* note 72, which recognizes the need for private attorneys general to enforce the federal open housing statute, since the Attorney General

lacks the resources necessary to enforce it. Since Congress had given a right to an entire community to be free of housing discrimination, it was appropriate to let any community member obtain judicial enforcement.

[106] The rule that provides that a litigant cannot represent the interests of another is prudential. *Warth* v. *Seldin, supra* note 63; *Flast* v. *Cohen, supra* note 50. The rule is shot through with exceptions. *See,* e.g., *Singleton* v. *Wulff,* 96 S. Ct. 2868 (1976). It clearly can be altered by statute. E.g., *Trafficante* v. *Metropolitan Life Ins. Co., supra* note 72. *See generally* Sedler, *Standing to Assert Constitutional Jus Tertil in the Supreme Court.* 71 Yale L.J. 599 (1962).

[107] *See Thrower, Public Interest Litigation to Affect Substantive Decisions,* 27 Ntl. Tax J. 389 (1974). *Cf. Louisiana* v. *McAdoo,* 234 U.S. 627 (1914). In *McAdoo,* a state which produced sugar attacked the Secretary of the Treasury for imposing too low a tariff on imported sugar. The case was dismissed on the grounds of sovereign immunity, but the Court noted that such actions would disturb the whole revenue system and could clog the wheels of government.

[108] *See generally* Note, *Taxpayer Suits: A Survey and Summary,* 69 Yale L.J. 895 (1960). Certainly, there has been no indication that *Flast* v. *Cohen, supra* note 50, which allowed federal taxpayer suits under the Establishment Clause, has led to any vast amount of litigation.

[109] These could include the costs borne by intervenors as well as by the Government. *See* Prop. stat. § (e).

[110] Compare the requirement in some states that plaintiffs in a shareholder's derivative suit post security for the expenses which will be borne by the defendants. *See* e.g., Cal. Corp. Code § 834(b).

[111] *See generally* Scott, *Standing in the Supreme Court—A Functional Analysis,* 86 Harv. L. Rev. 645 (1973).

[112] This is similar to the provision now applicable in class actions and shareholder derivative suits. *See* Fed. R. Civ. Proc. §§ 23(a)(4), 23.1.

[113] Stat. § (h).

[114] IRC § 7421; 28 U.S.C. § 2201. It might be well, however, to amend those provisions to make it clear that actions attacking lenient tax rules would be permissible.

[115] 416 U.S. 725 (1974); *Alexander* v. *Americans United,* 416 U.S. 752; *International Tel. & Tel.* v. *Alexander, supra* note 70.

[116] Stat. § (f)(2). A right to be heard in this situation could be based on constitutional due process. *See Int. Tel. & Tel. Corp.* v. *Alexander, supra* note 70, and Thrower, *supra* note 107.

[117] Stat. § (f)(3). Joinder of necessary parties in this situation is provided by Rule 19(a)(2)(i) of the Federal Rules.

[118] *Cf. Divine* v. *Commissioner,* 500 F.2d 1041 (2d Cir. 1974) (Commissioner not collaterally estopped to reassert his position after losing similar case against another taxpayer.)

[119] Since the plaintiff is representing the interests of the United States, a decision against the plaintiff would collaterally estop the Attorney General from relitigating the issue against the Treasury.

[120] Stat. §(c)(1). This petition would be identical to those filed under sec. 553(e) of the Administrative Procedure Act. This section allows any person to petition an agency for the issuance, amendment, or repeal of a rule.

[121] A comparable limitation is placed on citizen suits under the Clean Air Act and the Federal Water Pollution Control Act. *See Nat. Res. Def. Conc.* v. *Train,* 510 F.2d 692 (D.C. Cir. 1975).

[122] The legislative history of the statute might provide that the courts could place the case off calendar upon a bona fide assertion by the Treasury that it is continuing to study the matter and considering possible modification of the rule. Of course, the plaintiff's case could not be sidetracked indefinitely by such an assertion.

[123] *See* Asimow, *Public Participation in the Adoption of Interpretive Rules and Policy Statements,* 75 Mich. L. Rev. 521, 567–69 (1977).

[124] *Abbott Laboratories* v. *Gardner,* 387 U.S. 136 (1967).

[125] Thus the patients who were plaintiffs in *EKWRO* might have a far more urgent need for review than Mr. Field, the owner of the competing oil well in *TAA* v. *Blumenthal, supra* note 24. In other cases, however, competitors could suffer quite serious and immediate harm. *See., eg., I.B.M.* v. *United States,* 343 F.2d 914 (Ct. Cl. 1965), *cert. den.* 382 U.S. 1028 (1966).

[126] I included no requirement that the plaintiff establish a particular revenue loss attributable to the rule. Such requirements are contained in some of the statutes previously proposed. However, such a limitation would provoke much difficult and problematical litigation about a side issue. It would seem that plaintiffs would seldom be interested in litigating rules which caused only a trivial revenue loss.

[127] Another factor in considering whether a rule is ripe for review is the state of the administrative record in support of the rule. An adequate record should be produced by reason of the plaintiff's petition to the IRS to modify or repeal the rule; the IRS' response to this petition would set forth the grounds for its rejection of the petition. In addition, if a regulation is in question, the public comments made to the Treasury when the regulation was proposed would be part of the record.

[128] *See F.H.E. Oil Co.* v. *Commissioner, supra* note 14.

[129] I.R.C. § 7805(b).

[130] Stat. § (f)(5).●

SENATOR RIBICOFF SPEAKS OUT ON YOUTH CAMP SAFETY

● Mr. WEICKER. Mr. President, although an estimated 8 to 10 million children attend some 10,000 camps each summer, there are no uniform national standards governing health and safety conditions at these camps. For almost 12 years my colleague from Connecticut, Senator RIBICOFF, has been working to try to provide some meaningful protection for the youngsters who attend summer camps. I have been pleased to serve as a principal cosponsor of Senator RIBICOFF's Children and Youth Camp Safety Act.

Yesterday, the Senate Child and Human Development Subcommittee conducted a hearing on S. 258, the Ribicoff youth camp safety bill, and on the overall issue of health and safety conditions at youth camps throughout the country. Senator RIBICOFF appeared as the lead-off witness and I submit his statement to the committee to be printed in the RECORD.

The statement follows:

STATEMENT OF SENATOR RIBICOFF

Mr. Chairman, I first want to express my appreciation for your decision to hold these hearings on my bill—S. 258, the Children and Youth Camp Safety Act—and on the general issue of health and safety conditions in the Nation's youth camps. I am hopeful this session will result in positive action on the very critical issue of youth camp safety.

I regret, however, that it is necessary for me to appear before you this morning. It has been almost twelve years since I first introduced legislation establishing a Federal role in encouraging and aiding States to develop health and safety standards for children attending youth camps. For well over a decade I have worked with such able legislators as our former colleague Vice President Walter Mondale and the late Senator Hubert Humphrey to provide some meaningful protection for the eight to ten million American youngsters who attend an estimated ten thousand summer camps every year. As yet, such protection has not been forthcoming at the Federal level and is virtually nonexistent at the State level.

It is a sad and curious commentary that the Congress enacts legislation to protect plants, sealife, eagles and other bird species, wild horses and burros, and marine mammals. Nevertheless, we fail to provide substantive safeguards for the millions of boys and girls—our children and grandchildren—who attend summer camps.

Camping can be a rich and rewarding experience. A child can learn many new skills and crafts as well as something about himself and his ability to adopt to new surroundings and new challenges. The young camper will have experiences which will help to mold and develop him. In some instances summer camp is the only respite a child may have from crowded urban tenements. A week or month at camp is an important ingredient in developing a child's self-confidence; it contributes toward his maturity.

However, as Professor Betty van der Smissen of Pennsylvania State University has so aptly observed, the camping contribution "can be minimized if the environment in which the camp experience takes place is not safe. To be in a safe environment is a right, not a privilege of the participants."

The fact is, Mr. Chairman, that conditions at many summer and youth camps are simply appalling. All too frequently there is dangerous equipment, unsafe or improperly operated vehicles, poor sanitation facilities, inadequate medical provisions, untrained personnel, improper supervision, and hazardous activities. Consequently children have been killed, permanently injured, sexually abused, or suffer accidents requiring some degree of medical attention. Many of us have seen disturbing and dramatic news accounts of some of these incidents. Nevertheless, only ten States have some type of agency responsible for monitoring camp conditions and operations. I am glad to say, at least, that Connecticut, California, and Michigan are among those ten States.

At times I hear that the Federal Government has no proper role in the area of child and youth camp safety. Some say the issue is better left to the individual States. I would be among the first to agree that it is both the duty and function of each State to protect, safeguard and monitor the health, safety, and welfare of the Nation's youngsters attending youth camps. However, only 12 States have some meaningful health and safety regulations and only 28 States have some regulations dealing with youth camp safety.

Furthermore, 45 States have no regulations which apply to camping personnel; 17 have no standards relating to program safety; 24 States have no requirements for personal health, medical aid, and medical services; 45 States have no regulations covering out-of-camp trips or "primitive outpost" camps; and 35 States do not regulate day camps.

As with Connecticut and a few other States, good safety laws are possible when States want to protect their young campers. Regretably, all States are not so inclined.

Consider, if you will, last summer's abduction of 15-year-old Charlotte Grosse who was camping with a group of Girl Scouts in a remote Florida state park. Shortly after this incident occurred my office inquired into the Florida statutes governing camping. The State of Florida has no comprehensive youth

camp safety laws. Regulations at that time simply dealt with health issues such as camp cleanliness and food preparation. The Florida State Recreation and Park Division advised that the only requirement for young campers is that they be accompanied by an adult.

Some 100,000 children attended 300 camps in Maryland last summer. Yet the State of Maryland has no safety or health standards for its camps, even covering the most hazardous sports and activities. Despite the long and persistent efforts of Maryland Delegate Lucille Maurer, a camp safety measure has yet to be enacted in Annapolis.

Neither Federal nor State regulations can prevent accident. It is not possible to legislate accidents away. We can take affirmative steps, however, to eliminate the causes of many accidents by encouraging and assisting States to develop proper and effective standards for youth camps.

The legislation I introduced in January 1977 is identical to the measure favorably reported out of the former Children and Youth Subcommittee—this panel's predecessor—in the 94th Congress. My bill clearly recognizes that the States "assume responsibility for the development and enforcement of effective youth camp safety standards."

Under this measure the Department of Health, Education and Welfare will establish minimum standards for the operation of safe and sanitary camp facilities. Such standards are to be developed in cooperation with an Advisory Council on Children and Youth Camp Safety and must be approved by both Houses of Congress. The regulations will go into effect 21 months after enactment. States have three choices—to enforce their own regulations which must be at least equal with the Federal guidelines, to accept and enforce the Federal standards, or to grant HEW authority to enforce the Federal requirements. Because the State should have the primary responsibility, financial incentives—up to 80 percent matching funds—will be available to States choosing to enforce the program themselves.

Is such a law redundant in those few, isolated instances where responsible State regulations exist? I think not. In my State of Connecticut, the camp safety law has worked rather well for the past nine years. We have a Camp Safety Advisory Council which reviews the camp inspection program and advises on policy. The State regulations are being constantly improved and upgraded. Even so, the Environmental Health Services Division of the State Health Department, which is responsible for carrying out the camp safety requirements, is anxious for a Federal statute. It believes a Federal law will lead to better interstate cooperation. It recognizes the need for the Federal Government to give guidance and direction, particularly in those areas where there are no State regulations or State enforcement.

Respectable and well-known groups such as the American Camping Association, the Association of Private Camps, scouting organizations, and a number of religious groups have endorsed a Federal camp safety law. They, too, recognize the need for proper camp safety standards. Some have had to develop and enforce their own standards because of inadequate or nonexistent State and Federal regulations. They know that parents must have some effective benchmark against which to judge the conditions of the camps to which they send their children.

Mr. Chairman, over six years ago the Senate passed legislation similar to my current bill. Unfortunately, it was seriously weakened by the House. The only outcome of youth camp safety legislation to date has been an HEW study which a recent House Education and Labor Committee report has characterized as "unreliable and ineffective." This HEW study—which effectively postponed substantive action on the issue for several years—did reveal that State youth camp safety laws mostly were nonexistent or grossly inadequate.

We can wait no longer! Had substantive youth camp safety legislation been enacted by this time I believe that many of the estimated one hundred deaths and more than a quarter of a million serious accidents which occur at camps each summer could have been avoided. I appreciate your consideration of this issue. I urge that prompt and favorable action be taken on pending camp safety legislation so that young campers can have the protection they need and deserve.●

AN AWARD TO THE ATLANTIC CEMENT CO.

● Mr. MOYNIHAN. Mr. President, it is my great pleasure to inform my colleagues that the Atlantic Cement Co. of Ravena, N.Y., is the recipient of the 1978 National Environmental Industry Award of Excellence in Overall Pollution Control. This award was presented jointly to Donald M. Halsted, Jr., president of Atlantic Cement, by Charles Warren, Chairman of the Council on Environmental Quality, and Richard Hoard, chairman of the Environmental Industry Award.

The award citation recognized Atlantic Cement's "complete environmental concern" and its capturing and reuse of pollutants from the cement manufacturing process.

I know my colleagues join me in congratulating the Atlantic Cement Co. for its outstanding accomplishments in pollution control.●

THE INDIAN TRUST INFORMATION PROTECTION ACT OF 1978—S. 2773

● Mr. ABOUREZK. Mr. President, on Tuesday, March 21, I introduced legislation to remedy the problem of the release of Indian trust information by various Federal agencies pursuant to the Freedom of Information Act. The proposed Indian Trust Information Protection Act of 1978, S. 2773, has a two-fold purpose: First, it would prevent the disclosure of Indian trust information in order to preserve the confidentiality required by the trust relationship between the Indian people and the Federal Government; second, it would authorize the disclosure of such information to Indian tribes, individual Indians, and others where limited disclosure is required to fulfill the trust responsibility. The information protected from release under the bill is not limited to information concerning the natural resources or other trust assets of Indians, but includes tribal enrollment records, financial or business records, and all other information held, obtained or prepared by the Federal Government in the discharge of its trust responsibility to Indian people.

Under the bill, nonrelease of Indian trust information would be the rule, and release of such information the exception, whereas under FOIA, disclosure of information is presumed, and withholding of information is the exception. The bill would, however, permit the release of trust information to the following:

(a) (1) in the case of information pertaining to an Indian tribe—to the chief executive officer or any tribal councilman or official of an Indian tribe authorized to receive such information by the tribe;

(2) in the case of information pertaining to an individual Indian—to the individual Indian to whom the information pertains;

(3) in the case of information pertaining to an Indian tribe—to any member of the tribe, provided the tribal member in requesting such information, has exhausted all tribal judicial and administrative remedies and the head of the respective Federal department or agency, after consultation with the Secretary of the Interior, finds that the release of the information is not inconsistent with the Federal trust responsibility;

(b) to either House of Congress or, to the extent the matter is within its jurisdiction, to any committee, joint committee, or subcommittee thereof;

(c) (1) in the case of information pertaining to an Indian tribe—to any person where the chief executive officer or tribal council by resolution authorizes the release of the information;

(2) in the case of information pertaining to an individual Indian—to any person where the individual Indian to whom the information pertains authorizes the release of the information;

(d) to any person where the information has previously been lawfully made public;

(e) to any person if the information concerns funds provided under a Federal grant or contract if such information is otherwise required by law, including but not limited to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450c(c)), to be provided to the person requesting the information;

(f) to any person as may be required by any court of competent jurisdiction under the rules of evidence or discovery; and

(g) to any Federal department, agency, or employee or agent thereof where the information is required in furtherance of official duties. The bill would also establish administrative and judicial review procedures and criminal penalties for unauthorized disclosure of Indian trust information.

Although the Department of the Interior has adopted the position that Indian trust information is not required to be disclosed under FOIA, this has not always been the case, and past experience has shown that the exemptions under FOIA are inadequate to protect this confidential information. This legislation is needed to resolve the dilemma facing Federal agencies who are forced to choose betwen fulfilling the mandates of FOIA and maintaining the confidentiality required by the trust relationship between Indian people and the Federal Government.

Mr. President, I submit the text of the bill, S. 2773 to be printed in the RECORD in its entirety.

The bill follows:

S. 2773

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 "Indian Trust Information Protection Act of 1978".

FINDINGS

SEC. 2. (a) The Congress finds—

(1) that the Federal Government has charged itself with a trust responsibility to Indian tribes and people;

(2) that in the discharge of the Federal trust responsibility, the Federal Government holds information pertaining to Indian tribes, indiivdual Indians, and their trust assets;

(3) that release of this information without the knowledge or consent of the tribe or individual Indian to whom the information pertains is inconsistent with the Federal trust obligation;

(b) The purpose of this Act is to prohibit the release of information held, obtained, or prepared by the Federal Government, its departments and agencies, as a consequence of the Federal trust relationship with the Indian people.

DEFINITIONS

SEC. 3. (a) For the purposes of this Act, the term "Indian tribe" means any Indian tribe, band, nation, pueblo, colony, or other organized group or community including any Alaska Native Villages or groups and regional or village corporations, as defined in the Alaska Native Claims Settlement Act, 85 Stat. 688, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(b) For the purposes of this Act, "Indian" means any person who is a member of an Indian tribe as defined in subsection (a) or who otherwise qualifies for and is a recipient of benefits under a program administered by a Federal agency because of his status as an Indian as defined in the statute, regulations or administrative practices of the agency, and shall also include any Indian-owned corporation, association, or business enterprise.

PROTECTION OF TRUST INFORMATION

SEC. 4. (a) Notwithstanding the provisions of the Freedom of Information Act (5 U.S.C. 552) or any other Federal statute, no information held, obtained, or prepared by the Federal Government, its departments or agencies, in the discharge of the Federal trust responsibility to the Indian people shall be released to any person except as provided in this Act.

(b) Information held, obtained, or prepared in the discharge of the Federal trust responsibility includes, but is not limited to, the following:

(1) memoranda, records, tribal minutes, or other documentary material relating to the internal operations of an Indian tribal government;

(2) financial and business data submitted to the Federal Government in confidence by tribes, individual Indians, or persons doing business with Indians;

(3) leases of trust lands and royalty or rental statements from the leasing of trust lands;

(4) information, data, studies, or inventories of Indian mineral, timber, water, geophysical, geothermal, or other natural resources;

(5) tribal enrollment records and any information of a personal nature contained therein;

(6) information of a confidential nature the disclosure of which would constitute an invasion of privacy.

EXCEPTIONS

SEC. 5. Notwithstanding the provisions of this Act, the above-described information shall be released to the following:

(a)(1) in the case of information pertaining to an Indian tribe—to the chief executive officer or any tribal councilman or official of an Indian tribe authorized to receive such information by the tribe;

(2) in the case of information pertaining to an individual Indian—to the individual Indian to whom the information pertains;

(3) in the case of information pertaining to an Indian tribe—to any member of the tribe, provided the tribal member, in requesting such information, has exhausted all tribal judicial and administrative remedies and the head of the respective Federal department or agency, after consultation with the Secretary of the Interior, finds that the release of the information is not inconsistent with the Federal trust responsibility;

(b) to either House of Congress or, to the extent the matter is within its jurisdiction, to any committee, joint committee, or subcommittee thereof;

(c)(1) in the case of information pertaining to an Indian tribe—to any person where the chief executive officer or tribal council by resolution authorizes the release of the information;

(2) in the case of information pertaining to an individual Indian, to any person where the individual Indian to whom the information pertains authorizes the release of the information;

(d) to any person where the information has previous been lawfully made public;

(e) to any person if the information concerns funds provided under a Federal grant or contract if such information is otherwise required by law, including but not limited to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450c(c)), to be provided to the person requesting the information;

(f) to any person as may be required by any court of competent jurisdiction under the rules of evidence or discovery; and

(g) to any Federal department, agency, or employee or agent thereof where the information is required in furtherance of official duties.

ADMINISTRATIVE PROCEDURES

SEC. 6. (a) Persons seeking the release of information under this Act shall request the release of information from the Federal department or agency possessing the information, and shall notify the tribe or individual Indian to whom the information pertains of the request. The Federal Department or agency shall take into consideration objections to release of the information offered by the tribe or individual Indian to whom the information pertains, determine within 30 days of the request whether to release the information, and promptly notify all parties of the determination to release or withhold the information, of the reasons therefor, and of their right to appeal the decision to the head of the department or agency.

(b) Any party aggrieved by the decision may appeal the decision to the head of the department or agency within a reasonable period of time under regulations prescribed by the department or agency and by notifying all parties of the appeal. All parties shall be entitled to participate equally in the appeal and a determination of the appeal shall be made within 30 days and all parties notified of the decision, of the reasons therefore, and of their right to judicial review.

(c) No information may be released under the provisions of this Act by any department or agency during the course of the administrative proceeding provided for in this section or within the time allowed for the filing of an action for judicial review or pending judicial review as provided for under section 7.

JUDICIAL REVIEW

SEC. 7. (a) Any party aggrieved by a final agency determination to release or withhold information protected under this Act may, within 30 days of the final agency determination, seek judicial review of the agency determination in any United States district court of competent jurisdiction and such court shall either enjoin or order the release of such information in accordance with the provisions of this Act.

(b) Any party who participated in the administrative proceedings provided for in section 5 shall be accorded the right to intervene in the action. The party seeking judicial review shall serve a copy of the complaint on such party by registered mail along with a notice of their right to intervene.

(c) The court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred if the court finds that the release or withholding of information under this Act by the Federal department or agency was arbitrary, capricious, or in bad faith.

CRIMINAL PENALTIES

SEC. 8. (a) Any officer or employee of any department or agency of the United States, who has possession of, or access to, records of such a department or agency which contain information the disclosure of which is prohibited by this Act, and who knowing that disclosure of such information is so prohibited, willfully discloses the information in any manner to any person or entity not entitled to obtain it, shall be guilty of a misdemeanor and fined not more than $5,000, or subjected to imprisonment for not more than one year, or both.

(b) Any person who knowingly and willingly seeks and obtains in any manner from any officer, employees, agency, or department of the United States any information to which said person is not entitled and the disclosure of which is prohibited under this Act, shall be guilty of a misdemeanor and fined not more than $5,000, or subjected to imprisonment for not more than one year, or both.

CONSTRUCTION WITH OTHER STATUTES

SEC. 9. This Act shall not be construed as requiring the release of information which would otherwise be withheld from release under the provisions of the Freedom of Information Act, 5 U.S.C. 552(b) or the Privacy Act (5 U.S.C. 552a).●

FARM LEGISLATION

Mr. EAGLETON. Mr. President, yesterday the Senate passed a very significant farm bill. As a matter of fact, it really passed about three different farm bills—bills that are not exactly complementary either. In any event, at least two key parts of that legislation will cause sizable acreage of cropland to be diverted from food production to fallow or nonproductive uses. Mr. President, I find it both ironic and tragic that at the same time the U.S. Senate is voting to take a minimum of 30 million acres out of food production—and it is more likely to be 45 million acres or even more—the U.N. Food and Agriculture organization reported in a global survey that "the rich are getting fatter and the poor hungrier." According to an AP report dated March 13, the U.N. Food and Agriculture organization pointed out that:

The world food survey, based on reports from 161 countries, also estimated the world's undernourished at about 450 million, or a quarter of the underdeveloped world, and likely to increase. Firm evidence of any significant progress being made since 1974 in reducing the numbers affected by inadequate supplies of food is not yet available.

I submit the full text of the AP release for printing in the RECORD at the conclusions of my remarks.

Mr. President, I recognize that the United States cannot solve its agricultural problems by shipping free food all over the world. I merely wanted to bring to the attention of my colleagues the tragic situation that we find ourselves in at this time with respect to world hunger. People are starving, yet they have no purchasing power to buy the bountiful harvest of the American Farmer. I do not have a solution to offer—just a puzzled

comment, and a fervent hope that a solution can be found.

The material follows:

ROME.—The U.N. Food and Agriculture Organization reported in global survey today that the rich are getting fatter and the poor hungrier.

The World Food Survey, based on reports from 161 countries, also estimated the world's undernourished at about 450 million or a quarter of the underdeveloped world, and likely to increase.

"This review is disquieting," FAO said, "firm evidence of any significant progress being made since (1974) in reducing the numbers affected by inadequate supplies of food is not yet available."

In the rich and industrialized countries the FAO found "excessive food intake or improper diets" leading to "the steadily rising prevalance of diseases" as daily calorie intake per person soared to 3,380, in the 32 poorest countries, calorie consumption is on the decline with the figure now around 2,000, according to the study.

As a result, the percentage of the malnourished in the developing countries of Africa rose from 25 percent of the population in 1970 to 28 per cent four years later. A similar increase was noted in Asia.

The Food and Nutrition Board of the National Academy of Sciences in Washington estimates that the average U.S. male between the ages of 23 and 50 should consume 2,700 calories a day. American females of that age bracket should take in 2,000, according to the board's 1974 figures, the most recent. For U.S. residents older than 50, the figures are 2,400 calories daily for men and 1,800 for women.

American children between four and six years old should have 1,800 calories a day and those between seven and 10, 2,400 daily, the board said.

The FAO study found that in the poorest countries close to one-half of all children can be classified as underfed. It said about 22 million babies a year, one-sixth of all births, weigh less than 5.5 pounds at birth, 95 percent of them in developing areas.

Because of the malnourishment, the study said, about 40 percent of adult females in the developing countries are anemic, up to 100,000 children go blind each year and 200 million suffer from goiter. In Latin America, more than half of all deaths during the second year of life are attributed to nutritional deficiency.

"Many countries," the FAO report said, "would need to achieve growth rates in food supply over 4 percent per annum (until) 1990 if the average food supply is to reach 2,500 calories per capita per day by that year."

But the situation is likely to worsen and the food gap widen because, as the study reported, poor countries with low food production also have high birth rates.●

THE GREAT ADDRESS BY SENATOR McINTYRE ON PANAMA CANAL TREATIES

● Mr. MOYNIHAN. Mr. President, the Panama Canal treaties debate will remain memorable, if for no other reason that the great address made in support of ratification by Senator MCINTYRE of New Hampshire. I commented at the time that his courageous repudiation of the "politics of threat and vengence" reminded one of the granite of his native State, for surely that granite was there that day, in his honor and in his will. James Wechsler of the New York Post has written an especially insightful commentary on that event. He points out that Senator MCINTYRE rightfully equates the rhetoric and divisive politics of the radical new right with the similar efforts of the "purist left" of the 1960's.

I submit for the RECORD the text of Mr. Wechsler's column.

The column follows:

[From the New York Post, Mar. 9, 1978]

ONE MAN'S CRY OF CONSCIENCE AMID PANAMA PANIC

(By James A. Wechsler)

When he won a hard-fought election in 1962, Thomas James McIntyre became the first New Hampshire Democrat to achieve a Senate seat in 30 years. Now, facing a reelection challenge in November, he has placed his political life on the line by declaring his support for the Panama Canal treaties.

He did so the other day in a Senate speech that will merit remembrance long after the Panama panic promoted by frenzied opponents of the agreements is a footnote in the casebooks of ideological aberration.

McIntyre's address did not stop many presses or incite any brawls in our local taverns. But its echoes are being belatedly heard in many places. For McIntyre, a 62-year-old, self-described moderate, did more than take a stand on an issue that has been inexplicably inflated into a bellicose battle of the century.

He delivered an impassioned indictment of the "politics of threat and vengeance" practiced by the rabble-rousers of the New Right.

"The campaign waged by certain opponents of ratification in my state and across the nation," he said, "has impugned the loyalty and motives of too many honorable Americans to be ignored or suffered in silence a minute longer. . . .

"My political fate is not my concern here today. My concern is the desperate need for people of conscience and good will to stand up and face down the bully boys of the radical New Right before the politics of intimidation does to America what it has tried to do to New Hampshire."

For those who were around in the oppressive years of Joe McCarthy, McIntyre's speech inevitably stirred recollection of another great moment in the Senate's history. On a day in June, 1950, another New England Senator—Maine Republican Margaret Chase Smith—rose to recite her "declaration of conscience" and decry those who sought political gain "through the exploitation of real bigotry, ignorance and intolerance."

McIntyre's utterance may hardly seem a comparable valor to those who dwell in areas like New York where no high antitreaty fever is discernible. But New Hampshire is far more explosive territory. There William Loeb, the Neanderthal publisher of the state's largest newspaper, and Gov. Meldrim Thomson, national chairman of the so-called Conservative Caucus, have been feverishly depicting sponsors of the treaties as agents or dupes of subversion.

They and their allies mounted a concerted war of nerves against McIntyre many months ago. Last summer, as McIntyre told the Senate, Howard Phillips, national director of the Conservative Caucus, urged his adherents to make "a political sitting duck" of Tom McIntyre and "make it a political impossibility for McIntyre to vote for that treaty."

Last December, New Hampshire's branch of the caucus formally censured McIntyre for a speech in which he took no stand on the treaty but promised to weigh all conflicting testimony.

Angered by the "abrasive, threatening tone" of the censure verdict, McIntyre refused to appear for questioning before the caucus. The storm mounted.

Meanwhile, in another context, caucus director Phillips was quoted as saying:

"We must prove our ability to get revenge against people who vote against us. We'll be after them if they vote the wrong way."

And Paul Weyrich, director of the Committee for the Survival of a Free Congress, was declaring:

"We are different from previous generations of conservatives. We are no longer working to preserve the status quo. We are radicals working to overthrow the present power structure of this country."

Their rhetoric, McIntyre validly pointed out, bears remarkable resemblance to some of the manifestos of "the purist left." He had also suffered their taunts in the past. Indeed, Phillips' words might have been plagiarized from Mark Rudd and other fringe voices of the 1960s.

McIntyre shunned any plea for mercy from Thomson and Loeb. He recalled Thomson's charge that the Carter Administration was pursuing "a pro-Communist course," his attack on Martin Luther King as a man who "did great harm to the American way of life," and his tributes to South Africa's John Vorster as "one of the great statesmen of today"—a pronouncement warmly defended by Loeb's paper after it had been assailed by 14 New Hampshire clergymen.

"I cannot believe," McIntyre said, "that the loutish primitivism of Meldrim Thomson and William Loeb is what the American people want in their leaders, no more than I can believe that the American people want the divisive politics of the radical New Right to determine the course of the nation."

McIntyre's speech had begun with the sober statement that "after six months of hard study, I have concluded that on balance the new treaties are the surest means of keeping the Canal open, neutral and accessible to our use, and are in keeping with our historical commitment to deal justly and fairly with lesser powers."

But his message transcended the traumas of the Panama dispute. It was addressed more urgently to the poisonous tactics of the radical right in 1978 than to the disposition of the Canal in the year 2000.

"If you want to see the reputations of decent people sullied, stand aside and be silent," he said.

"If you want to see the fevered exploitation of a handful of highly emotional issues distract the nation from problems of great consequence, stand aside and be silent.

"If you want to see your government deadlocked by rigid intransigence, stand aside and be silent . . .

"In the long run, I am confident that the forces of decency and civility will prevail over the politics of intimidation . . .

"But if that does not occur in time to save the treaties—or those of us who support them—I for one will go home to Laconia, N.H., sad to leave this office but content in heart that I voted in what I truly believed were the best interests of my country."

The outcome of the campaign of fear and smear against Tom McIntyre may reveal a lot about the state of the nation.●

INDIAN MEDICAL SCHOOL: DELAYED

● Mr. ABOUREZK. Mr. President, the Indian Health Care Improvement Act, Public Law 94-437, marked a significant attempt by Congress to establish a much needed comprehensive program to improve the comparatively low health status of the American Indian and Alaska Native people.

However, our responsibility did not end with the passage of Public Law 94-437. Instead, a more important duty lies before us, and that is to insure that this act is sufficiently and meaningfully funded in the appropriation process. To

do otherwise would only be to repeat this Government's past practice toward Indians of promising much, but delivering little.

Public Law 94-437 attempted to establish a health program that took into account all the factors contributing to the low health status of Indians. One of these factors is the severe lack of trained Indian medical professionals. The act thus called for a study to be conducted by the Department of Health, Education, and Welfare to determine the need for and the feasibility of establishing an American Indian School of Medicine to train Indians and interested non-Indians in the unique medical and personal skills necessary to working among American Indian and Alaska Native people.

On Sunday, March 19, 1978, the Washington Post carried an article by Dave Goldberg on the American Indian School of Medicine, and one particular Tribe's attempts to see that it becomes a reality.

I would like to draw the attention of my colleagues to the fact that this special Indian Medical School was deemed one of the two most needed medical schools in the country by an independent Carnegie Commission on Higher Education in 1975. Today, 3 years after that study, 1½ years after the act was signed, and a half year after the feasibility study was to have been delivered to the Congress, the American Indian School of Medicine remains "snarled in red tape."

Mr. President, for the interest and information of my colleagues, I submit the attached article to be printed in the RECORD.

The article follows:

INDIAN MEDICAL SCHOOL SNARLED IN RED TAPE—NAVAJOS RESIGNED TO MORE STUDIES, LACK OF FUNDS

(By Dave Goldberg)

SHIPROCK, N.M.—The pain in the old Navajo's stomach would not subside, even after the medicine man's three-day sing. Now he would ride 75 miles over back-country dirt roads to seek the white man's medicine.

The old man spoke only Navajo, and his son translated the words of the young white doctor. You need an operation, the doctor said. Your gall bladder must come out.

But the old man's misunderstanding was deeper than just language. No, he would have to consult the medicine man again.

The doctor's lack of understanding was just as deep, a chasm of centuries and of cultures. Your father needs an operation, he insisted to the son. What is all this medicine man stuff?

Dr. Taylor McKenzie, a Navajo, may be the only man who can bridge the gap. In 1971, he decided the only way to upgrade medical care on the reservation would be to create an American Indian school of medicine to reconcile modern medicine with ancient Indian healing arts.

McKenzie, the only Navajo physician among the 104 Indian Health Service doctors who serve up to 150,000 Indians and the only Navajo among 79 American Indians who practice modern medicine, has worked on the reservation for 16 years. He is deputy director of the Indian Health Service on the reservation and prospective president of the medical school.

But his impact on the community is even greater. Though he no longer practices medicine regularly, many Navajos trust only him for their medical care, so he spends a good deal of time explaining to people why he can't treat them.

The clash of cultures is not the only thing holding up an Indian medical school; three government-sponsored reports have called the project feasible, but progress is delayed by jurisdictional problems, long-term funding, accreditation and red tape. Even if Congress would approve funds this year, it would be nearly a decade before the school would have significant impact on Navajo health care.

All that exists of the school now is a converted civic center with a medical library that overlooks Shiprock Peak on the 25,000-square-mile reservation.

UNIQUE HEALTH PROBLEMS

There are eight Indian Health Service centers on the reservation that spans rocks, canyons, buttes, mesas and mountains between High Point, N.M., and Tuba City, Ariz. A half-dozen state and federal highways crisscross the area, but most Navajos raise sheep and horses and do their weaving in solitude, miles from the nearest neighbor.

Many homes still are traditional one-room mud and stone hogans. More than half have no running water or toilets, and parts of the reservation are still without electricity.

That leads to health problems unique in North America. There are a half-dozen cases of bubonic plague reported on the reservation each year. There are occasional cases of diphtheria; dysentery and tuberculosis are common maladies, and the rate of gastroenteritis among Indians is 11 times the national average.

Many doctors on the reservation are simply serving time—a two-year stint with the Public Health Service. And their numbers have fallen since the Vietnam war, when a number of young doctors chose Indian service as an alternative to the draft. Most take a year or more to learn the subtleties of Navajo practices, then leave soon afterward.

In late 1971, McKenzie and other Navajo leaders decided an Indian medical school was the best way to train homegrown doctors and interested non-Indians. In March, 1972, the Department of Health, Education, and Welfare recommended that work begin to set up the school and that $150,000 be appropriated over three years for preliminary planning. But the money was never appropriated.

Four years later, a Carnegie Commission on Higher Education examined proposals for nine medical schools and recommended that priority be given to two: a school at Morehouse College in Atlanta that would train black doctors and the American Indian School of Medicine.

In the fall of 1976, Congress acted on an Indian health care bill, which originally contained a provision creating an American Indian school of medicine and appropriating $27 million over five years to finance it. The figure was amended to $16 million over three years; then the bill was amended again to delete the medical school and authorize another feasibility study.

The Navajos took matters into their own hands in February, 1977, when the Navajo Tribal Council approved a charter for the school under tribal auspices. The first step was to continue the search for accreditation begun after the first HEW study.

Among the many requirements for accreditation by the American Medical Association and the Association of American Medical Colleges, three are basic:

1. The college must have a source of long-term revenue.

2. It must be affiliated with a recognized university with a strong science program.

3. It must be affiliated with teaching hospitals.

The Indian school tentatively managed the second two. But it did not have the long-term financial guarantee. Pending that, all other things would have to wait.

So while awaiting the outcome of the HEW study, it sought funds from the Bureau of Indian Affairs. The reasoning was that while HEW handled health care, the BIA was responsible for Indian education. The school involved both.

"They were a little surprised when we chartered our own school," says Thomas Atcitty, the former president of Navajo Community College who heads the board of trustees of the Navajo foundation running the medical school.

The first request to the BIA was for $100,000. Atcitty says he assumed the money would be available because at the end of the 1976 fiscal year, the BIA returned $28 million in unappropriated funds to the Treasury. But the BIA replied there was no money available.

Subsequently, Atcitty was told BIA would coordinate with HEW "in determining which agency can best serve the interests of the American Indian School of Medicine." Nothing was said about money.

RESIGNED TO DELAY

The latest study was completed last Aug. 29 and sent up through channels in HEW. It is still being reviewed, although those involved with it say there is little question about this conclusion:

"Based upon all factors, an American Indian School of Medicine is needed."

The Navajos, meanwhile, make their plans. They already have about 10,000 volumes in the medical library and the Indian Health Service's Shiprock Hospital and clinic is about a quarter mile away.

There still is no school, and the Navajos are resigned to more delay. They have sought foundation funds, but the foundations want to see government money first.

Despite plans by the Navajos to locate the school at Shiprock, the HEW report deliberately avoids recommending any one site. And both congressional and HEW sources question whether the school should be run by one tribe, although the Navajos have support from other Indian groups and plan a board of trustees that represents the national Indian population.

Nonetheless, there is some optimism that McKenzie will get the job done.

"We think very highly of Taylor McKenzie," says Dr. James Schofield of the Association of American Medical Colleges, who heads the accreditation team. "He's no Michael DeBakey, but for the Navajos, he's just the right person."●

THE KIDNAPING OF ALDO MORO

● Mr. CASE. Mr. President, the kidnaping of former Prime Minister Aldo Moro of Italy is another and extremely disturbing manifestation of international terrorism.

An increasingly vicious campaign of terrorism has been carried out by Italian terrorists and the kidnaping of the distinguished Italian leader apparently is an attempt to strike at the very heart of that country's society.

The resolution, Senate Resolution 419, sponsored by Representatives RODINO in the House and passed 398 to 0, and Senator DECONCINI here, eloquently expresses our outrage at the action by the Red Brigade in Italy.

Not only is the action disturbing in itself, but it appears to be another sign of cooperation between various terrorist groups. According to specialists on anti-terrorism from various countries, the Italian group has been getting some assistance and money from groups and countries outside Italy. Therefore, I believe it is all the more important that the civilized governments of the world step up their efforts to counter terrorism,

both by making better use of the legal tools at hand and through improved cooperation and legislative measures.

The resolution I introduced last Thursday, Concurrent Resolution 72, which now has 26 cosponsors, is part of the effort to encourage the United States and other governments to intensify the campaign against terrorists.●

THE FEDERAL BUILDINGS ARTISTIC ENHANCEMENT ACT

● Mr. MOYNIHAN. Mr. President, I am delighted to join my distinguished colleague, the junior Senator from Rhode Island, in introducing the Federal Buildings Artistic Enhancement Act. The Senator from Rhode Island has put a great deal of effort into the development of this bill, and I congratulate him for his excellent work.

The fruits of this bill are legion. Public buildings up and down and across this land will become the setting for the finest works of art fashioned by the living artists of this and every succeeding generation. The bountiful talents of our American artists will be encouraged and displayed—once again they will be able to capture the public imagination. And our citizens will be delighted.

In 1962, while serving as Executive Assistant to the Secretary of Labor, I drafted the "Guiding Principles for Federal Architecture" at the request of President John F. Kennedy. The "Principles," which are still the guiding policy for Federal design and architecture, said in part that "the Federal Government * * * should take advantage of the increasingly fruitful collaboration between architecture and fine arts." To implement this principle, I recommended that "fine art should be incorporated in the design, with emphasis on the work of living American artists." To see this principle at last implemented is most exciting.

Our proposal is a companion bill to S. 2641, "The National Art Bank Act of 1978," introduced by the junior Senator from New Jersey on March 3. S. 2641 is modeled after the Canadian Art Bank, which was established in 1972 and has acquired 7,000 works of art since that time.

The art bank concept, which has met with much success and support in Canada, is a broader scheme within which our program could comfortably fit. The art bank establishes the Federal Government as a collector, with the National Endowment of the Arts as its agent. Our plan puts the emphasis on exhibition in public buildings, which is consistent with the broader proposal in S. 2641.●

THE CONTRIBUTIONS OF THE NATIONAL BURN VICTIM FOUNDATION

● Mr. WILLIAMS. Mr. President, on February 24, the Nation witnessed another tragedy, the explosion of a propane tanker in Waverly, Tenn., killing 11 persons and injuring some 50 others, many seriously burned.

All tragedies such as the Waverly accident are disheartening and regrettable. We as a nation, should begin to take the necessary steps to prevent any such incidents from occurring in the future.

But, on a positive note, I would like to bring to the attention of my colleagues and the Nation, the action of an organization that has been founded to deal with such tragedies. The organization is the National Burn Victim Foundation of Orange, N.J., headed by Mr. Harry Gaynor, its founder and president. The foundation, through its unique and successful national burn disaster system, was prepared to organize its 80 on-call volunteer specialists, from 23 States, and was on the scene in Waverly within hours of the explosion. Because burn victims are in need of immediate and very specialized care and treatment, the arrival of the specialists was gratefully welcomed by local officials and medical personnel in the Waverly area. They quickly went to work treating those victims who suffered so severely from the burn injuries.

I am extremely pleased with and proud of our New Jersey-based operation. In the years that the foundation has been in existence, I have had the privilege of working closely with Harry Gaynor and other officials in our efforts to provide for New Jersey, and now the Nation, a much-needed and effective burn treatment operation.

Mr. President, I wish to submit for the RECORD two newspaper articles that appeared immediately after the Waverly tragedy which highlighted the fine contribution of the National Burn Victim Foundation following that unfortunate accident:

The article follows:

[From The Tennessean, Feb. 26, 1978]

NATIONAL BURN MED TEAM AIDS VICTIMS

Shortly after the violent propane gas explosion roped through Waverly on Friday, the National Burn Victim Foundation started its wheels rolling.

The organization based in Orange, N.J., and comprised of 103 burn surgeons contacted several available doctors and a handful of nurses who dropped what they were doing and prepared to fly to the scene.

Response to the worst disaster in Waverly's history was "overwhelming and almost instantaneous," said Stephen Taylor, administrator of the town's Nautilus Memorial Hospital.

One ambulance after another pulled up to the hospital Friday with the dead and injured after a derailed tanker car blew up, sending bodies and debris flying.

"We have doctors and nurses flying in from all over," said Taylor. "They heard about the injuries on the radio and television and just came in on their own."

The hospital has about 105 employees, Taylor said, and "I looked around (Friday night) just trying to see who was here and I saw that about 100 of them showed up. It was fantastic."

A sister hospital in Trenton, Tenn., sent several doctors and nurses. Ten nurses and four doctors flew in from Ft. Campbell, Ky., and three doctors arrived from Martin, Tenn. Ambulances were driven from as far away as Memphis, 155 miles to the southwest of the town of 5,000.

By midnight Friday, four burn specialists, several nurses and a load of medical supplies from the burn victim foundation were on board an Air Force C-141 Transport at Newark International Airport headed for Tennessee. Another mercy mission had begun.

"They're on call 24 hours a day," said spokesman Dave Gulick. He noted that the most recent aid missions were to a fire at Providence College in Rhode Island in December, and a gum factory explosion in New York early last year.

With the cooperation of the American Burn Association, the foundation's network now extends to 34 states. Since Tennessee is not included, doctors had to be brought into the state.

"We know where the beds are for burn victims in all the states and we can move quickly to help people," Gulick said.

Medical personnel in Nashville Friday afternoon prepared to receive an unknown number of injured from the explosion site, as helicopters hummed in the skies.

"We don't know how many are coming," said one paramedic. "We've heard a hundred have been injured but we don't know for sure."

The explosion occurred at 2:59 p.m. and by 4 p.m., nine persons had been carried to an open field on the North side of Nashville. The helicopters left as quickly as they came, and the ambulances which transported the first group of victims to the hospitals were already back.

"I'd say eight of the nine were critical," said Larry Price, a paramedic who rode with two of the victims. "That means they had burns over 60, 70, 80% of their bodies."

As the sun went down, so did the temperature. A woman in a nearby office building wheeled out a table with some coffee. Police and newsmen joined the medics in line.

"I rode in with two men," said paramedic Floyd Murrell. "They were both in critical condition. They had burns over 75% of their bodies. Their skin was like jelly.

"One man said he was a crane operator. He said he was sitting in the crane when it happened," Murrell said. "The other man didn't say anything."

[From the Sunday Star-Ledger, Feb. 26, 1978]

BURN TEAM TREATS SURVIVORS

(By Kenneth Woody and Anthony F. Shannon)

NASHVILLE.—When the big Air Force jet touched down at Nashville Metropolitan Airport early yesterday morning, a moment of apprehension gripped the doctors and nurses still strapped in their seats—all specialists from the New Jersey-based National Burn Victim Foundation in Orange who had come to assist the survivors of the Waverly disaster.

Nashville police cars, waiting impatiently on the tarmac, rushed the group to nearby St. Thomas Hospital where nine of the victims of the propane explosion were receiving emergency treatment, pending arrival of the specialists.

"Thank God you're here," said Sister Mary Frances, the hospital administrator. "We have a very bad situation which we're really not equipped to handle."

The foundation's network of 103 physicians—80 on 24-hour call—encompasses 34 states. Tennessee is not one of them.

"I knew it would be bad," Phyllis Russo, an associate professor of nursing at Seton Hall University, said later in the day. "But I'd never experienced anything quite like this."

St. Thomas, an ultra-modern institution specializing in heart surgery, was gearing up for eight open heart operations tomorrow when the first badly-burned victims arrived by ambulance and helicopter from Waverly, 60 miles away.

"You've done a remarkable job," Harry Gaynor, president of the National Foundation, told Sister Mary Frances after inspecting the recovery room along with burn specialists Dr. John Stein and his wife, Dr. Beth Stein, both of Jacobi Hospital in New York City, and Dr. Anthony Luppino of West

Orange, a 46-year-old psychologist and former burn victim who directs the burn crisis intervention team at the NBVF.

Over the next seven hours, the Steins were at work in the recovery room, treating patients and assisting the hospital's team of physicians called in to help meet the emergency. Dr. Luppino, meanwhile, met with relatives and friends of the victims, attempting to relieve the strain during the extraordinary crisis.

"The main support system we use when there's real trouble is to keep the victim's family from falling apart," Luppino said later. "This group took it pretty well. They were very worried, of course, but they were reassured the victims were getting the best care possible."

Luppino, a pilot during the Korean War, was hospitalized for 10 months after his jet trainer crashed and burned in 1955.

"From my own experience, I know the victim worries as much about his family as the family worries about the victim," he said.

After a brief rest, the Steins, Luppino and Gaynor went to Baptist Hospital—also in this city—where they looked in on two other victims of the tragedy, including a 6-year-old girl.

"The situation was well in hand," Gaynor said. "We've seen other situations where this was not the case."

Phyllis Russo accompanied the group as did Kathy Murray of Summit, an instructor at Seton Hall where she received a master's degree, and a nurse for 10 years, along with three other nurses from Jacobi Hospital, Judith Grimaldi, Susan Schmid and Georgina Garrison.

"The hospital's nurses were extremely cooperative," Miss Murray said. "They said they were very happy to have us here. Everyone did a tremendous job."

The veteran nurse was called at her Summit home late Friday night by Harry Gaynor, who asked her to call Phyllis Russo.

"They call you and tell you to go to work—and you go," Miss Russo declared.

Both nurses had put in a full day earlier at Seton Hall.

Gaynor, meanwhile, checked with nine other hospitals between Waverly and Nashville where burn victims had been taken.

"All thanked us for offering help," he said, adding that "it appeared they'd be able to handle things without further assistance. They did a fine job, considering the fact they have no real facilities for treating burn victims."

Then Gaynor added somewhat philosophically: "The best response to a disaster is being prepared for it. This is what the foundation wants to accomplish. We want to see all the states working together so they can effectively and efficiently respond when disaster strikes."

As the weary burn specialists prepared to return home, Sister Mary Frances met with them in her office at St. Thomas Hospital.

"You've done a wonderful job, and we really don't know what we would have done without you."

Then she asked, "Have you had a chance to evaluate our performance here?

"Indeed we have," Gaynor replied. "It was excellent." ●

SOVIET SALT I VIOLATIONS

● Mr. PELL. Mr. President, there have been recent press reports that the Soviet Union is violating the 1972 Interim Agreement on strategic offensive arms by operating 64 ballistic missile submarines—two more than the agreement allows.

As a member of the Committee on Foreign Relations, and Chairman of the Subcommittee on Arms Control, Oceans and International Environment, I was very interested in determining the accuracy of this allegation, and I immediately asked the Department of State to comment on this charge. I have just received a response which I believe should be shared with my fellow Senators.

The Honorable Douglas J. Bennet, Jr., Assistant Secretary of State for Congressional Relations, informs me:

As you know, according to the terms of the Interim Agreement the Soviet Union is allowed to deploy no more than 62 modern nuclear powered ballistic submarines. Submarines are counted against these limits as soon as they have gone to sea trials.

All information available to the Administration indicates that those published reports are incorrect. The number of modern Soviet submarines currently deployed does not exceed the number allowed under the SALT I agreement.

I submit the full text of Mr. Bennet's letter for the RECORD following my remarks.

Mr. President, the allegation that the Soviets had exceeded the specified ceiling was the first major charge in regard to Soviet strategic weapons activities in the period since the Interim Agreement expired last October 3. Since the agreement was not extended, neither side is strictly bound to continue adhering to the SALT I limits. Accordingly, it would be incorrect to say that either we or the Soviet Union would be in "violation" of an expired agreement in this transition period before SALT II.

Fortunately, each side has declared that, in order to maintain the status quo pending a SALT II agreement, it intends not to take actions inconsistent with the interim agreement or the ongoing negotiations so long as the other side exercises similar restraint. The United States has been steadfastly adhering to this standard. Similarly, the evidence is that the Soviet Union is sticking to its stated intention.

Since we are in the period of transition in our efforts to achieve further limits, I find Mr. Bennet's letter and other information available to me very reassuring. Fortunately, Soviet submarine activities are adequately verifiable. We will have solid information upon which to judge their adherence to both the expired interim agreement and their statement of intention to maintain the status quo.

Adherence to the submarine limit will constrain the Soviet Union as their submarine construction program continues. Continued Soviet restraint should help create an atmosphere conducive to a new agreement at an early date and serve, in the meantime, as evidence of Soviet good faith in regard to SALT.

The Soviet submarine program is completely consistent with what the two sides are trying to achieve in SALT II. Since SALT II appears likely to limit the two sides to between 2,160 and 2,250 strategic delivery vehicles, the Soviet Union is going to have to reduce its land-based and sea-based ballistic missiles and heavy bombers by about 300. A vigorous submarine program within that lowered ceiling will necessarily mean a greater proportion of Soviet strategic forces at sea and a reduced force of land-based missiles—together with the threat those ICBM's could pose to us.

So long as there is a firm ceiling on the mix of forces, both sides gain from the deployment of greater portions of those forces at sea, since sea-based forces are far less vulnerable to attack and less provocative—thus reinforcing deterrence. Greater Soviet emphasis on sea-based forces within the framework of SALT will not give cause for concern. Their submarine program and our own active Trident missile programs should provide mutual reassurance by strengthening stability.

Mr. President, the letter follows:

DEPARTMENT OF STATE,
Washington, D.C., March 14, 1978.

HON. CLAIBORNE PELL,
Chairman, Subcommittee on Arms Control, Oceans and International Environment, U.S. Senate.

DEAR MR. CHAIRMAN: The Secretary has asked me to reply to your letter of March 2 regarding published reports that the Soviet Union is in violation of the SALT I agreement by virtue of having deployed 64 modern ballistic missile submarines.

As you know according to the terms of the Interim Agreement the Soviet Union is allowed to deploy no more than 950 submarine launched ballistic missiles on no more than 62 modern nuclear powered ballistic submarines. Submarines are counted against these limits as soon as they have gone to sea trials.

All information available to the Administration indicates that those published reports are incorrect. The number of modern Soviet submarines currently deployed does not exceed the number allowed under the SALT I agreement.

I hope this will be helpful to you and the members of the Committee.

Sincerely

DOUGLAS J. BENNET, Jr.,
Assistant Secretary for Congressional Relations. ●

THE 60TH ANNIVERSARY OF THE PROCLAMATION OF THE BYELORUSSIAN DEMOCRATIC REPUBLIC

● Mr. DOMENICI. Mr. President, on the occasion of the 60th anniversary of the proclamation of the Byelorussian Democratic Republic, I would like to commend the Americans of Byelorussian descent for their continuing vigil in remembrance of their brothers captive in the Soviet Union.

Let us all remember the fate of a nation which boldly decreed her right to self-determination and freedom. Liberty was the goal of these brave and proud people, tyranny their reward.

The hope and striving for freedom has not diminished and we here offer strength by holding high the principles of freedom and human rights.

On March 25 when the Byelorussian community in America commemorates their past and celebrates their heritage, I urge my colleagues to reflect and rededicate our support for the right of self-determination and freedom. ●

SENATOR BROOKE ON MIDEAST POLICY

● Mr. JAVITS. Mr. President, on February 27, 1978 Senator BROOKE addressed the United Jewish Appeal Youth League in Washington, D.C. As we have come

to expect of Senator BROOKE, his speech on Mideast policy is very cogent and eloquent. Over the years, Senator BROOKE has gained a reputation as being one of the best informed Senators on Mideast questions, and he is a proven friend of the best in United States-Israel relations. I believe that the insights contained in Senator BROOKE's speech on Mideast policy deserves the attention of the Senate. Accordingly, Mr. President, I submit the full text of Senator BROOKE's speech of February 27 be printed in the RECORD.

SPEECH BY SENATOR EDWARD W. BROOKE

I am deeply honored to be with you on this occasion. For so many years, we have shared an intense desire for an end to conflict in the Middle East that would free the energetic impulses of the Israeli people to concentrate on fulfilling the blessings and opportunities of the promised land.

During the past several months, we have witnessed what could still be the gateway to the peace we have longed for. In Jerusalem, after three decades of vituperation and four bloody wars, the leader of the most populous Arab state symbolically accepted Israel as a bona fide Middle East state. But, clearly, Israel's existence as a national Jewish homeland is not, and must not be, predicated upon the decisions of any Arab country. Nevertheless, the Egyptian gesture was important in shaping the psychological environment of the Middle East.

Yet, a false euphoria must be avoided. For, we know that the road to peace is not an easy one to travel. Nor, are the difficult issues which divide Israel and Egypt likely to be resolved in public debate. The klieg lights of the television cameras were useful in lighting the road to Jerusalem, but, as a Talmudic scholar once said, "Nothing is more precious than light; yet, too much light is blinding."

I am afraid it will take many months of arduous, private negotiations to determine whether the present fragile will to peace can be forced into acceptable binding agreements. America's hopes and fears are deeply intertwined with these historic negotiations. We have a deep and abiding commitment to the permanence of a secure Israel. Ours is a sacred obligation, to be ignored only at the sacrifice of our own ideals, and ultimately, at our own peril. For Israel is an island of stability in the sea of chaos that is the Middle East. And, no U.S. policy can be effective without that stability.

Many reasons can be offered for the U.S. interest in Israel. We are all aware and sensitive to them. Tonight, I do want to emphasize that undergirding and overarching this relationship is the fundamental reality that our commitment to Israel is a test of our own values, purposes and ideals. To lessen our commitment would be, in fact, to abandon our belief in the principles of democracy, freedom, and justice upon which our own self-esteem as a distinct nation is based. We cannot, we must not do so, either by degree or abrupt decision.

While our relationship with Israel is grounded in this fundamental identity of basic values, we all have come to realize that the relationship is multifaceted and extends in its implications, beyond the bilateral context. For instance, in the last few years, it has become apparent that it is in the interest of both Israel and the United States to establish effective working relations with moderate Arab states. The primary goal of such relations must be the establishment of an environment within which an acceptable peace can be pursued.

A return to the estrangement that so long characterized our relations with Egypt, or a deterioration in our relations with Jordan, would ill-serve Israel and our country. The chance for an early peace without further war would be forfeited and the negative consequences immeasurable. That is why so much effort has gone into inducing Jordan to join the negotiations in Cairo and Jerusalem.

But, there are other reasons for encouraging moderation in the Arab world. We have learned through past experience that each crisis in the Middle East places severe strains on the fabric of our alliances with Europe and Japan. At the time of the Yom Kippur War in 1973, Japan was 98 percent dependent on the Middle East for its petroleum supplies, and Western Europe 90 percent. Small wonder that they felt so vulnerable when the Arab states decided to use oil as a political weapon. The unfortunate consequence of this vulnerability was a fundamental divergence in views as to the proper response to the conflict. It is neither in the interest of Israel nor ourselves that our alliances with Europe and Japan be undermined. It is essential that the foundation of unity of the world's democracies be maintained. And, we must impress upon the moderate Arab states that their interests, too, are linked to the preservation and stability of these alliances. In doing so, we must take whatever measures are necessary to deny to anyone the capacity to blackmail the industrial democracies by use of the so-called "oil weapon."

Yet, while we pursue our interest in better relations with the Arab states, we cannot afford to be anything but realistic regarding the fragile nature of those relations. Instability continues to characterize much of the Arab world. What might be a firm basis for a relationship today, can disappear in the vortex of Arab politics overnight. Hence, the steps we take to improve our relations with the Arab moderates must be cautious and measured and predicated upon performance rather than mere promise.

It is in this regard that I am compelled by prudent realism to take issue with the wisdom of the Administration's decision to sell sophisticated lethal military equipment to Egypt and F-15's to Saudi Arabia at this time. Such a decision, in my opinion, is not in our interests and should only come, if at all, when there is substantive evidence that the achievement of an effective peace agreement between Israel and Egypt is in the offing. To enter into such agreements at this point appears premature and could very well weaken the movement toward peace.

Equally, it could not help but increase what I am convinced is the misperception in the Arab world that the United States relationship with Israel is weakening. It is the height of irresponsibility to allow such a misperception to exist and deepen. For the Arab states, believing this to be true, would be unlikely to make the compromises so clearly necessary for peace. Indeed, they might be tempted to use a time of counterfeit peace as a means to continue war. U.S. actions and statements should not increase that temptation.

It is also clear that Israel and the United States have an overriding interest in minimizing the influence of the Soviet Union in the Middle East. We have learned from sad experience that Soviet policies and actions tend to exacerbate tensions and, hence, increase the risk of war. And, Soviet behavior leading up to and during the 1973 Yom Kimpur War is illustrative of the Kremlin's intentions and long term policy in that area.

We must not forget that Moscow armed the Egyptians and the Syrians to the teeth with the most sophisticated military equipment available. They neither restrained their Arab clients nor warned of the impending attack. During the conflict they mounted one of the history's greatest airlifts to keep the war going. Finally, they even threatened to intervene physically, backing off only after the President called a worldwide military alert to demonstrate our intolerance for such behavior. Their's was hardly a policy of prudence and restraint.

If we are to limit the Kremlin's capacity to "fish in troubled waters," I am convinced that our goal must be a durable settlement in the Middle East. And, by durable, I mean a settlement that embodies "effective peace" and is arrived at by the decision of those in the Middle East who are committed to allowing a free exchange of people ideas, and trade between Israel and the Arab world. It cannot be imposed from without or require of Israel substantive compromises in return for paper promises.

We all know that such a durable peace may not be achieved on a comprehensive basis in the near future. But, Israel and Egypt have taken the first step toward it. And, our hopes and prayers must be that further progress will be made during the next year.

Ironically, the major issue which appears to divide the two parties is not the final border arrangements between Egypt and Israel; it is probable that an equitable solution to that problem could be worked out. Rather, it is the highly volatile issues of the future of the West Bank and the Gaza Strip which promises to be the most difficult to resolve.

While President Sadat seems to feel no responsibility to defer his pursuit of peace with Israel because of Syrian objection, he apparently does link his effort to his advocacy of a national Palestinian entity. At the very minimum, what this means is the creation of a Palestinian state on the West Bank of the Jordan and the Gaza Strip. Clearly, such a state would be a dagger pointed at the heart of Israel.

Prime Minister Begin has rightly rejected the idea of establishing an independent West Bank Palestinian state. He is only too painfully aware that President Sadat and other Arab leaders are unwilling to define what is meant by the "legitimate rights of the Palestinians," saying that it is for the Palestinians themselves to define those rights. And, we all know that as far as the PLO is concerned, its definition of such "right" includes the "right" to destroy the state of Israel and replace it with a secular state of Palestine. This is, and has been a central tenet of the PLO charter. Although there have been many attempts by the Carter Administration and moderate Arab leaders to induce the PLO to renounce this article of its charter, the PLO leadership has steadfastly rejected any moves in that direction.

Even while Israel has wisely rejected the concept of a PLO-dominated independent state on the West Bank, it has offered a legitimate proposal for negotiations. In doing so, it is clear that the current Israeli cabinet is understandably taking the position that every Israeli cabinet has taken since 1967—Israel is prepared to trade pieces of territory for incremental steps towards peace on the part of their adversaries. On the West Bank and the Gaza Strip, the Begin government has offered to abolish the military administration and replace it with an Arab administrative council. Residents of those territories would be offered the choice of Israeli or Jordanian citizenship, and those who opt for Israeli citizenship would be eligible to buy land and settle in Israel. Until the ultimate question of sovereignty is finally resolved, Israel would retain its present right to claim sovereignty over the West Bank and Gaza. Israel has adopted this approach ". . . in the knowledge that other claims exist and in the interests of peace," in the words of Prime Minister Begin.

The Israeli proposal is a meaningful contribution to the substantive negotiations. It is a bona fide effort to promote the search

for an equitable peace arrangement between Israel and her Arab neighbors

The United States must lend encouragement to these efforts. But, we must always remember that our proper role is as a mediator—not an initiator of proposals. An attempt to move us in the direction of dictating peace terms is apparently being made by President Sadat. He has warned the U.S. Government that unless pressure can be brought to bear on Israel to accept the idea of a Palestinian state in a prior declaration of principles, the stalled political talks cannot be successful.

President Sadat is well aware of the strategic dependence of Israel on the United States. We are, after all, Israel's only reliable ally. It is our sophisticated weaponry which enables Israel to maintain the strategic balance in the Middle East. Since the 1973 Yom Kippur War, the United States has supplied an annual military budget subsidy in grants and credits of almost a billion and a half dollars a year.

Moreover, it is our moral and emotional commitment to Israel which has served as the deterrent to keep the Soviet Union from actual physical intervention in the past three wars in which Israel has defeated Soviet clients.

Anwar Sadat is well aware of the crucial role which the United States has played in Israel's past victories and current strength. That may be why he chose to launch his peace offensive through the good offices of Walter Cronkite and Barbara Walters rather than through diplomatic channels. By seeking to capture the American news media, particularly the instantaneous satellite television audience, he has sought to project his image as the man of peace right into the living rooms of America, bypassing to a large extent, the filtering and opinion-forming effect of official government comments. Moreover, his careful and attentive handling of the American press corps has been designed to enhance the image he has tried to create among the American public.

Polls revealed a 20 percent point jump almost overnight in Sadat's popularity and in the American public's opinion that he was a sincere man of peace. In an unprecedented opinion change, the American public's opinion that Sadat sincerely desired peace leapfrogged that of his Israeli counterpart, with 58 percent of the public believing Sadat to be sincere in his desire for peace as against only 47 percent answering affirmatively when asked the same question about Prime Minister Begin. Hopefully, that misperception of Prime Minister Begin is being corrected.

Of course, the peak in Anwar Sadat's popularity has not been maintained since the dramatic days in November, while the deepfelt affection and respect for Israel has remained high among the American people, and I might add, the Congress. But, the lesson of the peace offensive should be clear. Anwar Sadat has staked his political future—and given the manner in which Middle East governments change, perhaps his very life—on the assumption that an acceptable peace agreement can be reached with Israel and that U.S. pressure is a key to that settlement.

The Egyptian President's expectations that the United States would put undue pressure on Israel, unfortunately, would appear to be well-grounded. We have become only too painfully aware that the Carter Administration appears bent upon pressure tactics. A few examples will suffice to illustrate the point.

In one of his first news conferences the President announced that a "stabilization" of the Middle East "would involve substantial withdrawal of Israel's present control over territories" and only "minor adjustments" of Israel's pre-1967 frontiers. A week later, speaking at a town meeting in Clinton, Massachusetts, the President alluded to the need for a "Palestinian Homeland." Administration spokesmen scrambled to explain away these apparent changes in policy. But, in a diplomatic arena where the presence or absence of the definite article "the" is considered to be fraught with meaning, this new rhetoric seemed to portend a major change in U.S. policy. The President's newness to the world of diplomacy was used to justify the new terms, but as one diplomat explained, "Half the people in the Carter Administration don't understand the language of the Middle East, and the other half are trying to change it."

When, at a May 26th news conference, the President again reiterated his belief that the Palestinians had a "right" to a "Homeland" I took to the Senate floor to question the wisdom of the Administration's approach. No satisfactory explanation was forthcoming. Indeed, the Administration compounded the problem when on October 1st, Secretary Vance unveiled a joint Soviet-American statement in which there was a reference to the "legitimate rights" of the Palestinians and the absence of any reference to "secure borders" for Israel. Again, I protested the Administration's insensitivity to the diplomatic problems caused for Israel. But once more, the Administration argued that there was really nothing new in this seemingly pro-Palestinian document. And a week later, in an attempt to offset its impact, strongly pro-Israel remarks were inserted into the President's address to the United Nations. This trial and error diplomacy has served the interests of no one.

It has made of the United States an "uncertain trumpet" in its mediation role.

Another weakness in the Administration's approach was its frantic attempts to arrange an ill-prepared-for Geneva Conference in December. This was particularly unfortunate in view of the delicate diplomatic position in which Israel found itself as a result of Administration rhetoric about the "legitimate rights of the Palestinians." As a consequence of that rhetoric, many in the Arab world appeared convinced that the United States would deliver to them the victories they had been unable to obtain by the clash of arms. That dangerous misperception persists and requires correction lest it become an insurmountable roadlock to peace efforts.

This need to convince the Arab countries that the United States will not apply onesided pressure on Israel has become even more important in light of President Sadat's recent visit to the United States and the Administration's most recent statements regarding the proposed transfer of sophisticated military equipment to Egypt and Saudi Arabia. It would be a blunder of immense proportion to mislead the Arabs into thinking that at some point in time the United States would deliver Israel bound hand and foot to the negotiations table to acknowledge a dictated settlement. This we cannot, we will not do.

We can, and must, of course, serve as an important communications channel between Israel and Egyptian leaders. We can also express our opinions or proffer friendly advice at the appropriate times. But, our role must be that of a midwife to any peace settlement. That settlement will, ultimately, be born out of Israeli-Arab efforts and they are the ones who will have to live with its joys and sorrows.

For as I have said, not too many months ago, peace seemed hopelessly beyond our reach. That is no longer the case, although the euphoria of November has been replaced by the sober realization that the road is still a long one, strewn with obstacles. The leaders of Israel and Egypt have taken halting but meaningful steps towards the goal. But in the end whether we attain an equitable peace in the Middle East, one that endures beyond the immediate joy of its proclamation, depends not only upon the mutual goodwill of the inhabitants of palaces and parliaments, but also those of the deserts and kibbutzim. Let us pray that God blesses them with the spirit of the peacemaker. For as it is written in the Book of Proverbs "Peace after emnity is sweeter than honey." ●

SUPPORT FOR CONFERENCE REPORT ON AGE DISCRIMINATION IN EMPLOYMENT ACT AMENDMENTS OF 1978

● Mr. CHURCH. Mr. President, I support the adoption of the conference report on H.R. 5383, the Age Discrimination in Employment Act Amendments of 1978.

There is one feature in the bill, though, which I do not favor. And, I shall have more to say about that provision in a moment.

But at this time, I would like to comment about other measures in this legislation—several of which I either sponsored or advanced.

First, H.R. 5383 would have the effect of raising the mandatory retirement age from 65 to 70.

This represents an important step toward the goal of employment based on merit.

As chairman of the Senate Committee on Aging, I have long maintained that functional capacity—not chronological age—should determine whether a person is hired, fired, promoted, or demoted.

Chronological age alone is a poor barometer of one's ability to perform on the job.

In fact, several studies make it clear beyond any doubt that older workers form as well on the job as their younger counterparts and quite often noticeably better. A New York State Division of Human Rights survey, for instance, found that persons 65 or older are generally equal to, and in some cases significantly better, than those under 65 in areas of attendance, punctuality, on-the-job safety, and work performance.

Administrators and personnel officers make judgments each day about the competence of employees under 65 years old. These same standards can and should be applied to persons 65 and above.

Older workers are not asking for any preferential treatment. All they want is a chance to compete on equal terms with others on the basis of ability and not chronological age. I strongly believe that they should have this opportunity.

Second, H.R. 5383 would abolish mandatory retirement, for the vast majority of Federal employees, effective September 30.

As the Nation's largest employer, the Federal Government is ideally suited to test out the feasibility of eliminating manadatory retirement completely.

If the experience proves successful, many private employers may want to adopt a similar practice. In that regard, Mr. President, I would like to ask unanimous consent to insert in the RECORD a press release I issued on March 21.

Third, the bill would modify the existing 180-day notice of intent to sue requirement, which has oftentimes proved to be a trap for the unsuspecting.

The Department of Labor estimates that the courts have dismissed nearly two-thirds of all private age discrimination suits without a hearing on the merits

because an individual failed to comply with the act's procedural requirements. One of the most troublesome is the 180-day notice of intent to sue requirement.

H.R. 5383 would simply require that an individual file a charge with the Department of Labor within 180 days after the alleged violation before commencing a suit, rather than comply with the more formal notice of intent of sue standard.

Moreover, the conference agreement makes it clear that the "charge" requirement is not a jurisdictional prerequisite to maintain a suit under the law. Courts would be permitted to excuse the failure to file a charge for equitable reasons.

Fourth, I am pleased that the conferees agreed to phase out the provision permitting tenured college and university faculty members to be mandatorily retired at 65. Under the conference agreement, the mandatory retirement age would be raised from 65 to 70 for them on July 1, 1982—or 2½ years after the effective date for other workers.

I would have preferred an earlier effective date for raising the mandatory retirement to 70 for tenured faculty members.

I do not support, though, the exemption in the bill, permitting high level executive or policymakers to be mandatorily retired at 65 if they have retirement benefits of $27,000 a year or more, exclusive of Social Security benefits.

One of the major purposes of the Age Discrimination in Employment Act is to promote employment on the basis of ability.

This goal is not well served by carving out exemptions in the law. An exception should be made only if compelling reasons exist. In my judgment, the compelling case for this exemption has not been made.

Fortunately, the number of persons affected is small. But the exemption is likely to be the source of much litigation or confusion.

Taken as a whole, though, I think the bill includes many beneficial—and perhaps landmark—provisions for older Americans.

For these reasons, I reaffirm my support for the conference report on H.R. 5383.

I submit a news release from my office for the RECORD.

The news release follows:

NEWS RELEASE FROM SENATOR FRANK CHURCH

WASHINGTON, D.C., March 21, 1978.—Senator Frank Church today urged the U.S. Civil Service Commission to prepare adequately for the probable end of mandatory retirement in the Federal service this autumn.

Church, Chairman of the Senate Committee on Aging, said it appears likely that legislation to end employment cutoffs at age 70 among Federal employees will soon receive final Congressional approval and go to President Carter for signature. The abolition of forced retirement would take effect in October.

"And," said Church, "this deadline is rushing toward us at just exactly the same time that President Carter has presented his plan for Civil Service reform."

In an address this morning before the American Personnel and Guidance Association (9:00 a.m., Sheraton-Park Hotel), the Senator said the President's proposals apparently do not deal with needs that will intensify with an end to mandatory retirement in the Federal government.

Church said:

"I'm thinking of such programs as:

"Mid-career training to prevent skill obsolescence;

"Development of objective tests of work capability;

"Flexible work arrangements for older workers who may care to change from one job or another, or to enter part-time work, or to make other changes which will make Federal service more attractive to them and more productive for the agencies they serve;

"And pre-retirement training programs with a decided emphasis on work options before retirement, as well as personal interests and concerns after retirement."

Church said that the Senate Committee on Aging has long urged the Civil Service Commission to become a model employer in its treatment of middle-aged and older workers.

"Now, with an end to mandatory retirement for Federal agencies within sight, it's time for the Commission to ask for help in dealing with an entirely new situation," he added.●

WATERWAY USER CHARGES AND THE TYRANNY OF THE BENEFIT-COST RATIO

● Mr. DOMENICI. Mr. President, the debate over the dollar impact and the form of my proposal to phase-in waterway user charges has obscured a related advantage of user charges. This would be a lessening of the life-or-death tyranny now imposed by the benefit-cost analysis of water projects.

Adoption of my amendment No. 1460 to H.R. 8309, or a similar provision linking costs to expenditures, will move the Nation closer toward the use of a more realistic assessment—a market test—of the worth and value of water resource projects which have commercial beneficiaries. A determination of the willingness of the users and beneficiaries to pay all or a portion of the costs of a project provides a far stronger guide to whether a project merits Federal assistance than any artificial calculation that the "benefits" exceed the "costs."

The Federal water resources effort is now the source of much public dissatisfaction. That is unfortunate. Much of this dissatisfaction grows from the fact that so much of the program is "free." It may be secondary that the project is really needed or that it provides the best solution.

Well, it is not "free". The American taxpayers are paying for it. And the only shroud of protection provided the taxpayer is the mythical benefit-cost computation.

The "benefit-cost ratio" stems from section 1 of the Flood Control Act of 1936. At that time, Congress determined that water resource projects could move forward if "the benefits to whomsoever they may accrue exceed the costs." No other type of Federal investment requires such an analysis.

There is certainly nothing theoretically wrong with this approach, but as a practical matter, the "B–C" ratio is sometimes worthless. It can depend on how games are played with the interest rates applied to the invested dollars. It allows a water resources agency to calculate a series of hyped-up benefits, and it is often subject to off-the-wall estimates on prices, totally unrelated to what a project will actually cost the public.

To cite one example, the benefit-cost analysis is distorted by the requirement of section 7(a) of the Department of Transportation Act (49 U.S.C. 1656(a)), which mandates the use of inflated "savings to shippers" figures in computing a benefit-cost ratio on inland navigation projects. Another myth involves so-called regional benefits, which many would like to graft onto the benefit-cost process as a way to bolster benefits. Regional benefits for a project are ones, which, in effect, are subtracted from other areas of the Nation.

Conversely, projects in many poor or lightly populated areas of the Nation never seem to come up with positive benefits. While local businesses desire the project, knowing it can provide long-term improvements to the area, and they would often be willing to repay much or all of the cost, the tyranny of the benefit-cost ratio kills the idea before it gets off the ground.

Personally, I believe we must find a better way to evaluate the need for water resource projects. One better alternative is a "user-pays" approach. This philosophy is embedded in programs for hydropower production, water supply, and irrigation. There is no reason why a market test cannot be extended across a broad range of projects, including those that benefit the big barge companies.

Thus, waterway user charges can and should move the Nation beyond the time where every new project is a battleground over some arbitrary benefit-cost ratio. It will move us into a discipline where the Congress and the President can act with greater assurance because the local industries, users, and other direct beneficiaries are willing to share in the cost.

Mr. President, the marketplace is a far better test of value than the computers in the offices of the Army Corps of Engineers. It is important that we focus the limited Federal dollars that are available on projects with a base stronger than any tenuous benefit-cost analysis.

And there is an additional factor. When the commercial users are paying, they have a direct and forceful interest in making certain that the Federal water agency brings in the project in the most cost-effective way for the benefit of the taxpayers and the users. It is time that we replace cost overruns with beneficiary responsibility.

Mr. President, as an indication of the vagaries of the cost-benefit ratio, I recently asked the Army Corps of Engineers for a list of those water resources projects in the President's 1979 budget that lack a positive benefit-cost ratio. I submit for the RECORD a copy of this list.

The resulting tables follow:

PROJECTS BELOW UNITY AT 6⅝ PERCENT INTEREST RATE

Q. At the present interest rate of 6⅝ percent, how many projects in the budget for construction funds have a benefit-to-cost ratio of less than unity? Please list the projects, the sum in the budget for each, the total remaining cost of each, as well as the benefit-cost ratio for each using 6⅝ percent.

A. There are 55 projects in the FY 1979 budget, that are under construction, that have a benefit-to-cost ratio of less than unity using 6⅝ percent interest rate. The list of projects and requested information are as follows:

[Dollar amounts in thousands]

Division/project	BCR at 6⅝	Fiscal year 1979 budget	Balance to complete after fiscal year 1979
New England: Park River, Conn	0.81	$14,800	$8,376
North Atlantic:			
Elizabeth, N.J	.83	3,500	15,030
Tyrone, Pa	.55	1,000	29,144
Bloomington Lake, Md. and W. Va	.72	26,000	30,919
Blue Marsh Lake, Pa	97	5,898	0
Cowanesque Lake, Pa	.97	19,000	12,270
Tioga-Hammond Lakes, Pa	.77	5,700	1,315
South Atlantic:			
Masonboro Inlet jetties, North Carolina	.81	4,000	42,395
Falls Lake, N.C	.86	19,500	33,138
Tallahala Creek Lake, Miss	.95	5,500	46,16
Tennessee-Tombigbee Waterway, Ala. and Miss	.90	142,750	831,403
Ohio River:			
Evansville, Ind	.74	4,495	13,841
Dayton, Ky	.69	1,900	3,652
Paintsville Lake, Ky	.85	8,100	13,897
Laurel River Lake, Ky	.64	1,850	6,895
Chartiers Creek, Pa	.97	500	2,931
Beech Fork Lake, W. Va	.75	900	2,366
Burnsville Lake, W. Va	.81	1,200	6,480
East Lynn Lake, W. Va	.62	1,100	1,764
R. D. Bailey Lake, W. Va	.53	8,000	8,157
Stonewall Jackson Lake, W. Va	.93	6,400	93,645
Lower Mississippi Valley:			
Kaskaskia River navigation, Illinois	.53	4,200	19,144
Mermentau River, La. (channel improvement)	.88	1,330	900
Red River Waterway, Mississippi River to Shreveport, La	.62	40,000	865,762
Red River levees and bank stabilization below Denison Dam, Tex., Ark., and La	.70	4,000	9,615
East St. Louis and vicinity, Illinois	.97	800	37,229
Clarence Cannon Dam and Reservoir, Mo	.68	11,050	34,436
North Central:			
Freeport, Ill	.58	$175	$9,042
Fulton, Ill	.64	4,100	4,638
Waterloo, Iowa	.86	5,000	6,648
Saginaw River, Mich	.83	430	38,367
Mankato and North Mankato, Minn	.80	7,000	22,560
Roseau River, Minn	.99	5,000	13,661
Southwestern:			
Big Hill Lake, Kans	.78	4,500	5,783
Los Esteros Lake, N. Mex	.78	3,445	575
Copan Lake, Okla	.80	12,450	9,082
Optima Lake, Okla	.66	1,509	0
El Paso, Tex	.51	3,300	26,546
San Antonio channel improvement, Tex	.70	800	20,072
Texas City and vicinity (hurricane and flood), Texas	.92	1,600	3,149
Vince and Little Vince Bayous, Tex	.49	1,135	5,431
Missouri River:			
Missouri River, Sioux City to mouth, Iowa, Kansas, Mississippi, and Nebraska	.95	2,900	20,699
Big Sioux River at Sioux City, Iowa and S. Dak	.83	1,655	0
Clinton Lake, Kans	.96	3,000	2,153
Hillsdale Lake, Kans	.76	13,200	15,114
Little Blue River Lakes, Mo	.74	9,500	72,008
Smithville Lake, Mo	.59	7,900	5,857
Harry S. Truman Dam and Reservoir, Mo	.63	33,000	37,393
North Pacific:			
Applegate Lake, Oreg	.52	17,400	47,286
Lost Creek Lake, Oreg	.83	2,500	17,806
Tillamook Bay and Bar, Oreg	.59	4,128	0
Pacific Ocean: None.			
South Pacific:			
Corte Madera Creek, Calif	.67	140	9,190
Cucamonga Creek, Calif	.99	11,800	47,223
Dry Creek (Warm Springs) Lake and Channel, Russian River Basin, Calif	.65	35,000	121,818
New Melones Lake, Calif	.95	27,000	32,378
Mississippi River and tributaries: None.			

HUMAN RIGHTS IN EAST GERMANY

Mr. HELMS. Mr. President, the sad state of human rights in Eastern Europe has been documented so many times that Americans seem to have become numbed to new charges that are raised. This is regrettable.

Indeed, I am concerned that we have become numbed to the existence of gross violations of human rights that exist in Europe. Meanwhile, elements of the major media never fail to seize upon every new allegation of rights violations supposedly occurring in those countries in Latin America, Asia, and Africa which happen to be friendly to the United States. It does not seem to matter to the media that these allegations so often prove to be unfounded rumors, or worse. Such selective outrage by the major media, too, is regrettable.

Therefore, when an authoritative document comes to light laying out human rights violations in detail, it is worthwhile to pay close attention to it.

Such a document is the "White Paper on the Human Rights Situation of the Germans in the German Democratic Republic (GDR) and East Berlin," published by the CDU/CSU group of the German Bundestag.

Mr. President, Germany is the only country in Europe divided between East and West. One of the most inhuman borders on Earth divides the people of one nation, separating thousands of families.

Almost daily, people die in their attempts to exercise a most fundamental human right, that of free movement. As they attempt to cross the border from East to West, they are shot, maimed or captured. The Berlin wall, and countless other border emplacements are mute reminders of the quality of human rights in East Germany.

As the report of the CDU/CSU group shows, basic human rights still do not exist in East Germany. Nor will they be observed as long as the United States and other nations which speak of freedom do nothing to put their words into action.

Mr. President, I commend to my colleagues this report. The CDU/CSU group is the largest single political group in the German Bundestag. Much time and labor went into this report. It is well worth considering as the United States proceeds into further negotiations with East Germany's soulmate in the observance of human rights—the Soviet Union.

Mr. President, I ask unanimous consent that the "White Paper on the Human Rights Situation of the Germans in the German Democratic Republic (GDR) and East Berlin" be printed at this point in the RECORD.

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

THE HUMAN RIGHTS SITUATION OF THE GERMANS IN THE GERMAN DEMOCRATIC REPUBLIC (GDR) AND EAST BERLIN

1. The inhuman border through Germany and Berlin:

Germany and the German people are divided by a border which the GDR Government has built up on its side with minefields and various other inhuman fortifications. The wall in Berlin and the barriers set up by the GDR along its border with the Federal Republic of Germany have become a symbol of the forceful division of a country and the division of a nation, a symbol of a policy irreconcilable with human rights.

In contravention of Principle VII of the CSCE Final Act and Article 12(2) of the International Covenant on Civil and Political Rights, the Government of the GDR denies its inhabitants the right to leave the territory of the GDR freely. In order to ensure that they cannot do so, the GDR Government has built a system of fortifications along the border with the Federal Republic of Germany and along the sectoral border in Berlin. A whole series of other measures have been introduced inside the GDR, likewise to prevent free movement.

Since the signing of the CSCE Final Act, those barriers and devices and the various other measures have not been removed; on the contrary, they have been increased and made more efficient. All these installations, ranging from mines and self-triggering firing devices, as well as the use of fully automatic weapons against people trying to escape, have claimed further victims and wounded others along the border. By keeping the people locked up within the State borders, the GDR Government is depriving them of an essential part of the basis on which to exercise their right to run their lives as they themselves see fit. This denial of free movement is a particularly grave encroachment upon their rights since its purpose is to separate the people of one nation and thus causes millionfold suffering.

1. The border through Germany and Berlin: The 1,393 km long border between the Federal Republic of Germany and the GDR, as well as the sectoral border in Berlin, more or less correspond to the border of the Soviet-occupied zone of Germany to the West laid down in the London Protocol of 12 September 1944. The demarcation line from Lübeck to Hof was first closed to traffic in both directions on 30 June 1946 by the Control Council for Germany at the request of the Soviet occupying power. Not until the Control Council issued Directive No. 63 on 29 October 1946 was traffic between the Soviet and the Western zones of occupation again possible, although subject to controls and with the introduction of the inter-zonal pass.

At first, the demarcation line was patrolled only by the Soviet army on the Eastern side,

then by units of the "Garrisoned People's Police" as well as from July 1948. Anyone who crossed the border illegally was usually detained for several days or weeks. It was not until two and a half years after the establishment of the German Democratic Republic that the situation along the demarcation line changed drastically. On 26 May, 1952, the Council of Ministers of the GDR issued an "ordinance on measures to be taken along the demarcation line". In that ordinance the Ministry for State Security was instructed to take steps to cut off the zonal border area completely. Since then the border right through the middle of Germany has been developed in various ways into an ever more perfect system of fortifications to prevent the free movement of the people in Germany.

2. The border fortifications today:

2.1 Restricted Area and Protective Strip: Along the whole of the border there is a Restricted Area which in parts is up to 5 km deep. People living in this area have a special entry to that effect in their identity cards. Special Police regulations apply in the Restricted Area. For instance, meetings, etc. and private celebrations must end at 10 p.m. The part of the Restricted Area adjacent to the border is the Protective Strip. In parts it is up to 500 m wide and even people who live in the Restricted Area may only enter it with special permission.

2.2 The actual installation and devices are as follows:

2.21. Metal trellis fence: As from the early seventies, the barbed-wire entanglements along the entire border were gradually replaced by fences made of prefabricated metal trellis sections fixed to concrete posts. There are two types. One is 2.40 m high and mounted in two rows with contact mines in between. The more recent type is 3.20 m high which is erected as a single fence and has "SM 70" automatic shooting devices attached to it. Both types of fence, depending on the terrain, are 30–70 m from the actual border line.

2.22. The vehicle ditch: In the open terrain immediately in front of the metal trellis fence seen from the GDR side a ditch about 1 m deep and 2 m wide has been dug to stop vehicles trying to crash through the border. The side of the ditch facing the Federal Republic of Germany is lined with concrete slabs which ordinary vehicles cannot cross.

2.23. The tracking strip: Immediately in front of the metal trellis fence or, where one exists, in front of the vehicle ditch, which all growth is removed. This strip shows up all tracks clearly and is checked every day by a special border control unit.

2.24. The relief road: In front of the tracking strip there is a road consisting of two rows of concrete slabs. Its purpose is to ensure the fast movement of border alarm groups and can be used by 16t lorries.

2.25. The protective Strip fence: The Protective Strip is marked off from the Restricted Area by a metal trellis fence only half the normal height but with electric contacts on top. If they are touched an optical signal is immediately flashed to the nearest command post of the guard company on duty. A siren may also be sounded. This enables the alarm groups to take action from two sides to stop the person trying to escape.

2.26. The observation towers: All along the border observation towers made of prefabricated concrete parts, steel or wood have been erected at irregular intervals. Usually they are in sight of one another. Some of them have bunkers as bases for the alarm groups. Others have command posts and the guards have rifles with telescopic sights.

2.27. The long-leash dog patrols: At points along the border that cannot so easily be kept under observation, dogs trained to attack humans are used for patrolling purposes. They are attached to a 200 m-long wire leash about 3 m high. This enables them to attack any escaper within their range. Nearly 1000 dogs are used in this way.

2.3. The "SM 70" automatic shooting and warning device: The "SM 70" automatic shooting devices are attached to every fourth concrete post of the metal trellis fence at different heights on the side facing the GDR. The "SM 70" consists of the firing apparatus with the cone-shaped shooting funnel, the ignition and reporting mechanism, and the fixture. They fire in a direction parallel to the fence. They are triggered if the wire is cut or moved about 2 cm. The trigger wire leads from one device to the fixture of the next at the same height. The funnel is filled with about 100 g trinitrotoluol (TNT). On top of this charge are about 110 sharp-edged pieces of steel roughly 4 mm long and weighing 0.5 g each. Up to a distance of 25 m they tear wounds in the victim similar to those caused by dum-dum bullets. And as the funnel, made of aluminum, is also shattered when the device goes off there is an added splinter effect.

The affect of the "SM 70" is exactly described by Dr. Werner Stoll of Wustrow, district of Lüchow-Dannenberg, in the Medical Report of 30 Juli 1976 on the death of the refugee Hans-Friedrich Franck of MeiBen, GDR, which reads:

"Hans-Friedrich Franck, who was injured by an automatic shooting device on the metal trellis fence along the GDR border within the Federal Republic of Germany, could not be kept alive in spite of the most intensive efforts by the doctors and all others helping to save his life. The irregularly shaped, jagged metal splinters, which have the same effect as a dum-dum bullet, if not worse, had shredded Franck's vascular structure below the groin to such an extent that suture was extremely difficult and slowed up the operation considerably." (See also the Pictoral Documentation, p. 99 seq.).

2.4. The orders to shoot: The GDR maintains 28 regiments along the intra-German border, including the border around West Berlin. Each border regiment usually has three battalions of four companies each. The frontier brigade "Coast" patrols the North Sea Coast. It consists of three groups of boats totalling 18 patrol vessels of the "Kondor" class.

The section of the Elbe between Schnackenburg and Lauenburg is guarded by frontier companies and the river itself by 24 patrol and long-range boats. Altogether the GDR border force comprises about 47,000 men. The use of fire-arms along the border is governed by Regulation "DV 30/10". The orders prescribed by this regulation are given orally only. Border guards are under orders to shoot to kill anyone in the immediate vicinity of the border fence or wall. They may only challenge or fire a warning shot if there are at least 50 yards between the metal trellis fence and the person trying to escape. If a person shot in this way is lying within the range of the border security installation he must be left there until the alarm group has been called.

2.5 Total length of the fortifications: The intra-German border—not counting the sea area in the Lübeck Bight—has fortifications of the kinds described above along its total length of 1,393 km. They can be broken down as follows:

As of July 15, 1977

[In kilometers]

Metal trellis fence	1,083
Protective strip fence	788
Minefields	491
SM 70 devices	248
Concrete walls/sight screens	8
Anti-vehicle ditches	739

Observation towers including treetop observation posts, 584.

Since the signing of the CSCE Final Act, the metal trellis fence has been lengthened by 93 km, the Protective Strip fence by 171 km, and the SM 70 firing devices have been installed along an additional length of 60 km.

2.6. The border around West Berlin: The border around West Berlin—including the sectoral border in Berlin—measures in all 165.7 km. Since 1961, its main element has been the Wall, which divides East and West Berlin over a distance of 46 km. In their present form, these border installations were for the most part put up between 1964 and 1970, viz., 55.2 km of metal fencing, 104 km of wall slabs topped with piping, 150 km of concrete wall, 123 km of fencing with electric signals (6—10 volts), 124 km of asphalt relief road. Situated along the wall are 251 observation towers, 144 bunkers with firing slits, 260 dog runs.

3. Victims of the border fortifications: Since 13 August 1961, members of the GDR border guard have fired at people trying to escape on 1509 occasions. Seventy people trying to escape and others helping them have been killed along the Wall. Sixty-six of them were shot. Ninety-one people have been seriously wounded. Over the past 16 years, 3,002 people have been arrested trying to escape over the Wall.

From 1949 to 1 August 1977, to the extent known to the Federal Republic of Germany, 182 people have been killed by mines, shot by guards or firing devices, or killed by other means along the entire intra-German border, including the border around West Berlin. Four of this number have been killed since the signing of the CSCE Final Act.

4. Penalties for attempting to exercise the right of free movement: The border fortifications also have as their equivalent the criminal law of the GDR, which imposes penalties on persons "guilty" of "unlawfully crossing the border" (section 213, GDR Penal Code). Under these provisions "anyone who obtains by devious means or for himself or another person a permit to enter or leave the German Democratic Republic or who leaves the territory of the GDR without government authorisation or fails to return to that territory" can expect a prison sentence of up to two years. Both preparation for and the actual attempt to escape are punishable. "In serious cases the offender may be sentenced to a term of imprisonment from one to five years" (Section 213 [2], GDR Penal Code). An example of a serious case is when a man and his wife together (i.e. a "group") intend to escape or the exit papers of another person are used or a "border security installation" is damaged.

Anyone who assists persons trying to leave the GDR without authorisation may be liable to prosecution for "anti-State trading in humans" (section 105, GDR Penal Code), almost a charge of slave trading, in spite of the fact that the inhabitant of the GDR concerned freely accepts such help. In April 1977—just as preparations were being made for the CSCE follow-up meeting—the GDR introduced stiffer penalties, so that now "particularly serious cases" may carry a life sentence.

For a good number of years there have been at least 2,500 people in custody in the GDR for attempting to "flee the Republic". Then there are a similar number of political prisoners who have been prosecuted for exercising the right of free speech and attempting to leave the country (see below II, 1.2; III, 1., 1.2).

The GDR uses some of these prisoners as a means of obtaining foreign exchange. For between 40,000 and 80,000 DM (German Marks) per person some are released after serving part of their sentence, usually to go to the Federal Republic of Germany.

From 1962 to 1976 inclusive, at least 720 million DM of budgetary funds of the Federal Republic of Germany alone was paid over

in this way. On top of this there are the special material concessions made to the GDR for this purpose within the scope of intra-German trade. But in spite of all these "purchases", the "reservoir" of prisoners shows no signs of drying up. It is kept full by making it a crime for people to escape from one part of Germany to the other, and even to make a lawful application for permission to leave the GDR or to voice critical opinions.

II. Other serious violations of human rights and disregard for the aims of the CSCE Final Act:

The GDR disregards the aims and the declarations of intent of Basket III of the Final Act with regard to "co-operation in humanitarian and other fields".

The underlying purpose of Basket III of the Final Act is to increase contacts between the people with a view to consolidating peace and understanding. The object is to bring families together and facilitate marriages between citizens of different States. It aims to improve travel, primarily on family grounds but also for business reasons and tourism. And Basket III says that no one should be placed at a disadvantage for submitting the appropriate application to the authorities of his country.

The law and practice of the GDR run contrary to this aim of the Final Act.

1. Separation of families and refusal to allow families to reunite: Part 1(b) of Basket III of the Final Act reads:

"The participating States will deal in a positive and humanitarian spirit with the applications of persons who wish to be reunited with members of their family, with special attention being given to requests of an urgent character—such as requests submitted by persons who are ill or old. They will deal with applications in this field as expeditiously as possible. They will lower where necessary the fees charged in connection with these applications to ensure that they are at a moderate level. Applications for the purpose of family reunification which are not granted may be renewed at the appropriate level. . . . .Until members of the same family are reunited meetings and contacts between them may take place in accordance with the modalities for contacts on the basis of family ties.

The participating States confirm that the presentation of an application concerning family reunification will not modify the rights and obligations of the applicant or of members of his family."

1.1. Since the signing of the Final Act there has been an increasing flow of complaints from GDR citizens and their relatives in the Federal Republic of Germany about the way applications for family reunion have been handled.

There is a close connection between applications for the reuniting of families and for permission to be able to visit relatives. Often a citizen of the GDR or a family will at first only submit an application for one visit to relatives in the Federal Republic. The application leads to reprisals (described later on) by the GDR authorities or personnel departments of "people's enterprises". The lasting disadvantages which result prompt the GDR citizens to apply for settlement in the Federal Republic of Germany because they see no further possibility of a secure livelihood in the GDR.

1.2. In order to prevent the reuniting of families the GDR authorities resort to the following means:

They have introduced a narrower definition of "family". It is usually equated with "family household", in other words only the husband, wife and legitimate children under 18 living with their parents are regarded as members of the family.

Parents, in-laws, grandparents, adult brothers and sisters, half brothers and sisters, or relatives of the third or fourth degree, are not recognized as members of the family.

In fact, exit visas are sometimes granted only to certain members of a family (e.g. only to the parents and children under age), which causes even more separation.

Time and again reports are received to the effect that the GDR authorities inform applicants that the United Nations Human Rights Conventions and the International Covenants on Human Rights, as well as the GDR's contractual commitments to respect human rights, as embodied in article 2 of the Basic Treaty between the GDR and the Federal Republic of Germany and in the Final Act of Helsinki, are not directly binding.

And there are growing numbers of reports that the GDR authorities treat applications for exit visas as a criminal offense and dismiss the applicants from their jobs; they are not given work by other "people's enterprises" or public administrations; they are then accused of being "shirkers" and in accordance with the provisions of the GDR's Labour Law, of "asocial behaviour", and sentenced to terms of imprisonment. The process of constraint and making criminal offenses out of applications also takes the following form: GDR inhabitants who apply for exit visas are immediately declared to be "persons in possession of secret information" and therefore forebidden to have "contacts with the West"; in many cases it is assumed that they have ignored this ban by maintaining relations with members of their families in the West; this automatically entails criminal proceedings.

Constraint by the GDR authorities is particularly common as regards families with children who apply for exit visas. The authorities threaten to deprive them of their parental rights and to have their children transferred to state homes because they have not brought them up to hate the West and hence their Western relatives. If they thereupon withdraw their applications they are promised leniency.

Even people who have not applied for exit visas but do not discriminate against those who have or send them to Coventry can also expect reprisals.

The GDR authorities are also in breach of human rights in that they infringe the privacy of applicants' mail and monitor all their communications with others.

But contempt for the spirit and letter of the Final Act is manifest in particular in the fact that renewed applications for permission to reunite with members of the family lead to a ban on contacts with relatives in the West altogether, i.e. no travel in either direction.

The number of pending applications for permission to join family members in the Federal Republic of Germany is estimated at 30,000. The fact that only 4,914 persons in this category were allowed to transfer to the Federal Republic of Germany in 1976 shows how far this deeply human problem still is from solution.

1:21. Particularly serious are those cases where one member of a family succeeds in escaping to the Federal Republic of Germany. His relatives are first advised to induce that person to return. If this fails pressure is put on the husband or wife to break off relations with the spouse in the Federal Republic of Germany and in particular to cease all correspondence. Then after a certain period the man or wife, who is not permitted to leave the country, is urged to seek divorce. If this person is in the public service, has an important job, or is otherwise a "possessor of secret information" (within the broad definition applied by the GDR) he is required to sever all contacts with relatives in the Federal Republic of Germany. He must undertake to discontinue all written or oral communications, and is not even permitted to meet his parents if they visit the GDR. The disadvantages both at work and otherwise for anyone breaking this ban are so grave that a young man who recently had a clandestine meeting with his parents who had travelled to the GDR from South Germany has said he will not see them again because the risks to himself and his family are too great. The mere fact that parents or a man or wife who have remained in the GDR apply for permission to transfer to the Federal Republic of Germany is enough to bring them personal and economic disadvantages and to expose them to chicanery and discrimination which may go so far as social degredation.

* * * * *

1.3. Persons engaged to be married kept apart: Paragraph 1 (c) of Basket III of the Final Act reads:

"The participating States will examine favourably and on the basis of humanitarian considerations requests for exit or entry permits from persons who have decided to marry a citizen from another participating State."

Whether it is a question of engaged couples or the reuniting of families, the attitude of the GDR authorities is the same.

Judging by reports from people who have been affected, the GDR authorities are if anything even quicker to arrest single persons, and with more ruthlessness than in the case of married people.

The reprisals are much the same as the ones described above:

No legal basis;

Off-handed treatment of applicants, the tedious, involved processing of applications;

Applicants are moved to another place of work and degraded;

They are dismissed on fictitious charges;

Fiance(e)s from the West are refused entry visas, as are other relatives or friends;

Isolation and discrimination in the local community, etc.;

Ultimately arrest and sentencing for asocial behaviour or "incitement against the State".

In many cases the fiance(e) in the West is recommended to come to marry in the GDR. They are told that they will have similar professional opportunities as in the West. In practice, however, these promises are not kept and there are three serious restrictions which deter engaged persons from moving to the GDR to marry.

Firstly, former citizens of the Federal Republic of Germany who transfer to the GDR are allocated to low-grade jobs on the grounds that this is in keeping with the GDR's internal security provisions; secondly, those with a university training are not allowed to take scientific or social literature, even fiction, with them to the GDR because such works are denounced as "inflammatory imperialistic literature"; thirdly, those coming from the West are treated in the same way as inhabitants of the GDR, which means that people of non-pensionable age are not allowed to travel to the West; but if they marry someone in the West they hope to be able to travel to the East.

In view of these main restrictions (but there are others resulting from the internal system of the GDR) of human rights and freedoms, young people in the West engaged to be married to someone in the GDR refuse to move there to get married.

The fact that the GDR authorities refuse to allow any inhabitant of the Federal Republic of Germany who is engaged to an inhabitant of the GDR to enter the GDR as a visitor is a particularly blatant obstacle to human contacts and a violation of the provision of Basket III, 1 (c), of the Final Act. Numerous West Germans and West Berliners have been turned back at the border for this reason, even though they have been in possession of an entry visa. Nor are the citizens of the GDR affected allowed to travel to socialist States, which means that they cannot meet their fiancé(e) anywhere in the world.

1.4. Inhuman deprivation of parental rights, compulsory adoptions: The GDR's policy of destroying family ties between Germans is particularly obvious from the way the children of persons who have left the GDR "illegally" are treated. In flagrant disregard of the natural right of parents to care for their children themselves and to decide where they should stay, the children are kept in the GDR and put in homes or given to other people to be looked after. Frequently, parents are even refused information as to the whereabouts of the child. After a time the parents are asked to agree to their child being adopted by a family they do not even know. If they refuse their approval is replaced by a court decision. The ground given for the adoption is either that it is for the child's well-being, that the child is better off with a socialist upbringing, or that the parents have allegedly not looked after the child and been indifferent to it. The court deliberately ignores the fact that because the child has been kept in the GDR the parents have had no chance to care for it.

Neither the Final Act of Helsinki nor the human rights conventions have deterred the GDR authorities from holding back the children of parents who want and are in a position to look after them and apply for permission for them to leave the GDR, from having them brought up by strangers and ultimately allowing them to be adopted.

* * * * *

2. Citizens of the GDR are prevented from visiting relatives in the Federal Republic of Germany or other Western countries:

2.1. Paragraph 1 (a) of Basket III of the CSCE Final Act reads:

"In order to promote further development of contacts on the basis of family ties the participating States will favourably consider applications for travel with the purpose of allowing persons to enter or leave their territory temporarily, and on a regular basis if desired, in order to visit members of their families.

Applications . . . will be dealt with without distinction as to the country of origin or destination . . . The issue of such documents and visas will be effected within reasonable time limits; cases of urgent necessity—such as serious illness or death—will be given priority treatment . . .

They confirm that the presentation of an application concerning contacts on the basis of family ties will not modify the rights and obligations of the applicant or of members of his family.

2.2. Inhabitants of the GDR have sent thousands of reports to the effect that this declaration of intent, which their leaders, by signing the Final Act, have adopted, has not been put into practice. The reports show that the procedures for dealing with applications for exit permits have not been simplified. As before the CSCE, the situation is one of arbitrary action.

Only GDR inhabitants who have reached the statutory retirement age, that is, women from the age of 60 and men from the age of 65, as well as invalids, may visit relatives in nonsocialist countries once or several times a year for a total of 30 days (to countries outside Europe, for up to three months). Pensioners have been permitted to leave the country since 1 November 1964.

2.3. With regard to other inhabitants of the GDR, that is, the great majority, formal rules have been published according to which travel to non-socialist countries may be allowed on urgent family grounds, which means for births, marriages, silver and golden wedding anniversaries, sixtieth, sixty-fifth, seventieth wedding anniversaries, serious illnesses and deaths. Entitled to apply are grandparents, parents, children and brothers and sisters (according to the GDR decree governing the travel of GDR citizens, dated 17 October 1972, as amended on 14 June 1973—Law Gazette I, p. 269).

But these regulations only say that permission "may" be granted; they do not concede any right to travel; it is entirely at the discretion of the authorities. Apparently, local GDR authorities are bound by restrictive instructions that have not been published. This explains the fact that every year only about 40,000 GDR citizens are allowed to travel to the Federal Republic of Germany on urgent family grounds, although there are very many such occasions within the meaning of the GDR decree because the Germans living in the Federal Republic of Germany, the GDR and Berlin together make up about 77 million people.

To prevent travel to non-socialist countries, the GDR again resorts to the method of declaring large sections of the working population to be "carriers of secret information" who may therefore not maintain contacts with people in the West. These include not only servicemen, police and teachers, but many other members of the party and state apparatus and "people's factories", and from the world of science and culture. Banned contacts with the West include, apart from travel to non-socialist countries, visits from such countries as well as contacts by telephone or correspondence with persons in "capitalist countries". The "illegal" maintenance of such contacts results in disadvantages both in the community and at work, for instance allocation to a lower grade and hence lower paid job.

Under GDR law, the authorities do not have to state any reasons for refusing applications for travel visas, so that the person concerned can do nothing about it.

Inhabitants of the GDR deplore in particular the fact that the final Section of paragraph 1(a) of Basket III of the CSCE Final Act has not been put into practice. With the exception of pensioners, people of working age who submit applications for exit visas must usually expect not only long periods of interrogation but also disadvantages at work and in the local community (downgrading, transfer to another place of work, eviction, refusal of holiday accommodation, etc.).

In almost every exceptional case where an exit visa is granted on urgent grounds (serious illness or death) only one person is allowed to travel. GDR citizens accuse the authorities of keeping either the husband or wife and children back as hostages. Single adults of working age are practically never granted a visa, even on the most urgent grounds.

Inhabitants of the GDR also report that permission to travel for family celebrations (birthdays, baptisms, weddings and jubilees) are almost never granted to persons under retirement age—not even to either husband or wife.

In general people complain mostly about the arbitrary and impolite treatment of the GDR authorities. Applications are handled very restrictively and the applicants themselves subjected to extensive interrogation to induce them to withdraw their applications. There are reports of close co-operation between the authorities and the "people's factories" and constant references to pressures and intimidations which completely reverse the purpose of Basket III of the CSCE Final Act.

In view of the large numbers from the Federal Republic of Germany—including West Berlin—who visit relatives in the East (1976: over seven million), the people in the GDR feel themselves degraded because in their case hardly anyone under retirement age is allowed to visit the Federal Republic of Germany. The intensity of the frustrated desire to visit the Federal Republic is indicated by the fact that for many years about a million pensioners have been visiting the Federal Republic every year. They are only permitted to travel when they have reached the age at which the GDR Government no longer regards them as vital to the State.

In the Federal Republic of Germany, too, there is mounting criticism of the fact that it is becoming increasingly difficult to visit relatives in East Germany. The main complaint is that the GDR authorities reject applications for entry visas if a member of the family to be visited has applied for a visa to travel to a Western country.

And finally there are many reports from people in the Federal Republic who have been asked by their relatives in the GDR not to visit them because the outcome (particularly for young people) could be discrimination at work and in other respects.

The attitude of the GDR authorities runs contrary to the postulate of the CSCE Final Act, which is that efforts will be made to intensify and improve family contacts.

2.4. Financial obstacles to travel: The financial obstacles put up by the GDR Government also militate against the Final Act, which calls for easier travel arrangements. Whereas GDR pensioners who have been given permission to travel to the Federal Republic are allowed to bring only 15 DM with them p.a., which means that their stay in the West must be paid for entirely by their relatives (with grants from public funds from the Federal Republic of Germany), Germans from the federal territory travelling to the GDR are charged 15 DM for the visa as well as a road toll for cars, depending on the length of the journey. In addition, each visitor must exchange 13 DM per day, the only exceptions being people of pensionable age, invalids, persons fully incapacitated and on full pension, and children under 16. Thus visits by or to relatives as between the two German States are considerable financial burdens.

3. Refusal to grant permission for contacts between people who are not relatives: Paragraphs 1 (d)—(h) of Basket III of the Final Act of Helsinki speak of improving and simplifying the procedures for "travel for personal or professional reasons", tourism, meetings among young people, sports and other contacts.

This is another intention which the GDR has failed to carry out in relation to the Federal Republic of Germany.

According to para 1 (h), participating States are supposed to develop contacts among governmental institutions and non-governmental organizations and associations.

On account of the negative attitude of the GDR Government, such communication between the two German States is very rare. That meetings between sports associations, youth groups and other clubs, etc., as well as meetings at communal level, help to foster peace is obvious; all attempts by the Federal Republic of Germany to establish such contacts with the appropriate institutions in the GDR have up to now—apart from a few cases where the GDR leadership has had a specific political interest—proved abortive.

4. Discrimination against and prosecution of people who, trusting in and invoking Basket III of the Final Act of Helsinki, apply for permission to settle in or travel to the Federal Republic of Germany; The GDR has omitted to establish unequivocal and generally applicable rules of law which set out the rights of its citizens. As in the days prior to the CSCE, ambiguous regulations hold out only a vague possibility of permission being granted; some of them have not even been published.

It is irreconcilable with the aims of the CSCE Final Act for the GDR to announce in its constitution and laws, and by publishing the CSCE Final Act, that its citizens "may" apply for a visa to leave the country or settle in the Federal Republic of Germany—only then to punish people who enquire about the administrative channels

they have to go through in order to avail themselves of the possibility, or if they submit applications. And it is also intolerable for citizens who, having submitted applications in conformity with the law, are not even told why their applications have been rejected. As a result of the attitude of the GDR leadership, countless inhabitants of the GDR—the number is put at 200,000—are now in personal difficulty or see their very livelihood threatened; they address urgent appeals to the signatories of the CSCE Final Act not to allow them to suffer for having believed in this document—and hence in the word given by the representatives of Europe and North America.

* * * * *

III. Free speech and freedom of information, as well as freedom of conscience and religion, are still not respected in the GDR:

1. No freedom of thought:

1.1. Contrary to the intentions of Principle VII of the Final Act and to Article 19(2) of the International Covenant on Civil and Political Rights, the people in the GDR are denied the right to express their views freely. As in the past, the dissemination of views unwelcome to the party and the leadership of the GDR carries the threat of prosecution and "social disadvantages". The persons concerned are prosecuted in particular under section 106 of the GDR Penal Code ("incitement against the State"). Any publicly or privately expressed criticism of the social situation, even criticism within the system, can easily be placed in this category. In recent times more and more persons have been prosecuted under this provision for standing up for human and civil rights, or for saying they were applying for permission to leave the GDR because the situation there was not to their liking. They can be sentenced to as much as 10 years' imprisonment. Since the signing of the Final Act, the provisions have been made more severe by the introduction of the second Penal Law Amendment Act of April 7, 1977. According to section 220 of the GDR Penal Code, for instance, anyone who "disparages" measures taken by government agencies or social organisations in public are prosecuted. People who criticise even subsidiary organs of the party and the State can also expect to be charged.

By applying these arbitrary provisions of criminal law, which can be given practically any interpretation, the right of free speech can be reduced to nil.

In fact the mere threat of such punishment creates an atmosphere of fear and lack of freedom. Even writers and artists who are generally in line with official ideology but have criticised certain aspects of the GDR regime have been isolated by the police, arrested, or forced to move from their local community against their will.

Professor Robert Havemann, for instance, the internationally known scholar, has been under strict house arrest in East Berlin since November 1976 on the strength of a court order for protesting to SED Secretary General Honecker against the decision to strip artists and writers of their citizenship, and for expressing critical views in the West German press about conditions in the GDR. Western journalists, and even the Swedish Foreign Minister, have been refused permission to speak to Havemann, who had incurred the displeasure of the GDR authorities as early as 1968 when he protested against the intervention in Czechoslovakia.

The East Berlin economist Rudolf Bahro, although a convinced Marxist and member of the SED, was arrested in August 1977 for criticising the GDR system.

Dr. Hellmuth Nitsche, professor of German, was arrested with his wife in April 1977 for writing to President Carter about violations of human rights in the GDR. He had already lost his chair at the East Berlin Humboldt University in 1974 for voicing criticism and been downgraded to the post of technical school teacher. In September 1977 he was allowed to go to the Federal Republic. In his letter to President Carter in March 1977 he wrote.

"The number of persons who have applied to be relieved of GDR citizenship, invoking the constitution, the United Nations Charter, the Declaration of Human Rights, and not least the Final Act of Helsinki, is estimated at over 200,000. The Government of the GDR cannot cope with this flood of applications. It therefore reacts with dismissals without notice, shameless defamation, interrogation, and other reprisals. Only a tiny few of the applications have been approved. The great majority of applicants have been deprived of their livelihood and attempts are made to "starve' them, in other words to force them to work as labourers for the communist regime by continually rejecting their applications without reason, or simply not dealing with them any more . . .

. . . The GDR's policy of walling itself off from the Federal Republic of Germany has been taken to the extreme. The communist rulers consider it a political crime for someone even to speak of the unity of the German nation. Anyone in the GDR who has the courage to express his own opinion (as 'guaranteed' in the constitution), anyone who invokes human rights or the Helsinki Final Act, is dismissed without notice. Applications to be relieved of GDR citizenship are refused without any reason being given or they are simply no longer processed; they disappear in the bureaucratic apparatus of this State. In fact even people who merely apply to be reunited with their families are forcibly deprived of their livelihood, irrespective of whether they are scholars, artists, or taxi drivers. Slander, outlawing and 'starring' of applicants, these are the methods used by the GDR Government for the past six months and more to stifle the demand by its people for the exercise of human rights . . ."

The Frankfurter Allgemeine Zeitung published in its 30 August 1977 edition a list—still incomplete—of writers and artists who have voluntarily left the GDR or have been deported; it includes for 1975 to 1977 alone:

Reinhardt, Andreas, stage designer.
Biermann, Wolf, writer.
Brasch, Thomas, writer.
Faust, Siegmar, writer.
Hagen, Nina, actress.
Jentzsch, Bernd, writer.
Renft, Klaus, musician.
Schleef, Einar, director, Berliner Ensemble.
Thalbach, Katharina, actress.
Cohrs, Eberhard, comedian.
Dresen, Adolf, director.
Graf, Dagmar, actress.
Hagen, Eva-Maria, actress.
Krug, Manfred, actor, singer.
Kunze, Reiner, lyric poet.
Medek, Tilo, composer.
Fuchs, Jürgen, writer.
Kunert, Christian, musician.
Pannach, Gerulf, writer of political songs.
Nitschke, Karl-Heinz, doctor.
Nitsche, Hellmuth, professor of German.
Kirsch, Sarah, writer.

1.2. Sentences passed on the basis of these penal provisions keep the number of political prisoners in the GDR at a consistently high level. There are at least 4000–5000 prison inmates and others held in custody pending trial, including the 2,500 or so imprisoned for attempting to flee or helping others to do so. Countless dissidents who express their views orally or in writing suffer professional or "social" discrimination. Of late there has been an increasing number of cases of people who support human rights and invoke the CSCE Final Act, the United Nations human rights conventions reaffirmed therein, and the provisions of the GDR constitution relating to basic rights, being prosecuted.

According to reports from many persons having been released from prison, prison treatment in the GDR, even after the signing of the CSCE Final Act, falls short of even the minimum guarantees endorsed in the Final Act and in particular Articles 7 and 10 of the International Covenant on Civil and Political Rights. Many cases have become known in which prisoners have been treated in a manner which grossly conflicts with the requirement of Articles 10, i.e. that "all persons deprived of their freedom shall be treated with humanity and with respect for the inherent dignity of the human person." This applies in particular to strict solitary confinement, usually in the cellar with no more than a plank bed and a blanket. In the daytime there is nothing to sit on; the heating in winter is inadequate. The daily ration consists merely of 200 g bread and a jug of malt coffee or tea, with warm soup without meat only every third day.

Former inmates of Cottbus hard labour prison, for instance, have described the completely overcrowded conditions as follows:

Cottbus prison, which was built for 600, was completely overcrowded in 1975/76. In each cell four beds were placed on top of one another to accommodate about 1,200 inmates. Eighty per cent of them are political prisoners and the last Church service held in the prison was in 1973. Since then there has been no ministerial work in the prison; the prisoners have even been refused a Bible.

Former prisoners of Brandenburg prison tell a similar story. There, too, the cells have three times as many occupants as originally intended. The inmates have to work three shifts round the clock. Their rest period is deliberately disturbed by number calls.

In the second half of 1976 alone, 91 cases of maltreatment in GDR prisons were reported to the Central Office of the Regional Judicial Authorities of the Federal Republic of Germany in Salzgitter, which keeps a record of such cases.

On 5 May 1977, in view of the approaching CSCE review meeting, the GDR introduced a new law on the prison regime. Whether the GDR will actually change its treatment of prisoners, which is known to be both severe and inhumane, remains to be seen.

2. No freedom of information:

2.1. Contrary to Principle VII of the Final Act and the human rights conventions reaffirmed therein, the GDR Government restricts the right to free information. Its laws and their practical application are in contravention of Article 19 (2) of the International Covenant on Civil and Political Rights, according to which everyone is free "to seek, receive and impart information and ideas of all kinds regardless of frontiers, either orally, in writing or in print, in the form of art or through any other media of his choice".

The GDR makes the statutory restriction permissible under paragraph 3 of this article the rule and thus reduces to nil the essence of the right to free information:

The purchase of Western literature is as good as forbidden since the GDR has placed an "Import ban" on

Newspapers and other periodicals not contained in the postal newspapers list of the GDR;

Calendars, almanachs, yearbooks and lists of addresses;

Records, in so far as they are not classical works or genuine modern works; magnetic tapes and other sound carriers;

Literature and other printed matter "the content of which is inimical to the preservation of peace or the import of which is in any other way inconsistent with the interests of the socialist State and its citizens".

The postal newspaper list of the GDR does not contain any non-communist newspapers. The last part of the above enumeration, which is taken from the GDR information bulletin "Information on Customs and For-

eign Exchange Regulations of the GDR" of November 1976, is used more or less as a general ban.

2.2. Contrary to the declaration of intent in Basket III of the Final Act on "improvement of working conditions for journalists" and of the exchange of letters of 8 November 1972 "on working possibilities for journalists" (in connection with the initialling of the Basic Treaty between the two German States), the GDR Government has even gone so far as to expel the West German journalists Mettke (1975) and Loewe (1976). In spite of complaints by the persons concerned and the Government of the Federal Republic of Germany, it has not given any reasons for their expulsion as required under part 2 (c) of Basket III of the Final Act. Again, the personal contacts between journalists and their sources of information envisaged in the same provision are severely restricted, if not prohibited altogether, as in the case of contacts with even communist writers like Professor Havemann, though they are critics of the regime.

3. Discrimination on account of the Christian faith; Principle VII of the CSCE Final Act reads in its paragraph 1: "The participating States will respect human rights and fundamental freedoms, including freedom of thought, religion or belief, for all without distinction as to race, sex, language or religion." Article 18 of the International Covenant on Civil and Political Rights, which was reaffirmed in the Final Act, guarantees the right to freedom of thought, conscience and religion, including religious worship, and the freedom of parents to ensure the religious and moral education of their children in conformity with their own convictions. Other articles prohibit discrimination on religious grounds (Articles 2, 24, 26). The actual situation in the GDR contrasts sharply with these guarantees of religious freedom. True, on the surface religious services and other rites appear to be subject to few restrictions, but on the outside, this being a strictly internal Church matter, government and party organs are very carefully and persistently striving to assert their atheist ideology absolutely. The struggle against Christianity is conducted in "an atmosphere of quiet determination", in the words of a Protestant regional bishop. From the cradle to the vocational school, children are exposed to an intensive atheist influence which is complemented by pressure on their parents. Teachers are committed to the educational principles of the official State ideology, which embrace active atheist, anti-religious propaganda.

Moreover, children are made to fear possible discrimination when they later start work. They are told that they are spoiling their future chances by professing Christianity and attending religious lessons, receiving Communion, or being confirmed. Moreover, Christian instruction, which is in any case only possible outside school hours, is made increasingly difficult because of the heavy physical strain on the children, who have to take part in "working groups" and other activities organised by the school or the party, precisely with the aim of excluding Church influence. In townships where all-day schools have already been introduced, regular Christian instruction is hardly possible. Parents who are considered prone to influence are put under pressure by teachers, on the instructions of the local party secretaries, not to allow their children to attend religious lessons or preparatory instruction for Confirmation; otherwise, they are told, their children would face serious disadvantages later. Parents are urged not to have their children baptised but to prepare them for their "dedication to a socialist way of life". Party and government departments work closely together in the fight against Christianity. The slogan drilled into members of the SED's children's organisations, the "Young Pioneers" and the "Thälmann Pioneers", is: "a pioneer does not attend Christian lessons".

At district level there is a "Youth Dedication Committee" which co-ordinates agitation against Christianity. Many cases are known of parents who have their children taught the Christian faith being called in by the works or group leader and having to undertake not to allow their children to be confirmed, on penalty of discrimination at work. They are told that the "dedication of the young" is the expression of a political attitude and that it alone conforms to the new type of "socialist personality". For some time now, assessments of school leavers (after the 10th year) have been supplemented by an internal remark: "took part in the youth dedication", or "took part in only the youth dedication". If they are confirmed they have little chance of obtaining one of the highly coveted apprenticeships. The children of Protestant pastors are in the worst position.

Further training is increasingly being made dependent on the person concerned leaving the Church; in the case of married persons, the next step is to insist that the whole family leave. And in some trades applicants must sever their ties with the Church before they can be appointed. The "decree on canditure, selection and admission to direct studies at universities and institutions of higher education", dated 14 July 1971, states as a prerequisite for admission "active participation in the development of the socialist society and a willingness to play an active part in the defence of socialism." Young persons with religious ties are not considered to have the ideological awareness necessary for this. Pressure on children is furthermore intensified by exposing them to ridicule.

* * * * *

The advantage to be gained by early withdrawal from the Church lies in better occupational opportunities and preferential treatment in the allocation of flats for young married couples. And by giving money and other gifts to those who dedicate themselves to the socialist way of life, the SED tries to make these socialist ceremonies popular.

Anti-Church activities are conducted with differing degrees of intensity. In the spring of 1976, the heads of the SED associations in districts that still have a relatively high proportion of Christians were reprimanded by the party central committee. Since then the fight against the Christian Church in those districts has been noticeably stepped up.

In August 1976, the Protestant Pastor Oskar Brüsewitz committed suicide by self-immolation in the market place of his home town of Zeitz and thus drew world public attention to the desperate situation and lonely martyrdom of many young Christians in the GDR in particular. On a placard he had written the words: "the Churches accuse communism of supressing the young".

IV. Bringing up young people to hate: In contrast to the Principles of the Final Act, which express the political will to improve relations between States, to foster the solidarity of peoples, and to overcome mistrust, the political leaders in the GDR have not desisted from their policy of educating young people to hate the "imperialist enemy". In GDR schools, during pre-military training, and in the political youth organisations, with the support of literature and statements by political leaders, young people are taught to hate the alleged "class enemy". Without regard for the demands embodied in the Final Act, the Chairman of the GDR Council of State, Erich Honecker, speaking at the 9th SED Congress on 18 May 1976, confirmed "irreconcilable hatred of the enemies of the people" as being the political guideline for the education of young people. The Chairman of the Council of State has thereby followed up his previous constant advocacy of teaching hatred, which he derives from the "irreconcilability of socialism and imperialism". The GDR's Minister of Defence, General Heinz Hoffmann, also disregarded the Principles of the Final Act when, at a ceremony to mark the 20th anniversary of the National People's Army on 28 February 1976 in East Berlin, he stressed that the result of this government policy was that the party (the SED) had taught millions of citizens "to hate the enemy". This was part of a sequence of guidelines for training, countless speeches, and routine orders to units of the National People's Army. Thus, for instance, addressing cadets about to leave the GDR military academy immediately before the initiating (8 November 1972) of the Treaty on the Basis of Relations between the Federal Republic of Germany and the German Democratic Republic, he underlined the need to teach young people "to hate imperialism and its rotting social system". To do so, he said, it was not sufficient "simply to reject and hate imperialism as a system; that hatred must be directed in particular against all those who stand ready to attack us under the command of imperialist generals and officers".

In teaching young people to hate in this way the GDR's leaders leave no doubt as to the object of their hatred. Since the social system is the State's substructure, the alleged "imperialist enemy"—though a more moderate tone appears expedient—are those States with a different social system, in other words the democratic States of the West who signed the Final Act. It is incompatible with the aim of fostering international friendship and solidarity as embodied in the Final Act to fill the hearts of young people with hatred of the people and the leaders of other States. Avowals of peace and security in the Final Act become mere lip service if the intransigent struggle remains part of the ideological concept.

The GDR has no serious intention of giving effect to the Final Act of Helsinki: The fortifications put up by the GDR running right through the middle of Germany and the use of the armed forces and military equipment against civilians trying to cross them are utterly incompatible with the principles of humanity and the aims of the CSCE Final Act. These inhuman fortifications and the instructions given to border guards to shoot to kill make nonsense of the notions of "security" and "co-operation" and block the path to the goals inherent in the name of the Helsinki Conference.

Only if the use of military weapons against civilians in the form of mines and shooting devices were discontinued and the "orders to shoot" cancelled could one take it as a sign that the GDR seriously intends to pursue these aims. The GDR Government would only give proof of such intention to meet the requirements of Principle VII of the Final Act and allow the exercise of the individual rights embodied in Article 12 of the International Covenant on Civil and Political Rights if its authorities were to take specific steps to grant free movement pursuant to Article 12(2) of the Covenant instead of making the exception contained in Article 12(3) the rule. The granting of permission to travel to the West only to people in retirement and the issue of exit visas in but a few cases conflict with the dictates of international law.

URBAN POLICY AND JOBS

Mr. DOLE. Mr. President, I invite the attention of my colleagues to a speech given by Jerry Wurf, president of the American Federation of State, County, and Municipal Employees, before the National Press Club yesterday.

Mr. Wurf's speech was on urban policy and related matters. I would like to highlight his statement rejecting the "concept of Government as the employer of last resort." He further notes that the Federal Government should concentrate on the creation of good jobs in the private sector—a view which I share.

Likewise, his other views on urban policy should be of interest to my colleagues. Mr. President, I ask unanimous consent that the speech be printed in the RECORD.

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

URBAN AMERICA: THE CRISIS NEED NOT BE PERMANENT

Almost to the point of monotony, we have catalogued the details of America's urban miseries, talked about our insights, and debated our solutions. But on the whole we have approached the urban crisis as a permanent emergency. We have defined the problem as essentially one of poverty. Sometimes competently, and sometimes ineptly, we have tried to respond to the problems of the poor. To be sure, it's the poor who deserve our great and immediate attention. But the heart of the problem is not pain. It is comfort, and even affluence.

I am here to tell this audience that reasonable effort to help the dispossessed cannot succeed without reasonable effort to help and respond to the needs of the middle class.

From time to time, partial solutions and emergency measures have helped to assuage the pain of urban decay. Revenue sharing, countercyclical assistance, targeted community development grants, the CETA program and other federal initiatives have helped us fight important battles. But we are losing the war.

Funding has been inadequate. Inadequacy has been compounded by waste. Federal aid has not been targeted narrowly enough. Most importantly, we have not evolved a coherent program.

If these are truly united states, and not the semi-autonomous demi-nations which existed under the Articles of Confederation; if we are truly a nation and not a loose collection of loners; we must pursue a determined effort of national work for the revival of our hard-pressed cities.

The cross-cutting problems of urban blight are not only a cruel infliction on the urban poor. They are also a powerful force which is driving the moderate income-earner into the suburbs and carrying hopes for recovery with him. We can't repair the fabric of urban blight without unraveling and reweaving the whole cloth.

That kind of effort demands leadership, national coordination, rational planning, and prudent strategy.

As President of the nation's largest union of public employees, I reject the concept of government as the employer of last resort. This theory, this slogan, is a sure and proven loser.

Public jobs are vital; but public employment cannot work as a system of welfare.

This is a capitalist society. It is unreasonable to expect such a society to work without capital. The availability of private sector jobs is a prerequisite for the health of American cities as well as the foundation of a prosperous American society.

Do not misunderstand me. Our cities must deliver high quality, high volume public services which educate, house, provide safety, and recreation, and deliver all the other amenities which will keep the middle class in Metropolis or lure them back.

It is just that private sector employment must be the linchpin of true urban recovery and incentives for private investment are the key to a workable program of urban progress.

The cities are lacking two kinds of investment—investment in the physical capital of factories, equipment, and buildings; and investment in the human capital of job training, education, and health care.

We can aim for mere survival or we can work to rebuild a truly vital urban environment.

The present need for assistance to the indigent should not disguise the need for a long-range solution. In the long run, the present recipients of inadequate largesse must be integrated into the mainstream of our society.

By and large, we have taken a Ward-of-the-State approach to solving the urban crisis. If we choose, we can continue to follow that course. The city can be tethered to a federal life support machine. Food stamps and welfare payments can be funneled in through tubes. Artificially created public sector jobs can project the illusion of useful employment. Inadequate food, shelter, and clothing can be pumped in through the umbilical cord.

That kind of system may keep the cities breathing. But there will be no life there, no vitality, no share in the commerce, pride, and dignity of our national community.

The long-range solution demands more. It demands the revival of self-sufficiency in our once-great urban centers. Private investors have abandoned the cities in droves, taking jobs and opportunities with them. Government policy has encouraged and rewarded that trend.

It is a trend which must be diverted. That is why the stimulation of commerce, industry, jobs and a reasonable, safe environment in the hardship cities is crucial to urban recovery.

Not long ago, the citizens of Redding, Connecticut faced a terrible dilemma. Should $69,000 in revenue sharing funds be spent on a bridle path, tennis courts, or a new dog pound? I think Redding should be spared such painful decisions and Redding is not unique.

Every community would like a sizable share of the federal government's largesse. But the fact is that every American community, including Redding, will share in the rewards of federal urban investment.

The problem is not a regional one. Cleveland, New Orleans, and Boston have many things in common, but geography is not among them. An investment in urban recovery is a national investment, not a fragmented form of foreign aid.

Even in the Sunbelt, and the West's still prosperous cities and states, the ripple effects from outside and the signs of decay from within are beginning to appear.

So far, targeted federal aid and incentives for private investment in jobs have failed to dovetail in a seriously funded and wisely coordinated package.

In the 1960's many thousands of middle class Americans fled the cities. But from 1970 to 1975 alone, more than twice as many followed. It was urban blight in all its manifestations which drove them away.

Property taxes are fundamentally regressive; but property taxes account for 60 percent of all local government revenues. Moreover, a further portion of the local load is carried by other regressive taxes on sales and even wages. As moderate income earners flee such burdens, the tax base diminishes.

The cost of delivering public services actually increases. Taxes are hiked again. More taxpayers leave. More jobs disappear. The tragedy deepens.

From 1970 to 1975, Cleveland lost almost 30,000 manufacturing jobs. Saint Louis lost 69,000. Philadelphia lost 76,000.

Twenty years ago, the federal government sent Cleveland only two cents for every tax dollar raised locally. Today, Washington matches each of Cleveland's tax dollars with more than sixty cents. In 1957, Detroit got only a little more than one federal cent for every local tax dollar. Today, the figure is almost seventy-seven cents.

Through the growth of urban dependence on federal aid, and through the federal government's potential to make and influence policy, our national leaders have been given powerful leverage. That leverage must be used. The delivery of federal dollars must be matched by Washington's insistence on progressive state and local taxes. It must also be matched by sounder economic and political judgment than we have been getting.

In 1976, Mr. Carter castigated the Republicans for failing to devote sufficient funds and attention to the cities. He also made a precise, unequivocal, and certainly unprecedented campaign pledge: "I will never tell New York to drop dead."

The President has refrained from wishing death on that city, just as he has refrained from producing an effective long-range strategy for revitalizing it.

Mr. Carter made another campaign promise, a pledge to undertake a "massive effort" for the "revitalization of the cities." But after the votes were counted, the President's first State of the Union Address gave the cities one sentence.

In 1976, Mr. Carter sought votes by calling for more aid to state and local governments. But in 1978, the President proposed a meager 6 percent increase.

Under the Administration's own inflation estimates, that amounts to a real dollar increase of zero.

In 1976, Mr. Carter insisted that military spending should be cut by $7 billion. As President, he urged the Congress to increase military spending by $10 billion, arguing that Jerry Ford would have made it $17. That rationale is not convincing.

Barry Goldwater admires the President's frugality but I doubt that he voted for him. Millions of black people, poor people, unemployed people, and people who work at low-income jobs did.

They deserve his attention and compassion. Most importantly, they deserve his determination to bring them into the mainstream of our communities.

After eight years of ill-placed Republican parsimony, President Carter's budget calls for a real dollar domestic spending increase of only 2 percent. In a word, ladies and gentlemen, that is an absurd preparation for the "massive effort" we were promised.

It also appears that the President's thrift is unlikely to be mitigated by brilliant strategy.

He has called for a $25 billion tax cut; but he has failed to suggest that tax relief be targeted to families with unfair tax burdens.

He has courageously tackled the welfare fiasco and proposed some sound improvements. But the jobs portion of his reform package was unworkable and counterproductive.

He has argued that private sector jobs will blossom when his economic policies produce a magic 5.6 percent unemployment rate by 1981. But boosts in national employment are not evenly distributed, particularly in the hardship cities. Things won't change until federal funds and recovery programs are funded fully and targeted wisely.

I don't question the President's credibility, nor his intention to fulfill his promises. I question his timetable.

Let us not forget the responsibilities of the Congress. It takes statesmanship for a farmbelt Senator to vote appropriations which flow to distant cities.

It takes leadership for a Congressman from Oklahoma to sell his constituents on the need for investments in Newark; or even in Texas, for that matter.

Under Presidents Nixon and Ford, Congress increased aid to state and local governments by 16 percent each year. In the absence of sensitive leadership from Nixon and Ford, it appears that Members of Congress were willing to shoulder important burdens. Let's hope that some of this willingness survives.

The President's responsibilities for drawing up a workable urban agenda are clear. The need of Congress to respond is obvious—and it is utopian to ignore that there are real problems here.

I would argue that there are seven key elements to an effective urban agenda. Congress and the Administration must deal with each of them in order to respond effectively to the urban disaster.

First on the agenda is the need for federal tax policies capable of encouraging private, job-producing investments. Federal property tax relief can create a tax advantage for living and working and building in the city. A system of increased differential tax credits can stimulate commercial investment, encourage the influx of new business, and persuade existing businesses to stay. We need an investment tax credit of 20 percent for blighted urban locations. Special emphasis can be placed on the rehabilitation of old homes and businesses and on the generation of new urban jobs with training at all levels of skill and endeavor.

Second on the list is the need for new and more effective public manpower policies. The need for a beefed-up CETA program is an important corollary to the demand for private sector jobs.

In the largest 48 American cities, CETA accounts for more than 16 percent of the urban public workforce. The CETA program keeps many of those cities in business. That program should be expanded and targeted to address both the structural and cyclical elements of high urban unemployment. Now, if someone in this audience should get up and shout that this is nothing more than additional revenue sharing, I'd agree. It's also a far superior alternative to the barren life-support system I condemned a few minutes ago. CETA should put 300,000 permanent public sector jobs on line and target them to the cities most in need.

Third on the agenda is the need for more sharply focused federal aid to state and local governments.

General revenue sharing funds are spread too thin and targeted too broadly. Countercyclical assistance is funded too meagerly, but targeted very well. That program expires in the fall. It must be renewed and increased.

Fourth, federal grant formula must be constructed more carefully. State and local governments are ill-prepared to revise programs, plans, and tax systems without Washington's support and encouragement. Such revisions must be made. Federal grant formulas should reward progressive taxes and investment incentives which can help stem the hemorrhage of jobs from the hardship cities.

Fifth, the gross inefficiency of existing tax policy on state and local bonds must be corrected. Interest on those bonds is currently exempt from federal taxation. In the fiscal year 1978, that exemption will cost $6 billion.

Only two-thirds of this expenditure will actually go to the relief of states and cities. The rest will further enrich wealthy investors. To redress that injury, the federal government should institute a taxable bond option with direct subsidy from Washington back to the local or state jurisdictions for up to 40 percent of the cost of borrowing.

Sixth, President Carter's welfare program is seriously flawed and must be repaired. Welfare costs for many cities and states are enormous. On the campaign trail, Mr. Carter favored lifting that fiscal burden. But under the President's plan, no relief at all is due till 1981. Even then, Washington will pick up only a portion of the tab. Moreover, the smallest portion of relief is slated for states and cities with the heaviest welfare costs.

Seventh, and finally, the direct relationship between fouled-up city pension plans and declining fiscal solvency must be effectively treated.

State and local pension systems suffer a total unfunded liability of more than $300 billion. More than four years after the birth of ERISA, we still have no "governmental plan" of regulation. Four million state and local government workers have no Social Security coverage. Many of them rely on underfunded public pension plans which may ultimately fail the workers or bankrupt their communities.

The public pension fiasco demands strong federal oversight. It is a powerful argument for universal Social Security coverage.

These federal initiatives and others like them will not come cheap. The cost will be very high indeed. But a failure to make that investment will cost far more.

Our government has been prepared to prop up a community when the military abandons the local air field, or the Interior Department expands a National Park, or a defense contractor goes down the tube. We owe the cities and states no less. We owe them a chance to make it. The nation's future is tightly wrapped up in theirs.

When private corporations invest their money in South America, the Overseas Private Investment Corporation insures them against the loss of their property. That kind of protection is not available to those who risk their investments in the South Bronx. Are foreign earnings for a few entrepreneurs more important to this nation than the health of its own communities?

One of President Carter's recent initiatives has been the proposal of a $25 billion tax cut. One half of those revenues can serve as a down payment for repairing this nation's declining cities.

Whether we are city dwellers or suburbanites, the future of the cities will impact our future. Whether we live in New York or New Mexico, the fate of Harlem and Bedford-Stuyvesant will help determine our fate. Whether we are rich, poor, or part of that ubiquitous middle class, the health of America's urban communities will influence the health of our communities.

We can't close our eyes, seal our borders, roll up our windows when driving through the blight and expect that the cancer will not spread one day to our own doors. It must be stopped. It must be eradicated.

CAMBODIAN CARNAGE: AN ADMINISTRATION OVERSIGHT?

Mr. DOLE. Mr. President, when President Carter took office 14 months ago, there was a good deal of talk about a commitment to advance the cause of human rights throughout the world. In retrospect, it appears that the least attention by the Carter administration has been given to the worst offender: the Communist Government of Cambodia. Despite the fact that one of the most savage crimes against humanity in modern times is underway in Cambodia today, little attention or concern has been directed to the situation. The silence by our own Government regarding the brutal conditions is deplorable.

We have heard much about human rights violation in the Soviet Union and South Africa. The President has publicly deplored conditions in Chile and South Korea. We have even managed to focus a little attention on violations that exist within Panama, during the current treaty debate.

But where is the concern and the action that the Cambodian situation deserves?

A SAVAGE SOCIETY

In its overbearing efforts to restructure Cambodian society after the fall of the democratic regime in 1975, the Communist regime instituted a primitive and barbaric agrarian society that has no equal in the modern world. Literally millions of Cambodian people were driven from the cities into the countryside, to undertake forced labor at the behest of the regime. Schools and universities were closed, and cities became villages. According to State Department testimony before the House Foreign Relations Committee last year, "Tens if not hundreds of thousands" of Cambodians have perished under the Communist regime. Many have been slaughtered. Others have died of disease or malnutrition. The Cambodian situation has been appropriately compared to the death camps of Nazi Germany, and the excesses of Stalinist Russia.

I recall the widespread outrage that prevailed when President Nixon sent American troops into Cambodia in the spring of 1971, particularly among many of my colleagues who still sit in this body. Where is that righteous indignation today? We have heard much in recent months about the Indochina refugees—the destitute persons who have been able to flee the Communist brutality. Their situation deserves attention. But it is those who remain in Cambodia that need help most urgently. It is they who deserve the commitment of the free world to work for their relief.

Most of all, they need the commitment of the President of the United States. and of the Secretary General of the United Nations, to direct unrelenting attention to the atrocities which shock the sensitivities of mankind. Is it really possible for so brutal a situation to be virtually ignored by those in whom the conscience of the free world is vested? If human rights is to be anything more than a mere excuse for moral posturing, then certainly the Cambodian situation deserves whatever efforts President Carter and Secretary General Waldheim can muster for its relief.

DOLE RESOLUTION

Mr. President, last November I proposed Senate Resolution 323, denouncing the disregard for basic human rights by the Communist Cambodian regime, and calling upon the President to take effective measures to register the concern of the American people about the Cambodian repression. Twelve of my Senate colleagues joined in cosponsoring that resolution, including Senators McCLURE, GARN, HELMS, CASE, HAYAKAWA, GOLDWATER, GRIFFIN, PROXMIRE, HATCH, NUNN, LUGAR, and CRANSTON. I remain hopeful that the Senate Foreign Relations Committee will conduct hearings and favor-

ably report this resolution during this session of the 95th Congress. The House of Representatives has already approved a similar resolution, and I believe this action will effectively register the legitimate outrage of Congress and the American people over the carnage in Cambodia.

Recently, the former minister of information for Cambodia during the Lon Nol regime presented a series of lectures in Wichita, Kans., illustrating the seriousness of the barbaric conditions in Cambodia today. Mr. Chhang Song delivered a persuasive appeal for American attention to the matter, and was instrumental in the subsequent formation of a "council for human rights" in Wichita which will study the Cambodian situation, and the prospects for its relief, during the coming months. I believe Mr. Chhang's appeal deserves careful consideration by the President and by every Member of this Congress.

Mr. President, I ask unanimous consent that the text of Mr. Chhang Song's paper, "Human Rights and Cambodia," may appear in the CONGRESSIONAL RECORD at this point, along with a column by Mr. William F. Buckley, Jr., "Where Is Mr. Carter on Cambodia?," which appeared in the Washington Star on March 16, 1978.

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

HUMAN RIGHTS AND CAMBODIA

The Preamble of the United Nations' Universal Declaration of Human Rights reads as follows:

"Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people.

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law . . . and . . ."

We need go no further. In Cambodia, all these noble sentiments and lofty principles are flagrantly violated every hour and minute of every day. The new communist Cambodian national anthem sets the tone for today's Cambodia: "The red, red blood splatters the cities and plains of the Cambodian Fatherland . . ."

For almost three years, the terrible, heartrending cries for help from more than two million victims, men, women, and children in Cambodia have gone unheard. Let us examine some of the chief articles in this noble document, the United Nations Universal Declaration of Human Rights, and compare these with the facts of life in "the new Cambodia."

Article 3 states: "Everyone has the right to life, liberty and security of person." Among the several authoritative accounts of the events that have transpired during the first three years of the Khmer Rouge communist rule in Cambodia is a small book entitled "Murder of a Gentle Land" by Reader's Digest editors and authors, John Barron and Anthony Paul. Mr. Barron was also a witness at the Frazer Committee Hearings on Human Rights in Cambodia. Authors Barron and Paul interviewed, in great detail and depth, more than three hundred refugees from Cambodia who escaped to neighboring Thailand. These refugees all paint the same, terrible picture.

Immediately following the communist take-over in Cambodia, all the cities were emptied of their populations. Those who failed to heed this order were shot on the spot. If you can imagine the entire population of Kansas, some 2½ million persons, suddenly ordered into rural concentration camps, you have the picture. More than three million persons in Phnom Penh were forcibly evacuated in a brutal march under a scorching sun. And April is the hottest month in Cambodia. They had neither water, food, shelter nor medicines. Many children died along the crowded highways out of the city. Many others, especially the old and the sick, died. It was a brutal, primitive emigration and unnumbered thousands perished. It was a symbol of even worse things to come.

The explanation given by Khmer Rouge authorities for this act of cruelty was that the Americans were going to bomb Phnom Penh and the population would have to scatter into the countryside. However, everybody would be allowed to return to his home in three days. Thus, "life, liberty and security of person" were murdered within hours of the communist takeover in Cambodia. They have never been resurrected. Phnom Penh today is a ghost town of less than 20,000 persons. All the other cities in Cambodia are equally dead. Cambodia is a nation without cities! It is a nation where "culture" and "civilization" are dirty words. "Cities," to the new communist leadership in Cambodia, are considered "evil," "bourgeois" and "negative" influence.

Article 4 of the Universal Declaration of Human Rights states: "No one shall be held in slavery or servitude; slavery and slave trade shall be prohibited in all their forms." The entire Cambodian population lives in a state of servitude. The "new Cambodia" makes a mockery of this article. The yoke of the people in Cambodia is heavy. Work days begin at 5 A.M. and end, frequently, at 9 P.M. There are long indoctrination sessions that run late into the evening. Tiny children, the elderly, women, all work in the fields. Armed guards watch them labor. The simplest of medicines to relieve their suffering and pain are non-existent. Malnutrition and sickness is endemic to the entire population. Cambodians are slaves in the new, Twentieth Century model.

Article 5 states: "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment." All available evidence suggests that the new administration in Phnom Penh matches the worst excesses of Hitler's Germany and its treatment of the Jews. Let us look at the sorry record in Cambodia.

Evidence points to December 1975 as the date when a grim order went out from the Khmer Rouge high command. "Execute all army officers ranked lieutenant and above, and all civilian officials who held significant responsibilities in the old regime, together with the families of these enemies of the people."

Refugees from Battambang in western Cambodia describe hundreds of former officers of the government forces (F.A.N.K.) assembled in a school building under the pretext they were to greet Prince Sihanouk. There they were bound, loaded onto trucks and gunned down outside the city. These were fortunate. Most refugee accounts attest to the fact that, to conserve ammunition, Khmer Rouge executioners frequently switch to the more economical method of dispatching their victims by breaking the back of their skulls with a grubbing ax. Other refugee accounts describe victims tied together and buried alive by bulldozers, or executed through the device of plastic bags tied around their heads until they suffocated.

Other evidence points to January 1976, as the period when the new regime issued its most wide-reaching order for extermination. Anyone with an education, anyone from the grade of private on up in the old government forces, anybody connected in whatever way with the old regime, became a target for elimination. Doctors, engineers, technicians, teachers, students, disappeared in the new wave of retribution. Hunger and disease added to the staggering toll in suffering. It is a purge that has carried away wives, grandfathers, tiny infants. There are few parallels in modern history unless we return to the worst excesses of Stalin in Russia, Hitler in Germany, landlord trials in communist China or tribal genocides in Africa.

By mid-1977, two years after the onset of these disasters in Cambodia, the U.S. Congress issued a statement condemning these atrocities in Cambodia. The Department of State was equally delinquent in taking a position on the barbarism in Cambodia. And this in spite of the fact that the Department's "Cambodia watchers" in Bangkok had been continuously documenting the terrible excesses in Cambodia. In mid-1977, the Department's Richard Holbrooke, Assistant Secretary of State for East Asian and Pacific Affairs, acknowledged to the Frazer Committee on Human Rights in Cambodia that the number of Cambodians who have perished under the Khmer Rouge regime "appears to be in the tens if not the hundreds of thousands in Cambodia."

Article 6 of the Universal Declaration of Human Rights states: "Everyone has the right to recognition everywhere as a person before the law." Article 7 continues in the same vein. There is only one law in Cambodia today and it bears the name "Angkar." Angkar means "the organization." It is a word designed to strike fear in the hearts of Cambodians. Central authorities in Phnom Penh issue their directives in the name of "Angkar." The lowliest Khmer Rouge peasant soldier, as he leads an innocent victim to death, will inform him, "Angkar wants to re-educate you." "Angkar" is the power of life and death. "Angkar" is omniscient, omnipresent and "omnicruel." No one has rights before "Angkar." Nor is there further appeal. There are no prisons in Cambodia since all mistakes are fatal.

It would be possible to continue through each of the remaining articles of the Universal Declaration of Human Rights and catalogue the violations and sufferings of the Cambodian people. In the name of the long-suffering Cambodian people, I accuse the Government of Democratic Kampuchea of the grossest violations of each and every one of the thirty articles of the United Nations Universal Declaration of Human Rights. A misguided group of political fanatics have decided that their solution to the "purification" of Cambodia is to destroy every vestige of the Khmer civilization, both ancient and modern, and return Cambodia to a "native," agrarian state. The symbol of a "pure agrarian state" in Cambodia is a picture of an entire nation toiling from dawn to dusk under the guns of guards.

Religion is dead in today's Cambodia. Most religious leaders have been executed. These were accused of being "parasites" and "preaching the gospel of an imported God." Temples and churches are closed.

There are no schools in "the new Cambodia." There are no universities. Children are taught to sing revolutionary songs. They are "graded" according to their revolutionary zeal and their ability to uncover "individualistic tendencies" among their own family members.

Love is an alien word in the Khmer Rouge lexicon. Numerous refugee accounts cite examples of young people who have been executed for displaying signs of affection toward each other.

The market system and even the currency have been abolished in Cambodia. "Marketing" has been judged to be a "capitalistic, imperialistic" method of exploitation. Salaries might create class inequities since those able to set aside savings could become the future exploiters. The few factories still in operation are kept running by an estimated one thousand Chinese technicians.

There is no freedom of movement in Cambodia. Unnumbered thousands of Cambodian refugees have been killed either by Khmer Rouge patrols or mines, in their attempts to escape to Thailand. These unfortunate victims "voted with their feet." An escape attempt from Cambodia is one of the most hazardous undertakings in the world. The figures prove it. Of the 100,000 Indochinese refugees in camps in Thailand, only 10,000 of these are Cambodian.

There are refugee accounts of cannibalism in some of the most impoverished areas of Cambodia. Many mothers no longer have milk in their breasts for their children. Other Cambodian women no longer have their menstrual cycles. Based on some estimates, it is believed that there may be as few as ten percent males in the two-thirds of the population that came under communist control after the fall of Phnom Penh.

Most of the leadership of the "new Cambodia" is French educated. There is savage irony in the ideals of French and Marxist philosophical thought perverted to the genocide that has transpired in Cambodia! Khieu Samphan, Ieng Sary, Salot Sar alias Pol Pot, Son Sen . . . these are the men who must be held accountable for one of the worst crimes of the Twentieth Century.

It is a sorry reflection on the state of our world that, with all its lofty principles and noble objectives, the United Nations has chosen to remain silent on the terrible crimes committed in Democratic Kampuchea. And, the trials of the Cambodian people are now compounded by a new threat, this time to their national integrity. I refer to the invasion of Cambodia by Vietnam . . .

There are several theories on the origin of the Vietnamese-Cambodian border conflict.

1. It is a manifestation of the traditional ethnic rivalry between Khmer and Vietnamese. Since the Tenth Century the Vietnamese have been expanding south and west at the expense of the Khmer peoples, in a search for fertile land to feed an ever-growing population.

2. It is a "war by proxy" in which the Chinese and Russians are backing their Southeast Asian "clients." In this case, the Soviets have thrown their support to the Vietnamese while the Chinese support the Cambodians. Ultimately it is the Soviets or the Chinese who will dominate Southeast Asia and the strategic waterways of the area through the success or failure of their smaller surrogates.

3. It is a drive for hegemony and the final annexation of all Indochina by Vietnam. Either through military occupation or the installation of pliable, puppet regimes in Laos and Cambodia, the powerful, united Vietnamese state is now in a position to dominate the entire Indochina region.

While I hold that there are elements of arguments 1 and 2 in the present conflict, I lean strongly towards argument 3 as the essential explanation.

With more than one-third of the seven million population of Cambodia decimated by mass purges, disease and starvation, and the balance of the populace working at subhuman standards, any change that would mean liberation from the cruel and bloody grip of the Khmer Rouge would be welcomed by the people of Cambodia. While periodic reports from the hermetically-sealed Cambodian communist state have pointed to sporadic internal revolt and resistance, there is no evidence that the efforts of internal dissidents and rebels have met with any degree of success. At the same time, most Cambodians probably fear that the combination of disasters from within and without may spell the end of the Khmer civilization.

In his final testament to the Vietnamese people, Ho Chi Minh said, "We will take all Indochina." The present flag of Democratic Kampuchea is that which was handed to Khmer Rouge leaders Ieng Sary and Saloth Sar in Berlin in 1951 by the Vietminh. Ieng Sary, Vice Premier for Foreign Affairs, is himself a Vietnamese immigrant from South Vietnam. He has been quoted as saying, "What good is it to maintain borders between Cambodia and Vietnam? Why maintain an independent Cambodia within a socialist Indochina?"

If the present trend continues, the Cambodian people may soon become an extinct species. Those who do survive may find themselves identified merely as one of the several ethnic minorities in a "Greater Vietnam." Hanoi has forty years of experience in revolutionary warfare. When annexation is complete Vietnam will move into Cambodia not as a "conqueror," but as a "liberator" and demonstrate once again its skillful use of propaganda.

TOWARD A SOLUTION

I have a commitment with myself. I will not rest until the disasters that have befallen my people are well known and understood by the peoples and governments of our world. I am here in the United States because America still represents the last great hope for Justice and Fair Play in the World. America was built by peoples who themselves were fleeing tyranny and oppression.

I am thoroughly familiar with the divisions in American society that took place during the Vietnam War. Desperate though the situation is I am not suggesting a military action to free the enslaved people of Cambodia. On reflection, though, it does strike me that wars have been fought and military actions undertaken over far more trivial causes than the enslavement and genocide of a people. What I am now asking is that the American people join me in launching a peace offensive aimed at saving the pitiful remnant of the Khmer people, their culture and civilization, before these are totally destroyed by the barbarism from within and the new attacks from without.

I am urging the American Congress to enunciate a strong, unequivocal policy directed at ending the terrible suffering of the Cambodian people. I am asking individuals, organizations and governments of good will and dedication to the principles of Justice and Human Rights to join forces and find the means to ensure that the cry for help from the Cambodian people will not continue to go unheard.

Those organizations whose raison d'etre is to alleviate human suffering should have been the most vocal in their efforts to assist the people of Cambodia. Where were they? Why the deep silence of these and others towards the terrible three years of atrocities in Cambodia?

The United States has already demonstrated its devotion to the principles that have made it a great nation through the acceptance of one hundred and fifty thousand Indochinese refugees. I believe that these future citizens will prove their worth in the years ahead. They will add to the already-rich fabric that is part of the American civilization. But now it is time for the United States to play a more active role in seeking measures that will guarantee the survival of the people of Cambodia. In a real sense the lot of the people of Cambodia can be compared to that of the passengers on a hijacked airplane. The hijackers are a group of international criminals who have shown their utter contempt for any standards of decency and "normal" behavior.

An international conference to examine the horror and gross inhumanity in Cambodia would appear to be the very minimum effort required by the international community. Steps to end the Vietnamese incursion into Cambodia would be a by-product of such a conference.

Finally, I bring to you a message from the people of Cambodia. It was carried, at great risk, by a recent Cambodian escapee: "Save those of us who are still alive before it is too late."

[From the Washington Star, March 16, 1978]

(By William F. Buckley, Jr.)

WHERE IS MR. CARTER ON CAMBODIA?

BANGKOK.—In January, Mr. Leo Cherne of the International Rescue Committee brought together an impressive congregation of men and women concerned for the awful ravages of the diverse Communist victories in Southeast Asia, and, with William J. Casey, former under-secretary of State, headed out for Thailand. The investigators were of varied political inclinations, including John Richardson, the head of Freedom House; Albert Shanker, president of the American Federation of Teachers; James Michener; Rabbi Tannenbaum, and others. What they found turns the blood cold: Cambodia leads the list of criminal states, that is if you don't count the countries, the United States primarily, that have let it all happen.

About Cambodia, Mr. Cherne could only think to say: "The events which have taken place in Cambodia and which continue to make of that country a land so inhuman tempts one to wonder whether here, finally, is a place where the living envy the dead."

The litany becomes all the more horrible for its failure, over a period of three years now, to arouse attention. It is as though the daily figures were read out publicly for Rovensbruck, Buchenwald, and Auschwitz, to an assembly where everyone was engaged in playing gin rummy. Mr. Cherne, whose committee was founded in 1933 to help refugees from Nazi Germany, was blunt. "The fact that the various international institutions designed to assert and protect human rights, and even life itself, have been silent despite repeated appeals, adds to our emphasis. Just such an appeal and protest to the United Nations Commission on Human Rights in June of 1975 remained unanswered for months before the appeal was denied because the U.N. Commission insisted that it could not act on second-hand information."

The U.N. commission has never hesitated to act on second-hand reports when addressing itself to the (relative) peccadillos of Chile, South Africa, and Israel. Mr. Cherne pursued the point relentlessly: "The inhumanity which continues to exist in Cambodia is so beyond rational description that it is probably unlikely that evidences of world concern so long withheld will have any moderating effect upon the behavior of the Khmer Rouge . . . No circumstances since the death camps of Germany more nearly describe the circumstances which presently exist in Cambodia . . ."

Now then Mr. Cherne, Mr. Casey, Mr. Michener, Mr. Shanker and everybody addressed themselves, as was quite proper under their mandate, to the questions of the refugees. And of course they are correct: all the red tape that deprives them of succor should be brushed aside. It is the job of the International Rescue Committee by tradition to rescue those who have, in a sense, already been rescued.

The Cambodians who sit, desparingly, in

the great refugee camps of Thailand are objects of pity. But they have, by other standards, already been saved. It is those who are still in Cambodia that need help most urgently. The Jews who escaped the ovens of Germany and Poland deserved every consideration; but mostly, they deserved the resolve of the civil community to rescue those whose rendezvous with the ovens was fast approaching; and who, one wonders, is asking for action at this level? No doubt Messrs. Cherne et al would personally endorse such action, but they are confining themselves, quite properly, to the limit of their franchise.

But where are the others? For instance, where is Congressman Pete McCloskey, who made a career for months of bewailing the fate of Cambodian refugees forced to resettle as a result of allied bombing? Where is the encephalophonic lead editorial in the New Yorker Magazine that spoke about how with Mr. Nixon's incursion we had forever, ruined the pastoral life of the Cambodian? And—the biggest question of all—where in the name of God is President Jimmy Carter who elevated human rights to his right side on ascending the throne at the White House?

ORDER FOR HOUSE JOINT RESOLUTION 796 TO BE HELD AT THE DESK

Mr. MAGNUSON. Mr. President, I ask unanimous consent that House Joint Resolution 796 be held at the desk until tomorrow, when we will try to resolve the procedural matter.

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

Mr. MAGNUSON. Mr. President, this is a very important appropriation bill. It involves about $300 million for disaster relief in many parts of the country. They may run out of money by April 3.

The Senator from North Dakota and I and other members of the Appropriations Committee are now discussing whether we should refer the matter to the Appropriations Committee and have the full committee meet, because when you are talking about $300 million you should have a full committee meeting and pass on it. I am sure the committee would agree to it.

However, it may be that tomorrow we will not be able to obtain a quorum, I say to the majority leader, and this matter probably will have to be taken up by the Senate tomorrow. I just wanted to alert Senators that the matter, in all probability, will come up tomorrow. It involves $300 million. It is for disaster relief in many parts of the country—droughts, floods, and other things that happened this last winter.

The Senator from North Dakota and I are going to get together, prior to 11 o'clock, we hope, so that we might come to a decision on this matter. If and when we do, we will have to get it over to the House by 1 o'clock, because I understand they are leaving about 1 o'clock, and we want to get the matter to the White House.

I want to alert Senators that this matter will be brought up tomorrow. If it is held at the desk now, we will see what we can resolve about it tomorrow, because time is of the essence in this matter.

I yield to the Senator from North Dakota.

Mr. YOUNG. Mr. President, this is a matter that should be considered by the Appropriations Committee. Because of the emergency situation, I doubt that we should wait until Congress returns from the Easter recess, which will be about 2 weeks. I believe that this matter is of sufficient importance that we may want to consider bringing it up tomorrow.

Mr. MAGNUSON. I say to the Senator from North Dakota that the full Senate committee undoubtedly will approve this bill unanimously. But I want to alert the Senate, because it does involve $300 million, and we do not want to be accused of just slipping through a bill which involves that sum of money.

This has been gone over thoroughly by the House, and we all know the situation, and we will see what we can do tomorrow. We are going to try to do it right after 11 o'clock, in order to get it over to the House in time.

SENATE RESOLUTION 419—RESOLUTION CONDEMNING THE KIDNAPING OF FORMER ITALIAN PREMIER ALDO MORO

Mr. DECONCINI. Mr. President, I ask unanimous consent to have the Foreign Relations Committee discharged of any further consideration of Senate Resolution 419. I also ask unanimous consent that Senate Resolution 419, condemning the kidnaping of former Italian Premier, Aldo Moro, be considered by the Senate immediately as in legislative session.

Inasmuch as the House has already unanimously passed this identical resolution, I believe that the Senate should take a moment from its debate on Panama to demonstrate to the Italian people and to the world its concern over the fate of this fine man. We need, also, to again reaffirm our abhorrence of wanton acts of violence and terror in the political arena.

Mr. President, I ask that the Senate adopt this resolution unanimously.

Mr. ROBERT C. BYRD. Mr. President, in the absence of the distinguished senior Senator from Alabama (Mr. SPARKMAN), who is the chairman of the Committee on Foreign Relations, I am constrained to object; and I do so regretfully, I say to my friend from Arizona.

The PRESIDING OFFICER. Objection is heard.

Mr. DECONCINI. Mr. President, in that case, I ask unanimous consent that the names of the following Senators be added as cosponsors of Senate Resolution 419: Senator ABOUREZK, Senator SARBANES, Senator ALLEN, Senator PELL, Senator DOLE, Senator PACKWOOD, and Senator WILLIAMS.

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

PAYMENTS UNDER AGRICULTURAL ACT OF 1949

Mr. PACKWOOD. Mr. President, as in legislative session, I ask the Chair to lay before the Senate a message from the House on H.R. 11055.

The PRESIDING OFFICER (Mr. WILLIAMS) laid before the Senate H.R. 11055, an act relating to the year for including in income certain payments under the Agricultural Act of 1949 received in 1978 but attributable to 1977, and to extend for 1 year the existing treatment of State legislators' travel expenses away from home.

The PRESIDING OFFICER. Without objection, the bill will be considered as having been read twice by its title, and the Senate will proceed to its consideration.

Mr. PACKWOOD. Mr. President, this is a very simple bill. The Department of Agriculture made some unintentional late payments to farmers for crop supports and disaster relief. The payments fell in January 1978. They could not be declared on 1977 income. This measure, for this year only, would allow farmers who received those payments in 1978 to declare them as income on their 1977 income tax.

Mr. DOLE. Will the Senator yield?

Mr. PACKWOOD. Yes.

Mr. DOLE. I think it is an excellent bill and it does, as the Senator from Oregon has indicated, permit the farmer to treat disaster or deficiency payments attributable to a 1977 crop as 1977 income if, under ordinary circumstances, income from the crop, the deficiency payments could have been reported as income in 1977.

Mr. President, I support H.R. 11055.

This bill incorporates in modified form a proposal made by the Senator from Kansas last January.

Under the bill a farmer may elect to treat disaster or deficiency payments attributable to a 1977 crop as 1977 income if, under ordinary circumstances, income from the crop, or the deficiency payments, could have been reported as income in 1977.

DEFICIENCY PAYMENTS

Mr. President, the Food and Agriculture Act of 1977 extended authority for crop deficiency payments granted in the Agricultural Consumer Protection Act of 1973. Deficiency payments are made when the average price received by the farmer during the first 5 months of the marketing year for wheat and feed grains is below the target price set in the law. The payment is equal to the difference between the average price and the target price, but may not exceed the difference between the target price and the price support loan level.

Because of higher market prices in the first 3 years of the program, deficiency payments were not made until last year. However, the lack of experience administering the program until last year has delayed a needed correction.

TAX PROBLEM

Many farmers who are entitled to crop disaster payments for crops which they harvested (or would have harvested) in 1977 did not receive these payments from the Department of Agriculture until 1978. Under present law, farmers on the cash method of accounting would have to include these payments in income in 1978. Since income from crops sold in 1978 would also be reported in 1978, the income of these farmers would be bunched in

1978 rather than spread over 1977 and 1978, as would be the normal situation.

Also, a great many farmers who are entitled to deficiency payments on their 1977 crops, because of low crop prices did not receive these payments from the Department of Agriculture until 1978, although, under normal circumstances, these payments would have been received in 1977. The problem appears to be particularly crucial in the case of deficiency payments for wheat. Deficiency payments for the 1977 wheat crop would ordinarily be expected to be received in December of 1977 because, unlike most other crops, the period for which market price information is used to compute the amount of deficiency payments ends in 1977. Since deficiency payments for wheat harvested in 1978 would also be reported in 1978, the income of these farmers will be bunched in 1978 rather than spread over 1977 and 1978.

DOLE PROPOSAL

Mr. President, in early January, I wrote Secretary Blumenthal detailing the tax problems associated with these deficiency payments. On March 8, I introduced S. 2686, to alleviate this tax problem.

This bill is positive action on the part of the Congress to help our farmers when they need it most.

I also wish to announce the support of my colleague, Mr. MELCHER, in support of this legislation.

The Congress should be congratulated in taking this swift action.

Mr. PACKWOOD. I appreciate the statement from the Senator from Kansas.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill (H.R. 11055) was read the third time, and passed.

RESOLUTION OF THE JOINT COMMITTEE ON PRINTING

Mr. PELL. Mr. President, the Joint Committee on Printing, at its meeting on Thursday, March 16, 1978, adopted unanimously a resolution regarding the implication and effect of marking certain material in the CONGRESSIONAL RECORD with a "bullet."

The resolution makes it clear that the purpose of the "bullet" mark is simply to distinguish the manner of delivery of statements or insertions, and that the intent of the Joint Committee on Printing in prescribing the use of the "bullet" marking is in no way to limit the protection afforded Members of Congress under the speech and debate clause of the Constitution.

As chairman of the Joint Committee on Printing, and on behalf of the committee, I ask unanimous consent that the text of the resolution adopted by the Joint Committee be printed at this point in the RECORD.

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

RESOLUTION OF THE JOINT COMMITTEE ON PRINTING

Whereas, effective March 1, 1978, the Joint Committee on Printing amended the Rules for Publication of the CONGRESSIONAL RECORD to identify statements or insertions in the RECORD where no part of them was spoken;

Whereas, unspoken material in the CONGRESSIONAL RECORD will be preceded and followed by a "bullet" symbol, i.e., ●;

Whereas, the Joint Committee, after consulting with the leadership of both Houses, instituted these changes only to make the CONGRESSIONAL RECORD a more precise history of the actual proceedings taking place on the House and Senate floors;

Whereas, the Joint Committee determined that these changes are the most effective means to inform other Members of Congress of their colleagues' views and proposals;

Whereas, the Joint Committee made such changes knowing that delivered and inserted statements are part of the official record as Congressional Speech and Debate and are fully protected under Article I, Section 6 of the Constitution of the United States: Now, therefore, be it

Resolved, That paragraph 3 of the Rules for Publication of the CONGRESSIONAL RECORD is amended to read as follows:

"3. Only as an aid in distinguishing the manner of delivery in order to contribute to the historical accuracy of the RECORD, statements or insertions in the RECORD where no part of them was spoken will be preceded and followed with a 'bullet' symbol, i.e., ●.".

SEC. 2. The Joint Committee directs its Chairman and Vice-Chairman to insert copies of this resolution into the permanent record of the House and Senate.

Mr. ALLEN. Will the Senator yield for a moment?

Mr. PELL. Certainly.

Mr. ALLEN. I want to state that as a member of the Joint Committee on Printing, I am pleased that at our meeting the other day the distinguished Senator from Rhode Island (Mr. PELL) was elected as chairman of the Joint Committee. I look forward to working on that committee under his leadership.

Mr. PELL. I thank my friend from Alabama for those remarks.

TIME-LIMITATION AGREEMENT—CONFERENCE REPORT ON AGE-DISCRIMINATION BILL

The PRESIDING OFFICER. Is there further morning business?

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as the conference report on the age discrimination bill is called up before the Senate there be a time-limitation overall with respect to that conference report of 30 minutes, to be equally divided between Mr. JAVITS and Mr. WILLIAMS.

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

NEW YORK CITY AFFAIRS

Mr. PROXMIRE. Mr. President, whether New York City will make it or not, whether it will avoid bankruptcy in the long run, depends not simply on the Federal Government—not on what we may do between now and June the 30th; it depends fundamentally on the underlying economic strength and the growth of New York City in the next 5 or 10 or 20 years.

I think that many of those who have discussed the issue, both in the House committee and in the Senate committee itself have overlooked the plain simple arithmetic. They consider what New York City has to raise, what New York City faces in terms of balancing their budget, what they need for a capital budget, what is available from their pension fund, what is available from the banks following the line of credit there and what the city's instrument for borrowing back can borrow. I think that the report of the Senate Banking Committee will make a great deal of sense.

Mr. President, the fundamental issue is whether New York itself has the economic strength to survive and there are two remarkable analyses of New York City that are very hopeful in that respect.

I would like to quote from both the first, which is a study by Mr. Bienstok, made in December 1977, just 3 months ago, with regard to New York City's affairs.

Mr. Bienstok finds that—

New York City's loss of 650,000 jobs since 1969 is associated with a major shift of nonfarm jobs from the Northeast to the South and West and declines in other major urban centers. New York's 13.3 percent loss in employed residents from 1969 to 1976 was about in line with a 12.3 percent drop in Chicago and was more moderate than the declines of 17.7 percent in Baltimore, 20.9 percent in Philadelphia and 31.7 percent in Detroit.

Furthermore, he says, the city's underlying strengths and its changing demography suggest the possibility of an improved local economic environment by the early 1980's. The widespread economic and social impact of the baby boom of 1947 is about to end. That group will soon be the over-30 generation. But more significant for the years ahead is that the United States is about to be heavily influenced by a different cohort, the young men and women born since 1960.

Since 1960, the number of live births in America has dropped from about 4 million to about 3 million a year. This is close to the number in 1944, before the postwar baby boom, a number that, at that time, was added to a much smaller population than today's 215 million. Trends in New York City follow the same pattern.

Beginning from now, the number of people reaching 18 years of age should begin to decline significantly. In 1982 and in the years beyond, the number of college graduates can be expected to level off. In fact, the number of young people entering the labor market will begin to decline significantly as we get toward the end of this decade and move into the early 1980's.

This suggests a period in which the fierce competition for jobs that recent college graduates have experienced should moderate substantially. There will be relatively fewer college graduates entering the labor market all through the 1980's, and the demand for college-educated men and women will continue to rise. Even during the height of the last recession when the country lost almost 2 million jobs, the number of professional, technical, managerial, and administrative jobs, typically held by

college graduates, rose by 750,000. Peter Drucker's "knowledge society" is alive and well, and in this knowledge society, the key resources are people.

With regard to manpower and education in New York City, it was noted earlier that the substantial immigration of blacks and Puerto Ricans with below-average educational attainment may have contributed to the city's problems. During the last two decades, the city's goods-producing industries declined sharply. Service-producing activities increased, providing white-collar jobs which require more education. The pace of jobs loss in the city's goods-producing industries has moderated; in fact, factory employment actually edged up in 1976. Also, during the 1970's there has been a notable cutback in the number of persons migrating from the South or Puerto Rico to New York City.

Looking at the future of the New York City labor market, educational trends in the past decade may augur well for the city's development of its human resources. The number of Puerto Ricans and blacks entering the City University of New York tripled between 1967 and 1972. The number of whites entering CUNY rose by over one-fourth during the same period. In 1975, 79 percent of New York City's high school graduates went further with their education, primarily in college, while in the country as a whole the figure was 51 percent. This suggests that New York City, with its unique array of educational facilities and institutions, will be in a favorable position to strengthen its human resources as it approaches the year 2000.

New York City's talent pool will not only be sought by industry, but may attract industry to the city. Although the city has lost corporate headquarters employment, it is still the home base for more major industrial companies than any other city. Headquarters locate in New York, because it is the commercial, communications, and cultural center of the Nation, a major port, a center for financial, legal, educational, and health services and, although rarely heralded as such, a major manufacturing center. Many companies that left the city have moved only to nearby suburbs from where they are still able to draw upon the city's resources and services.

New York City's cultural activities are a bastion of the city's economy and provide many jobs for skilled and unskilled workers. The 1,500 cultural institutions and organizations in the city, while generating over $3 billion in expenditures and receipts annually, also contribute over $100 million in tax revenues. These institutions stimulate the tourist industry even as they draw businesses to New York and strengthen real estate development—and, as long been recognized, strengthen the city's social and economic life.

In conclusion, the current economic situation remains relatively tight, and job development must rank high among the challenges facing New York City. However, the declining birth levels since the early 1960's will provide a more favorable climate for the New York City labor market of the 1980's—given an appropriate level of economic activity. With the decline in the number of young people in the city's population, many of the city's current problems involving youth may stabilize and improve. In a labor market requiring "knowledge" workers, New York City may find that the high proportion of its youth continuing on to higher education may serve to stabilize and strengthen the city's economy.

It is now commonplace to view the situation in New York City as a total disaster—perhaps as commonplace as it was in the late 1950's and early 1960's to ignore the clear signals of impending crisis. Observers of long-term trends are, however, prepared to expect "quantum" shifts that current indicators may not clearly herald. In the late 1970's, H. R. Bienstok tends to be as optimistic about New York City's future as he was pessimistic in the early 1960's.

Now a very excellent analysis of the Corporate Headquarters Complex in New York City is prepared by the Conservation of Human Resources Project—Columbia University:

CORPORATE HEADQUARTERS COMPLEX

1. This complex accounts for over one-fifth of all wage and salaried workers (586,000) in New York City and a considerably higher proportion, over one-fourth, of total payroll ($8.7 billion). As such, it represents the largest aggregation of economic activity in the city, considerably larger in terms of jobs and income than manufacturing, municipal government, or nonprofit enterprises.

2. Corporate headquarters employment in New York City is the smallest of the three components of the complex accounting for 135,000 jobs. The largest element is the corporate service firms which provide 314,000 jobs. Employment in firms producing ancillary services is estimated at 137,000.

3. Employment in corporate service firms is around 2.5 times larger than in corporate headquarters. What is more, while employment in corporate headquarter is much lower now than in the early 1960's, the opposite is true with respect to corporate service firms.

THE CONCENTRATION OF CORPORATE SERVICE

12. As noted earlier corporate service firms continued to expand and more than compensated for the decline in corporate headquarters employment that occurred during the past two decades. The three most important sub-groups among corporate service firms are banking, legal services and accounting. The importance of each is underscored by the following:

(a) In banking, the 10 largest commercial banks in the nation accounted, at the end of 1976, for 45 percent of the deposits in the top 200 banks. Six of these top 10 are New York banks which account for $173 billion or 27 percent of the deposits of these 200 largest banks. When it comes to foreign deposits in U.S. banks, which totalled $161 billion at the end of 1976, the New York City banks are even more important: they held $86 billion or more than half of the total of these foreign deposits.

(b) In terms of the large law firms (over 81 members) that provide a wide range of specialized corporate services, New York has one-third of the nation's total, 16 out of 48, while Chicago has 7 and Philadelphia and Washington each have 5. If these data for the mid-1970s are compared with the mid-1950s one finds little change other than an increase of large law firms in Washington from 2 to 5. During this same period, New York also maintained a leadership role as a center of firms specializing in international law, the number of such firms in the City increasing from 54 to 131, the number of members from around 600 to about 2250. The other principal centers of firms specializing in international law are Washington, Chicago, Houston and Los Angeles. The New York law firms serve far more Fortune 500 headquarters, both in and out of the city, than do the big law firms located in any other city. Further, they serve almost all of the Fortune 500 firms' investment banks.

(c) In accounting, six of the big eight firms have their main office in New York City. The New York based firms have as clients 356 of the Fortune 500 list and 29 of the nation's 47 largest banks. Chicago is in second place, far behind New York, with 79 Fortune 500 corporations and 6 banks. The international offices of all eight major accounting firms are located in New York City, and they have a monopoly on it.

THE INTERNATIONAL DIMENSION

18. The last two decades have seen a substantial increase in economic relations between the U.S. and foreign countries with respect to financial transactions, trade, and investments in plant. Much of this expansion has been through firms located in New York. In the mid-1970s the foreign sales of the Fortune 500 firms in the top 50 Standard Metropolitan Statistical Areas totalled $213 billion. Corporations located in the New York area accounted for $99 billion or 46 percent of that total. Detroit was second with $21.5 billion followed by Pittsburgh, San Francisco and Chicago each with between $15 and $11 billion.

19. The more striking development, however, has been the growth of foreign economic activity in New York City reflecting in particular the location here of banks, branch headquarters, and increased activity in the real estate market as evidenced by the following:

(a) An analysis in the early 1970s of over 1,700 foreign firms operating in the U.S. disclosed that 60 percent were headquartered in New York City and another 15 percent in the suburban area. If the location of Canadian firms is disregarded, the concentration in New York City ranged between 98 percent for Italian firms to 68 percent for firms from the Netherlands.

(b) Between 1970 and 1976 the number of foreign banks in New York City increased from 47 to 84 and their assets increased from $10.6 billion to $40.3 billion or almost fourfold.

(c) Between the beginning of 1975 and 1977 foreign concerns leased 466,000 square feet of office space in New York City with an aggregate rental value of $88 million. From September 1975 to April 1977 there were 10 major purchases by foreigners of New York City properties.

The following sets forth the policy directions growing out of the indepth inquiry into agglomeration that hold promise of contributing to the continual growth and vitality of the corporate headquarters complex in New York City:

(a) With the corporate headquarters complex in New York greatly dependent on the City's primacy as a money center, the leaders of the financial community, together with the local political leadership, should be constantly alert to actions in New York, Albany and Washington that could strengthen the predominance of the City as the leading financial center of the world. The recent debacle over the bond transfer tax illustrates the need for continuing vigilance and cooperation. With the decline of London as an international money center and the increasing importance of the Middle East as a source of investment funds, the leadership of the financial community should explore how changes in the federal and state laws and administrative practices could make New York more attractive to foreign investors.

(b) Since corporate location decisions are greatly influenced by problems involving space utilization, the continued vitality of the corporate headquarters complex in New York requires a strong commercial construction industry. If the City is to maintain its position as the leading corporate headquarters complex new commercial office buildings must be erected at costs and rents that are reasonably competitive with alternative locations. The last years have seen substantial narrowing in the gap between the cost of prime space in New York and other competitive locations. The leaders of the construction industry, the construction unions, and local government should seek ways of cooperating to assure that the City's new office buildings are completed at a rental cost that will encourage corporate headquarters and corporate service firms to remain and expand in the City and that will help attract others here.

(c) A major spur to corporate relocation to the suburbs has been the desire of middle and upper management to rear their families in a conducive environment. The new trends to later marriages, lower births and the increased career interests of educated women provide the City with an opportunity to attract and retain professional couples both of whom hold good jobs and are career-oriented.

That kind of family situation, with husband and wife working, makes the city much more attractive than it is with the family in which the wife is at home and does not work.

To do so, the leaders of the real estate industry and the City officials should intensify actions aimed at neighborhood conversion and neighborhood rehabilitation to provide such couples with a wider range of desirable living accommodations.

(d) A major source of the City's strength has been its attraction to individuals who place a premium on a wide range of cultural activities including theatre, restaurants and concerts. Since this cultural-entertainment complex not only provides important ancillary services to the corporate sector but also much needed employment to many recent inmigrants, continuing efforts involving business and labor leaders and government officials should be directed to maintaining and strengthening this important sector. An expansion of the hotel industry should be high on the agenda.

(e) Another favorable opportunity that the City should seek to exploit is the potential for further increases in foreign banks, foreign headquarters, foreign investors and foreign visitors. Most foreigners find New York City attractive. The foreign business community should be an important target for the forthcoming public-private effort directed at placing before businessmen the multiple strengths of New York City in the hope of encouraging them to locate activities there.

(f) Special attention must be paid by business and government leaders to maintaining the excellent air transportation that has done so much to keep New York as the focal center of domestic and international economic activity. The maintenance and improvement of interurban and intraurban transportation can likewise contribute to strengthening the agglomeration process.

(g) In years past the estrangement between business and political leaders contributed to the exodus of corporate headquarters because many chief executives concluded that local government was at best uninterested and at worst hostile. Recent cooperative actions aimed at achieving and maintaining the fiscal viability of the City is a major step in the right direction. So too are efforts to put a lid on business and personal income taxes and where possible to reduce those which weaken the competitive position of New York City.

Mr. President, I make these points, because I think it is overlooked that New York has enormous strength and has a great potential for growth in the future, and that that element is what is going to permit New York to survive.

NOW IS THE TIME TO ACT ON THE GENOCIDE TREATY

Mr. PROXMIRE. Finally, Mr. President, on another subject, 30 years ago, the United Nations drafted the Genocide Treaty, which declared any act of genocide a crime under international law. The United States was instrumental in drafting that treaty and winning its unanimous support in the General Assembly.

For 30 years, the debate over the advisability of our ratifying the treaty has gone on. In this decade, there has been a growing sentiment in favor of such ratification. It is important to analyze the effectiveness of the treaty since its birth in order to understand this increasing support. Such an analysis will make it clear that we must give our complete support to this treaty, in the form of ratification.

It is true that we are unable to estimate how many lives have been saved because of the treaty. It is impossible to point to all participating countries and say with complete assurance that life has been made more civilized in every phase. But the benefits, however subtle, are undeniable.

In the same way that our Declaration of Independence inspired countless Americans to preserve the values under which this nation was founded, the Genocide Treaty has served as a standard of protection for human beings which has influenced many individuals throughout the world. Moreover, the treaty has provided more than moral persuasion; it created sanctions against genocide. These sanctions have not been used, but their deterrent effect should not be overlooked.

It is shameful that we have failed to ratify this treaty. We should have ratified it in 1948. Fortunately, we can turn this omission into something positive at this time. Our ratification would reemphasize the vigilance needed for the physical protection of minority groups throughout the world. It would also allow us to take a more forceful role in other areas of human rights.

We must not let this opportunity pass us by. The Genocide Treaty should be ratified, and promptly.

Mr. President, I yield the floor.

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

Mr. PROXMIRE. I am happy to yield.

Mr. ALLEN. The Senator from Alabama has been waiting to hear the distinguished Senator from Wisconsin mention the Genocide Treaty again here and the reasons why we should approve it in the Senate. He waited until about the fifth item that he mentioned tonight, and I was somewhat apprehensive that he was not going to mention the Genocide Treaty, but I am glad that he did finally get around to it and express his views about the necessity to approve this treaty that has been before the Senate now for 30 years.

Mr. PROXMIRE. I want to thank the distinguished Senator from Alabama. He is a most patient man. He has been my best audience. He has been on the floor night after night after night when I have delivered the statements.

As he knows, I have been making statements like this for 11 years on the floor of the Senate. I intend to make them until it is passed, and if nothing else it will maybe help the Genocide Treaty to have me sit down, shut up.

Mr. ALLEN. As I say, the Senator has mentioned this matter almost daily for quite a long time. But I keep listening in the hope that I can find an argument that I agree with that would indicate the necessity for giving approval to this treaty.

Mr. PROXMIRE. Well, I am disappointed in that. But I think the Senator from Alabama is a very reasonable man, and I am sure that if he listens long enough, I hope it will not take another 30 years, that he will be persuaded.

Mr. ALLEN. I thank the distinguished Senator.

A PIONEER FAMILY IN ALASKA

Mr. STEVENS. Mr. President, in recent years the State of Alaska has risen from a position of relative obscurity to one of higher visibility in the eyes of the American public.

In an effort to educate the public and trace Alaska's history, the National Endowment for the Humanities has granted funds for production of an historical documentary entitled: "A Pioneer Family in Alaska." In addition to the production of this film, the National Endowment for the Humanities will be traveling to various localities in Alaska to gather necessary information to assist in the development and promotion of cultural programs within the State. I encourage these efforts wholeheartedly so all Americans can be more cognizant of the rich cultural heritage of Alaska.

Mr. President, I ask unanimous consent that an article appearing in the Alaska History News be printed in the RECORD.

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

NEH FUNDS "A PIONEER FAMILY IN ALASKA" FOR HOMER MUSEUM

The Museums and Historical Organizations Program of the National Endowment for the Humanities has funded the proposal of the Homer Society of Natural History to produce the historical documentary film entitled "A Pioneer Family in Alaska." The $41,783 grant was made to create from 30 years of film footage a 90-minute chronicle centering on the Yule Kilcher family homestead near Homer on the Kenai Peninsula. Yule describes the project: "The film starts in 1945 when I and my family moved at low tide 12 miles up the beach from Homer on Kachemak Bay in a military 4x4 truck, ascended the cliffs afoot, and settled in an abandoned trapper's cabin. There are scenes of cutting timber, haying on the rough, open meadows with six-foot-tall grass, and all the family at work. Hauling logs with horses in breast-deep snow and building a barn and

hand-hewn log cabin in winter, planting a garden the next summer . . . scenes of the last salmon fishing fleet to go out under sail in Bristol Bay in 1949, where I repaired to recoup the financial situation."

The new film will extend the time frame from before 1945 (with available film and photos of the family in Switzerland) to the present. There will be several segments, filmed at the same locations, showing how man has changed nature over a period of a third of a century, and how the 1964 earthquake has adversely affected the beaches. A spectacular shot shows the shrinkage of a glacier, filmed 30 years later."

Joining the Homer Museum in the project is the University of Alaska, Anchorage, Media Services Program and the Alaska State Library. When completed, "A Pioneer Family in Alaska" will convey to the general public an important segment of the history of the American West and that of the 49th State. With the dimensions of sight and sound, it will portray the economic, political, and social forces which shaped the attitudes of a homesteading family toward the land and themselves. When completed, prints of the film will be used by the Alaska State Library, public television, and the Homer Museum to enhance its permanent collection.

ORDER FOR RECESS UNTIL 9:30 TOMORROW MORNING

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business tonight it stand in recess until the hour of 9:30 a.m. tomorrow.

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

ORDER FOR THE RECOGNITION OF MR. JAVITS AND MR. DANFORTH TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the prayer, Mr. JAVITS and Mr. DANFORTH be recognized each for not to exceed 15 minutes, as in legislative session.

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

ORDER FOR THE CONSIDERATION OF CONFERENCE REPORT ON AGE DISCRIMINATION TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the completion of the two aforementioned orders tomorrow the Senate proceed to the consideration of the conference report on age discrimination, as in legislative session.

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

ORDER TO RESUME CONSIDERATION OF THE PANAMA CANAL TREATY TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the conference report on age discrimination in the morning, the Senate resume consideration of the Panama Canal Treaty.

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

ORDER FOR THE CONSIDERATION OF THE EMERGENCY SUPPLEMENTAL APPROPRIATION BILL TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. MAGNUSON be authorized to call up the emergency supplemental appropriation bill tomorrow if he and Mr. YOUNG are in agreement thereon at any point.

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

ORDER FOR THE RECOGNITION OF MR. PROXMIRE TOMORROW MORNING

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. PROXMIRE be recognized at some point tomorrow morning for not to exceed 30 minutes to speak on the Panama Canal Treaty.

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

FISHING VESSEL LOAN GUARANTEES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 644.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

Calendar Order 644 a bill, H.R. 9169, to amend Title XI of the Merchant Marine Act, 1936, to permit the guarantee of obligations for financing fishing vessels.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the title be dispensed with.

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

The Senate proceeded to consider the bill.

The bill was considered, ordered to 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. 95-703), explaining the purposes of the measure.

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

PURPOSE OF THE LEGISLATION

The purpose of the legislation is to place fishing vessels in the same category as other vessels not receiving a construction differential subsidy, to qualify for Federal loan guarantees under title XI of the Merchant Marine Act of 1936. To accomplish this purpose, the legislation would amend the act to authorize the Secretary of Commerce to guarantee obligations up to 87½ percent of the cost of constructuring or reconstructing fishing vessels. The act currently authorizes an obligation guarantee of up to 75 percent.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed; and, Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

HUBERT H. HUMPHREY INSTITUTE OF PUBLIC AFFAIRS AND THE EVERETT McKINLEY DIRKSEN CONGRESSIONAL LEADERSHIP RESEARCH CENTER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 647.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2452) to authorize funds for the Hubert H. Humphrey Institute of Public Affairs.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

The Senate proceeded to consider the bill (S. 2452), which had been reported from the Committee on Human Resources with amendments as follows:

On page 1, line 4, after "Affairs" insert "and the Everett McKinley Dirksen Congressional Leadership Research Center";

On page 2, beginning with line 3, insert the following:

(b) In recognition of the public service of Senator Everett McKinley Dirksen, the Commission is authorized to make grants in accordance with the provisions of this Act to assist in the development of the Everett McKinley Dirksen Congressional Leadership Research Center, located in Pekin, Illinois.

On page 2, line 14, after "$5,000,000" insert a comma;

On page 2, beginning with line 16, strike through and including line 17;

On page 2, beginning with line 18, insert the following:

(b) There are authorized to be appropriated such sums, not to exceed $2,500,000, as may be necessary to carry out the provisions of section 2(b) of this Act.

(c) Funds appropriated pursuant to this Act shall remain available until expended.

So as to make the bill read:

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 "Hubert H. Humphrey Institute of Public Affairs and the Everett McKinley Dirksen Congressional Leadership Research Center Assistance Act".

SEC. 2. (a) In recognition of the public service of Senator Hubert H. Humphrey, the Commissioner of Education (hereafter in this Act referred to as the "Commissioner") is authorized to make grants in accordance with the provisions of this Act to assist in the development of the Hubert H. Humphrey Institute of Public Affairs, located at the University of Minnesota, Minneapolis-St. Paul.

(b) In recognition of the public service of Senator Everett McKinley Dirksen, the Commissioner is authorized to make grants in accordance with the provisions of this Act to assist in the development of the Everett McKinley Dirksen Congressional Leadership Research Center, located in Pekin, Illinois.

SEC. 3. No payment may be made under this Act except upon an application at such time, in such manner, and containing or accompanied by such information as the Commissioner may require.

SEC. 4. (a) There are authorized to be appropriated such sums, not to exceed $5,000,000, as may be necessary to carry out the provisions of section 2(a) of this Act.

(b) There are authorized to be appropriated such sums, not to exceed $2,500,000,

as may be necessary to carry out the provisions of section 2(b) of this Act.

(c) Funds appropriated pursuant to this Act shall remain available until expended.

Mr. BAKER. Mr. President, I am pleased to urge passage of S. 2452, a bill to authorize funds to develop the Hubert H. Humphrey Institute of Public Affairs at the University of Minnesota. The institute, which will support research in public policy and planning, will, at Senator Humphrey's request, be the main memorial to his memory. The strong bipartisan endorsement which this measure has received within both the House and Senate is further indication of the respect and affection with which he was regarded by his colleagues.

Mr. President, the Congress has, in the past, sought to honor distinguished colleagues following their deaths in various ways. In 1972, for example, we authorized the Allen Ellender fellowship program. In 1973, Federal aid was provided for the Sam Rayburn Library in Texas. In 1976, funds were made available to support the Wayne Morse Chair of Public Affairs at the University of Oregon. In addition, of course, Congress has traditionally provided funds to support libraries housing the papers of former Presidents, as well as Eisenhower College, the Harry S. Truman fellowship, and the John F. Kennedy Center for the Performing Arts.

In view of this tradition, I am particularly pleased that the Committee on Human Resources has included in S. 2452 an authorization for up to $2.5 million to assist the Everett McKinley Dirksen Congressional Leadership Research Center in Pekin, Ill.

While many of my colleagues, and especially those who knew and worked with Senator Dirksen, are familiar with the purpose and programs of the Dirksen Center, I would like to take this opportunity to summarize briefly the center's background and the work which it has undertaken.

Before his death in 1969, Senator Dirksen expressed his intention to create an endowment to establish a Center for Congressional Leadership in his home city of Pekin, Ill. It was his belief that "since the legislative branch of our Government is the heart of American democracy, a broadened understanding of its function would strengthen our country," and he hoped that "students of government, of political science, and of history, from here and abroad, would come to inquire, to learn, to understand, and, hopefully, to be inspired."

In 1975, construction of a joint facility to house the Dirksen Center and the Pekin Library was completed, and the building was dedicated by President Ford in August of that year. All of Senator Dirksen's papers and memorabilia were moved into the center, and work was begun on cataloging and organizing this vast collection of material so that it may be available for public study and research.

The long-range goal of the center is to become the Nation's recognized institution for congressional leadership education, research, and collections. It is hoped in the future that the center will be able to house or provide access to all collections and materials relating to congressional leadership.

The Dirksen Center has made significant progress toward that goal. It is known in historical, governmental, and archival circles in the Midwest and throughout the country, and I believe that with additional support provided in S. 2452, the center will thrive as a unique institution which will fulfill Senator Dirksen's hopes of stimulating study and promoting understanding of the important role of the Congress and its leadership in contemporary America.

Mr. President, the Humphrey Institute and the Dirksen Center are intended to stimulate study and improve understanding of public issues and the importance of public service. I can think of no finer tribute to these two great legislators, and I look forward to enactment of S. 2452 at the earliest possible time.

Mr. ALLEN. Mr. President, will the Senator from West Virginia yield?

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

Mr. ALLEN. Would the Senator mind stating how much is authorized on this institute?

Mr. ROBERT. C. BYRD. Yes, if the Senator will allow me a moment to check.

The answer is $2.5 million for the Dirksen Institute, and $5 million for the Humphrey Institute.

Mr. ALLEN. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the committee amendments.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read:

A bill to authorize funds for the Hubert H. Humphrey Institute of Public Affairs and for the Everett McKinley Dirksen Congressional Leadership Research Center.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–706), explaining the purposes of the measure.

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

BRIEF SUMMARY OF THE COMMITTEE BILL

Section 2(a) of the bill authorizes the Commissioner of Education, in recognition of the public service of Senator Hubert H. Humphrey, to make grants to assist in the development of the Hubert H. Humphrey Institute of Public Affairs, located at the University of Minnesota, Minneapolis-Saint Paul.

Subsection (b) authorizes the Commissioner to make grants, in recognition of the public service of Senator Everett McKinley Dirksen, to assist in the development of the Everett McKinley Dirksen Congressional Leadership Research Center, located in Pekin, Ill.

Section 3 requires that payments be made upon applications containing such information as the Commissioner may desire.

Section 4(a) authorizes $5 million for grants to the Hubert Humphrey Institute of Public Affairs. Section 4(b) authorizes $2.5 million for grants to the Everett McKinley Dirksen Congressional Leadership Research Center. Section 4(c) provides that funds shall remain available until expended.

HUBERT H. HUMPHREY INSTITUTE OF PUBLIC AFFAIRS

One of the last requests of the late Senator Hubert H. Humphrey was that his primary memorial be the Hubert H. Humphrey Institute of Public Affairs at the University of Minnesota. Dedicated to the "education, stimulation and recruitment of bright young men and women for positions in public and community service," the Humphrey Institute will be a fitting tribute to a beloved teacher and public servant. In the spirit of Hubert Humphrey's leadership, the Institute will be structured so as to allow its programs to confront the social, technological, and environmental changes in our society and the emergence of new challenges in the public sector.

Senator Humphrey hoped that the central purpose of the Institute would be to attract into Government service bright young men and women. The best way to encourage excellent students to choose a particular graduate program is to offer substantial fellowships. The Senator expressed the hope that the resources of the Humphrey Institute would be used to assist financially students of high caliber during their graduate studies of government. At a press conference on July 27, 1977, he spoke of his own financial hardships during graduate school in the 1930's. It had often been necessary for him to take time off from his studies at the University of Minnesota to return to South Dakota and work in his father's drug store. He hoped that the Institute would be able to provide for some of its students so that they would not face the obstacles he himself had encountered as a student.

The Humphrey Institute was named on September 9, 1977, and will be officially dedicated on July 1, 1978. Fund raising efforts have been extremely successful, a testament to the fact that the long-time Senator and former Vice President touched the lives of millions during his years of public service.

National fund-raising efforts have raised $8.3 million to date. Extensive fund-raising activities are planned all over the Nation. For instance, in New York, Radio City Music Hall will be donated for an event May 18 which is expected to raise between $500,000 and $1 million for the Institute. A dinner in Washington, D.C., on December 2, 1977, raised $1,074,000.

Individual contributions have ranged from small unsolicited amounts to contributions of $1 million or more. Labor contributions have also been most generous: The AFL–CIO donated $30,000 and the UAW pledged $25,000 from its international union. In addition, gifts have come from individual State, local, and city labor organizations.

An International Committee headed by Dr. Henry Kissinger and Mr. Leonard Marks has raised $1,250,000 thus far through gifts from the Governments of Japan and Iran.

Though funds have been raised in substantial amounts for the Humphrey Institute, many of the donations are earmarked for a specific purpose. For instance, a gift of $1 million from Mr. Dwayne O. Andreas is to be used solely for preserving and organizing the late Senator's papers in the Humphrey Archives at the Institute. Another gift of $1 million, from Mr. Curtis L. Carlson, must be expended to support a distinguished lecturer series at the Institute. These generous gifts are of great help to the Institute, but cannot be used for fellowships. Thus the Director of the Humphrey Institute, Dr. John S. Adams, anticipates that there will be a lack of unencumbered funds to help support able students through prestigious fellowships, the very purpose of the Institute envisioned by Senator Humphrey himself.

S. 2452 addresses this need—for an endowment fund which can provide annual fellowships to attract the very best students to the Humphrey Institute. No part of the $5 mil-

lion provided by the Hubert H. Humphrey Institute of Public Affairs Assistance Act will be used for the Institute building or for other capital purposes. Instead, the funds will be handled with professional investment fund managers who will invest them with an eye toward growth of the endowment over the years. In this way, income from the fund will grow with inflation, so that fellowships can be provided which actually cover a student's living expenses.

It is planned that the congressional appropriation of $5 million will be invested in low-risk securities with an expected 5 percent rate of interest, so that the annual yield will be about $250,000. The Institute plans to use fully half of the annual income from the endowment for student fellowships.

Public Service Fellowships awarded by the Office of Education provide $7,800 in annual stipends for the calendar year—$3,900 for tuition and expenses, and $3,900 for living expenses. Using these figures as estimates of fellowship amounts, the Humphrey Institute anticipates that it will be able to provide about 15 or 16 fellowships to first year students, and the same number to second year students. With a total enrollment of between 50 and 60 students in each class, then, the Institute will be able to provide substantial financial assistance to over one fourth of its students as a result of the enactment of S. 2452.

It is expected that the income from the invested appropriation which is not used for fellowships will make up a general fund for the support of the Institute's programs. This money may be expended for such things as the Institute's weekly public television public policy forum, grants for research projects in public policy and planning to faculty and advanced students, and stipends for student public service internships.

The amount authorized by the Hubert H. Humphrey Institute of Public Affairs Assistance Act comprises about one quarter of the estimated $20 million necessary for the development of the Institute. The $5 million authorization will substantially help the Institute in reaching its July 1, 1978, goal of $20 million. It was thought that one quarter of the total necessary for the Institute's development was an appropriate amount for the United States to provide, especially in light of the large gifts received from governments of other nations.

The following letter in support of S. 2452 was received from Henry A. Kissinger, former Secretary of State:

HENRY A. KISSINGER,
March 16, 1978.

MISS ALLISON WOLF,
Office of Senator Wendell R. Anderson, U.S. Senate, 304 Russell Senate Office Building, Washington, D.C.

DEAR MISS WOLF: Thank you for your kind letter of March 3, 1978, on the subject of S. 2452, the bill introduced by Senator Wendell Anderson to authorize $5 million for the Hubert H. Humphrey Institute of Public Affairs, and its companion bill in the House. As Chairman of the Internal Committee for the Humphrey Institute, I am happy to declare my strong support of this legislation.

The Institute will be a fitting and living memorial to Hubert Humphrey. Its goal will be to insure that his example will continue to advance after his death the humane ideals that he so fully embodied during his lifetime. I know how proud and happy Hubert was to know before his death that an Institute in his name would be educating new generations of young men and women to his ideals of intellectual excellence, public service, and human decency.

For Hubert Humphrey set a standard of integrity and humane concern that enriched not only American public life but also the common endeavors of the democratic nations to build a better world for our children. It is no accident that this Institute has received generous financial support from so many friendly nations. For Hubert was a champion of international cooperation. He understood that the common enemies of mankind—war and famine, disease and illiteracy, inequality and racial hatred, fear and human suffering—ought to be the focus of redoubled international effort.

This is in the noblest tradition of the American people. It is certainly deserving of broad national support as S. 2452 would so well represent.

Best regards,

HENRY A. KISSINGER.

EVERETT MCKINLEY DIRKSEN CONGRESSIONAL LEADERSHIP RESEARCH CENTER

The estate of the late Honorable Everett McKinley Dirksen, U.S. Senator from the State of Illinois and Senate Republican Leader, created an endowment to establish a Center for Congressional Leadership in his home city of Pekin, Ill.

Senator Dirksen meant for this Center to house his papers and memorabilia plus related materials as his friends and heirs might deem appropriate. He further hoped that this Center would give the subject of congressional leadership the attention it deserved. The Senator believed that "since the legislative branch of our government is the heart of American democracy, a broadened understanding of its function would strengthen our country." He hoped that "students of government, of political science, and of history, from here and abroad, would come to inquire, to learn, to understand, and, hopefully, to be inspired."

The Dirksen Center's Board of Directors has determined the Center's long-range goals:

"To serve as an educational institution * * * for the art and science of American politics and American government, in particular the role of the United States Congressional Leadership.

The Center plans to establish both an Advisory Board, to consist of leaders in business, labor, and the Congress itself, and a Research Council, to consist of experts in economics, political science, international affairs, history, and related fields.

The Dirksen Center will serve the Nation as a unique educational institution, devoted to the study of Congress and Congressional leadership. It is a nonpartisan entity functioning in the field of civic education.

The Center has an adequate facility, with ample space for additional collections. It has acquired several collections and is seeking more. The building, which houses both the Dirksen Center and the Pekin Library, was dedicated in 1975.

The Dirksen Center's initial endowment was $30,000. Approximately $1,500,000 has been raised by private fund-raising. To augment the Center's present endowment, the fund-raising activities are being maintained very vigorously. Gifts from private sources built the Center, provided for professional Staff and archives, supported the initial public programs, and funded current operations.

The purpose of the Committee bill is to assist in the development of the Dirksen Center. The intention is to contribute to the Center's endowment. An increase in endowment income will be used to develop an outreach capability on a nonpartisan basis to inform the citizenry on the functions and leadership of the United States Congress. More specifically, current activities and planning are devoted to:

"Educational programs for all levels, from secondary to postgraduate, including the American public at large;

"Timely seminars throughout the United States on current public policy issues;

"Publications and other projects to encourage an understanding of the Congress; and

"Expansion of research materials available at the Center for the study of Congress and Congressional leadership."

Just as Presidential libraries invite interest in the executive branch, the Dirksen Congressional Center exists to stimulate inquiry and to educate the citizenry on the crucially important role of Congress and congressional leadership in contemporary America.

Legislation to fund educational institutions in the name of former congressional and executive branch leaders is not without precedent. For instance, grants to Eisenhower College of a total $14 million were authorized in 1968 and 1974. The 94th Congress established an endowed chair at the University of Oregon in the name of Senator Wayne Morse, with an authorization of $500,000. In 1972, Congress established the Ellender fellowship program, with authorizations of up to $1 million, to ensure the participation of low income students in the closeup program. The Sam Rayburn Library received Federal aid up to a total of $1 million, as a result of legislation passed in 1974, the same year that a total of $30 million was authorized for the Harry S Truman scholarship program.

The committee, while unanimous in supporting the two grants proposed in this bill, expressed concern about the proliferation of this type of award.

To maintain the integrity of such awards, and to assure an orderly process in evaluating future award proposals, the Committee accepted two guidelines:

"First, that the project intended for funding show evidence of substantial popular support through successful fund-raising activities or through public subscription;

"Second, that the amount authorized by the Committee be no greater than 50 percent of the project's total funding."

For future awards, the committee will take these criteria into consideration.

SENATORS' PAPERS

The committee recognizes the unique and extraordinary contributions of Hubert Humphrey and Everett Dirksen during their service in the Senate, and that such accomplishments obviously merit the proposed Federal support. It is notable that significant private support has been manifest in these two examples. The committee wishes to point out that any person who serves in the Senate, particularly Members who serve for long periods and undertake substantial legislative activities, will amass records and documents of particular value to scholars, lawyers, and public officials. Appropriate preservation and archival organization of such papers present a difficult problem to many members.

Under the present circumstances, each member must make his own arrangements, often with a university in his home State. This leads to an irregular and uncoordinated outcome. Often the private resources available, and not the historical value of the material, determines the way in which papers are preserved or lost.

Any mechanism covering the papers of individual members and their preservation and organization is outside the jurisdiction of the Committee on Human Resources. However, the committee does have jurisdiction over legislation for libraries, universities, and educational institutions in general, and would be pleased to assist other committees in their deliberations. It is hoped that the consideration of S. 2452 will serve as a catalyst for the appropriate committee or committees to review the appropriate preservation of papers of Members of the State.

VOTES IN COMMITTEE

Pursuant to section 133(b) of the Legislative Reorganization Act of 1946, as amended, the following is a tabulation of votes cast in committee.

1. Motion by Senator Stafford to accept amendment relating to the Everett Dirksen Congressional Leadership Research Center. Adopted by voice vote.

2. Motion by Senator Javits to report S. 2452, as amended. Adopted by voice vote.

CONGRESSIONAL BUDGET OFFICE
U.S. CONGRESS,
Washington, D.C., March 15, 1978.

Hon. HARRISON A. WILLIAMS, Jr.,
Chairman, Committee on Human Resources, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for S. 2452, the Hubert H. Humphrey Institute of Public Affairs and the Everett McKinley Dirksen Congressional Leadership Research Center Assistance Act.

Should the committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

ALICE M. RIVLIN, *Director.*

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE, MARCH 15, 1978

1. Bill number: S. 2452.

2. Bill title: Hubert H. Humphrey Institute of Public Affairs and the Everett McKinley Dirksen Congressional Leadership Research Center Assistance Act.

3. Bill status: Ordered reported from the Senate Human Resources Committee, February 28, 1978.

Bill purpose: The purpose of this bill is to authorize funds for the Hubert H. Humphrey Institute of Public Affairs and the Everett McKinley Dirksen Congressional Leadership Research Center. The funds are subject to subsequent appropriation action.

5. Cost estimate:

[By fiscal years, in millions of dollars]

	1978	1979	1980	1981	1982	1983
Authorization level:						
Hubert Humphrey Institute		5.0				
Everett Dirksen Center		2.5				
Total		7.5				
Estimated net cost:						
Hubert Humphrey Institute		5.0				
Everett Dirksen Center		2.5				
Total		7.5				

6. Basis for estimate: The cost estimate for S. 2452 is based on the maximum authorization levels stated in the bill. Although the authorizations are not designated for a particular fiscal year, the Human Resources Committee staff has indicated that this item would, if possible, be included in the fiscal year 1979 appropriation bill. It was further assumed by the Committee staff that a lump sum payment would be made to each of the institutes. Thus, a hundred percent spend-out rate was applied.

7. Estimate comparison: On February 16, 1978, CBO prepared a cost estimate on H.R. 10606, the Hubert H. Humphrey Institute of Public Affairs Memorial Act. That bill only authorized funds for the Hubert H. Humphrey Institute.

8. Previous CBO estimate: None.

9. Estimate prepared by: Deborah Kalcevic.

10. Estimate approved by:

C. G. NUCKOLS,
(For James L. Blum,
Assistant Director for Budget Analysis).

REGULATORY IMPACT

In accordance with paragraph V of rule XXIX of the Standing Rules of the Senate, the following statement of the regulatory impact of the bill is made.

The basic purpose of S. 2452 is to authorize the Commissioner of Education to make grants to the Hubert H. Humphrey Institute of Public Affairs and the Everett McKinley Dirksen Congressional Leadership Research Center.

Since these grants would be made to educational institutions already in existence, no additional individuals or businesses would be subject to regulation. There would, therefore, be no additional economic impact due to increased regulation. There would be impact on the personal privacy of any individuals involved, and the only additional paperwork which would be required would be that necessary for grants to be received by the institutions specified in the legislation.

SECTION-BY-SECTION ANALYSIS

Section 2(a) of S. 2452 authorizes the Commissioner of Education to make grants to assist in the development of the Hubert H. Humphrey Institute of Public Affairs, located at the University of Minnesota, Minneapolis-St. Paul.

Section 2(b) of the bill authorizes the Commissioner to make grants to assist in the development of the Everett McKinley Dirksen Congressional Leadership Research Center, located in Pekin, Ill.

Section 3 provides that payments shall be made upon application at such time, in such manner, and containing or accompanied by such information as the Commissioner may require.

Section 4(a) authorizes the appropriation of $5 million for the Hubert H. Humphrey Institute of Public Affairs.

Section 4(b) authorizes the appropriation of $2.5 million for the Everett McKinley Dirksen Congressional Leadership Research Center.

Section 4(c) provides that funds appropriated shall remain available until expended.

The title is amended to reflect the amendment adopted by the committee.

CHANGES IN EXISTING LAW

Since S. 2452 does not amend existing law, no changes need to be shown in order to comply with subsection (4) of Rule XXIX of the Standing Rules of the Senate.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene tomorrow morning at 9:30. After the prayer, the Senator from Missouri (Mr. DANFORTH) and the Senator from New York (Mr. JAVITS) will be recognized, each for not to exceed 15 minutes. At the conclusion of those two orders, the Senate will proceed, under a time agreement, to the consideration of the conference report on H.R. 5383, the Age Discrimination bill. Upon the disposition of that conference report, the Senate will resume its consideration of the Panama Canal Treaty.

There may be rollcall votes tomorrow, and at some point during the day it is anticipated that the urgent supplemental appropriation bill will be called up.

That is about it. I would anticipate that the Senate will be in session possibly until around 3 or 4 o'clock tomorrow afternoon.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. With that, Mr. President, and with a cheerful good night to everyone, I move that the Senate, as in executive session, stand in recess until the hour of 9:30 tomorrow morning.

The motion was agreed to; and at 6:44 p.m. the Senate, as in executive session, recessed until tomorrow, Thursday, March 23, 1978, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate March 22, 1978:

DEPARTMENT OF STATE

David D. Newsom, of California, a Foreign Service officer of the class of Career Minister, to be Under Secretary of State for Political Affairs.

U.S. ADVISORY COMMISSION ON INTERNATIONAL COMMUNICATION, CULTURAL AND EDUCATIONAL AFFAIRS

Olin C. Robinson, of Vermont, to be a member of the U S. Advisory Commission on International Communication, Cultural and Educational Affairs for a term of 1 year (new position).

SECURITIES INVESTOR PROTECTION CORPORATION

The following-named persons to be directors of the Securities Investor Protection Corporation for the terms indicated:

Ralph D. DeNunzio, of Connecticut, for a term expiring December 31, 1979 (reappointment).

Brenton H. Rupple, of Wisconsin, for a term expiring December 31, 1978, vice Glenn E. Anderson, term expired.

Michael A. Taylor, of New York, for a term expiring December 31, 1980, vice Henry W. Meers, term expired.

THE JUDICIARY

Daniel M. Friedman, of the District of Columbia, to be chief judge of the U.S. Court of Claims, vice Wilson Cowen, retired.

Harold H. Greene, of the District of Columbia, to be U.S. district judge for the District of Columbia, vice John J. Sirica, retired.

Gustave Diamond, of Pennsylvania, to be U.S. district judge for the western district of Pennsylvania, vice Edward Dumbauld, retired.

Donald E. Ziegler, of Pennsylvania, to be U.S. district judge for the western district of Pennsylvania, vice Rabe F. Marsh, retired.

IN THE COAST GUARD

The following graduates of the Coast Guard Academy to be permanent commissioned officers in the Coast Guard in the grade of ensign:

Will Daniel Agen
Gene Raymond Allard
David W. Alley
Iain Anderson
Timothy Teall Arthur
Mark Edward Ashley
Charles Francis Barker
Jon Michael Bechtle
Keith Marshall Belanger
Jack Raymond Bentley
Paul Sparks Berry
William Clarke Billings, Jr.
Robert M. Bishop, Jr.
Bruce William Black
Rex James Blake
Christopher Thomas Boegel
Christopher Alden Bond
Jay Frank Boyd

Jeffrey E. Brager
John Brooks
Manson Kevin Brown
Douglas Eugene Burke
Mark J. Burrows
Michael Paul Butler
Michael J. Cappello
Lance Wayne Carpenter
Kevin Paul Carpentier
Abraham G. Cassis
Joseph Roland Castillo
Mark William Cerasale
Eric Kendall Chapman
Thomas Joseph Chuba, Jr.
Donald R. Clinkenbeard
George Abel Cognet
Wayne Nelson Collins
Clifford Keith Comer
Douglas Charles Connor
Kenneth Bryan Cowan
Patrick Joseph Cunningham, Jr.
Richard William Cusson, Jr.
Robert Mitchell Czechowicz
Mark Edward Dahl
Paul Steven Dal Santo
William Gary Davidson
John Earl Dejung
Robert Attilio D'Eletto
Stephen Thomas Delikat
Paul D. Destefano
Peter J. DiNicola
Bruce A. Drahos
Alfred Martin Ducharme
Robert Walker Durfey, Jr.
Douglas N. Eames
George Thomas Elliott
William Arthur Emerson
Daniel M. Finney
Brian James Ford
Mitchell Randy Forrester
Mark Alan Frost
Adeste Esteban Fuentes
Thomas Stephen Fullam
Richard Bradley Gaines
Michael John Gardner
Jeffrey Allan Georges
Randall Richard Gilbert
Andrew Glen Givens
Clinton Scott Gordon
Michael James Hanratty
Michael Eric Hanson
Benjamin Maurice Harrison
Frederic Comstock Harwood
Robert Charles Hayden
David K. Hebert
Ronald Thomas Hewitt
Jay Richard Hickman
Mark Dana Hill
James Thomas Hogan, Jr.
Scott Michael Holley
John R. Huber
Kenneth Hull
Bryon Ing
Martin L. Jackson
Scott Jeffrey Johnson
Stephen L. Kantz
Thomas John Kavanaugh
Jeffrey Alan Kayser
Kenneth Keefe
George Wildie Kellam, III
James William Kelly
Mark John Kerski
James Patrick Kevin, Jr.
Paul Joseph Lammerding
Mark Herting Landry
Michael James Lapinski
John Joseph Lapke
W. Patrick Layne
Jonathan Bruce Lemmen
Tedric Rudolph Lindstrom
Joseph Cornell Loadholt
Michael Paul Lucia
Eddie Vincent Mack
Kent Palmer Mack
Robert Louis Maki
Michael John Mangan
Gerard David Massad
David George Maylum
Robert Waite McCarthy, III
Dwight Keith McGee
William James McHenry
James Allen McKenzie
Lloyd Mark McKinney
Bruce Ray McQueen
Larry C. Mercier
William Frederick Meyn, Jr.
Mark Lee Miller
Thomas J. Murphy
Bruce Robert Mustain
Richard Wayne Muth
Gary Arthur Napert
Richard Ainsworth Nickle
Kevin Allen Nugent
Brian John O'Keefe
Michael Hugh O'Neill
Stuart Overton
Joseph Vincent Pancotti
Wayne Carlton Parent
Steven Thomas Penn
James Lawrence Person
Joseph Gora Pickard
Barry Lee Poore
Paul Aldege Preusse
Ronald James Rabago
Michael Phillip Rand
Steven Holland Ratti
Robert Earl Reininger
Kelly Patrick Reis
Robert Francis Reynolds
Daniel J. Rice
Edward Arthur Richards, Jr.
Douglas P. Riggins
Joseph Terrence Riordan
Robert Kenneth Roemer
Walter F. Rogers
Timothy William Rolston
Lee Thomas Romasco
Kevin Guy Ross
Stephen Anthony Ruta
George F. Ryan
George Stanley Sabol
Lawrence Richard Sandeen
Gene Lynn Schlechte
Keith Emory Schleiffer
David Craig Senecal
Michael Ralph Seward
Kenneth Dale Sheek
Samuel Keith Shriver
Mark Joseph Sikorski
Cleon Webster Smith
Jack R. Smith
LeRoy Edward Smith
William Vic Smyth
Timothy James Spangler
Jeffrey Bruce Stark
Martin Dennis Stewart
Thomas Joseph Sullivan, Jr.
Norman Keith Swenson
Robert Alan Van Zandt
Matthew Jeremiah Vaughan
William Philip Vieth, Jr.
Michael Henry Vincenty
William John Wagner
Bruce David Ward
James Angus Watson, IV
Kerry Batchelor Watterson
Marin Raymond Weikart
Kurt Reid Wellington
Richard Everett Wells
Daniel Clemens Whiting
Edward Lee Wilds, Jr.
Congress Harel Williams, Jr.
Brooke Edmund Winter
Matthew James Wixsom
Ronald Francis Wohlfrom
Richard Clayton Yazbek
Douglas Edward Yon
John Walter Yost
Edward Lewis Young, Jr.

IN THE ARMY

The following-named Army Medical Department officer for temporary appointment in the Army of the United States, to the grade indicated, under the provisions of title 10, United States Code, sections 3442 and 3447:

To be major general, Medical Corps

Brig. Gen. Raymond Holmes Bishop, Jr., [redacted], Army of the United States (colonel, Medical Corps, U.S. Army).

The following-named Army Medical Department officers for appointment in the Regular Army of the United States, to the grade indicated, under the provisions of title 10, United States Code, sections 3284 and 3306.

To be brigadier general, Medical Corps

Brig. Gen. Raymond Holmes Bishop, Jr., [redacted], Army of the United States (colonel, Medical Corps, U.S. Army).

Maj. Gen. Enrique Mendez, Jr., [redacted], Army of the United States (colonel, Medical Corps, U.S. Army).

IN THE AIR FORCE

The following Air National Guard of the United States officers for promotion in the Reserve of the Air Force under the provisions of section 593(a), title 10 of the United States Code, as amended:

LINE OF THE AIR FORCE

To be lieutenant colonel

Maj. David L. Ahrens, [redacted].
Maj. John Anderson Jr., [redacted].
Maj. David T. Arendts, [redacted].
Maj. Armando Arvizu, [redacted].
Maj. Donald E. Barnhart, [redacted].
Maj. Frederick L. Bonney, [redacted].
Maj. Joseph M. Byrne, [redacted].
Maj. Enos N. Chabot, [redacted].
Maj. Willis I. Crumpler, [redacted].
Maj. David R. Cummock, [redacted].
Maj. George A. Duncan, [redacted].
Maj. Thomas R. Emmett Jr., [redacted].
Maj. George A. Fisher Jr., [redacted].
Maj. James D. Flick, [redacted].
Maj. Charles P. Ford, [redacted].
Maj. Richard L. George, [redacted].
Maj. Jule V. Goehring, [redacted].
Maj. William R. Greer, [redacted].
Maj. Joe K. Griffin, [redacted].
Maj. Harold L. Gustafson, [redacted].
Maj. John M. Hubbard, [redacted].
Maj. Fred N. Larson, [redacted].
Maj. James D. McKay, [redacted].
Maj. Dan R. McKinney, [redacted].
Maj. Jon M. McMahon, [redacted].
Maj. Frederick A. Moore, [redacted].
Maj. Irtalis Negron, [redacted].
Maj. James W. Piercy, [redacted].
Maj. Raymond A. Prince, [redacted].
Maj. Neal T. Reavely, [redacted].
Maj. John F. Ruby, [redacted].
Maj. Ralph W. Sirek, [redacted].
Maj. Nicholas C. Sivo, [redacted].
Maj. William H. Snead, [redacted].
Maj. Carleton B. Waldrop, [redacted].
Maj. Stanley F. Wied, [redacted].
Maj. Robert Wilbur, [redacted].
Maj. John F. Williams, Jr., [redacted].
Maj. Charles F. Wood, [redacted].
Maj. Howard A. Zike, [redacted].

JUDGE ADVOCATE

Maj. Bennett W. Cervin, [redacted].
Maj. Harry Lee, [redacted].

IN THE AIR FORCE

The following Air National Guard of the United States officers for promotion in the Reserve of the Air Force under the provisions of section 593(a) title 10 of the United States Code, as amended:

LINE OF THE AIR FORCE

To be lieutenant colonel

Maj. William J. Austin, [redacted].
Maj. Edward L. Bailey, [redacted].
Maj. James C. Bergholt, [redacted].
Maj. Kenneth L. Brandt, [redacted].
Maj. James F. Brown, [redacted].
Maj. Alfred W. Clark, [redacted].
Maj. Gervase L. Connor, [redacted].
Maj. Jesse T. Cantrill, [redacted].
Maj. Gerald R. Corvey, [redacted].
Maj. Dean W. Crowder, [redacted].
Maj. George B. Doty, [redacted].
Maj. James K. Ehni, [redacted].
Maj. John H. Fenimore V, [redacted].
Maj. William E. Galt, [redacted].
Maj. Raymond J. McGeechan, [redacted].
Maj. Dennis O. Hugg, [redacted].
Maj. John K. Ianuzzi, [redacted].
Maj. Ralph J. King, [redacted].
Maj. Clifton F. Landis, [redacted].

Maj. Franklin J. Lane, [redacted].
Maj. William J. Lofink, [redacted].
Maj. Thomas N. McLean, [redacted].
Maj. Ralph E. Meade, [redacted].
Maj. John A. Molini, [redacted].
Maj. John R. Rees, [redacted].
Maj. Carlos G. Rodriquez, [redacted].
Maj. Pere W. Saltzgiver, [redacted].
Maj. Henry A. Simmons, [redacted].
Maj. Joe T. Strow, [redacted].
Maj. Frederic L. Symmes, [redacted].
Maj. Howard E. Travis, [redacted].

JUDGE ADVOCATE

Maj. Robert E. Dastin, [redacted].
Maj. Edward L. Fanucchi, [redacted].

IN THE AIR FORCE

The following officers for appointment in the Regular Air Force, in the grades indicated, under the provisions of section 8284, title 10, United States Code, with dates of rank to be determined by the Secretary of the Air Force:

To be first lieutenant

Aboe, Errol S., [redacted].
Ace, Jeffrey K., [redacted].
Acone, Gregory L., [redacted].
Acree, Richard A., [redacted].
Adair, Gerald G., [redacted].
Adams, Paul J., [redacted].
Adams, Richard A., [redacted].
Aguirre, Ralph G., [redacted].
Akeo, Alvin L. K., [redacted].
Albright, Mark D., [redacted].
Alderman, Ronald G., [redacted].
Alford, Edgbert, [redacted].
Allen, Michael D., [redacted].
Allen, Stephen J., [redacted].
Alley, Richard L., [redacted].
Amburn, Elton P., [redacted].
Anderson, Dale R., [redacted].
Anderson, Dennis W., [redacted].
Anderson, Kenneth V., [redacted].
Anderson, Mark W., [redacted].
Anderson, Roland E., [redacted].
Anderson, Steven D., [redacted].
Andert, Michael J., [redacted].
Andrews, Marlo S., [redacted].
Angle, Thomas E., [redacted].
Aponte, Carmen R., [redacted].
Archambault, Gary J., [redacted].
Arlington, Christopher A., [redacted].
Arnold, Christopher D., [redacted].
Arnold, Stanley W., Jr., [redacted].
Aronson, Fred D., [redacted].
Arrington, Curtis H., III, [redacted].
Artery, Duane R., [redacted].
Atkins, George B., [redacted].
Attarian, Howard W., [redacted].
Augustine, Charles D., [redacted].
Austin, Steven J., [redacted].
Babineaux, Preston J., Jr., [redacted].
Bacon, Catherine T., [redacted].
Bagnell, Everett J., Jr., [redacted].
Bailey, Timothy C., [redacted].
Bailey, William A., [redacted].
Bakun, Walter S., [redacted].
Baldwin, Dick B., [redacted].
Baldwin, Margaret K., [redacted].
Barker, Randy D., [redacted].
Barker, Thomas R., [redacted].
Barkman, Danny K., [redacted].
Barlow, Samuel R., III, [redacted].
Barnes, Robert M., [redacted].
Barnett, Dennis L., [redacted].
Barninger, David R., [redacted].
Barr, Henry L. E., [redacted].
Barton, Charles K., [redacted].
Barwick, Sidney K., [redacted].
Barzellone, Stephen F., [redacted].
Basill, Carl A., [redacted].
Bassi, Joseph P., [redacted].
Baumann, Martin J., [redacted].
Baumert, William J., [redacted].
Baumgartner, Lawrence D., [redacted].
Bean, David M., [redacted].
Becker, Rudy W., [redacted].
Bedford, John C., [redacted].
Beeker, Emmet R., III, [redacted].
Beers, Robert A., [redacted].
Beggs, Donald L., [redacted].
Beidel, David S., [redacted].
Bell, John R., [redacted].
Bell, Steve W., [redacted].
Belt, Robert B., [redacted].
Bennett, Raul C., [redacted].
Benningfield, Steven A., [redacted].
Bent, James E., III, [redacted].
Berg, Robert L., [redacted].
Bergeron, Steven J., [redacted].
Bergmann, Patrick S., [redacted].
Bergquist, Randy L., [redacted].
Beveridge, William B., [redacted].
Bidgood, James K., Jr., [redacted].
Bingham, Michael W., [redacted].
Bircher, Jeffrey R., [redacted].
Blackhurst, Jack L., [redacted].
Blakeley, Carl K., [redacted].
Blanchette, Stephen M., [redacted].
Bloom, Claude A., Jr., [redacted].
Blouin, George K., [redacted].
Bluhm, Raymond M., [redacted].
Blunden, Robert J., Jr., [redacted].
Bodenhamer, Charles D., [redacted].
Budenheimer, Michael W., [redacted].
Boesch, Brian P., [redacted].
Boles, Gordon D., [redacted].
Bolles, Wilhem, [redacted].
Bolli, John H., Jr., [redacted].
Bollo, Timothy R., [redacted].
Boltjes, Michael B., [redacted].
Bongarts, Monty D., [redacted].
Bontadelli, James A., Jr., [redacted].
Boone, Lloyd D., [redacted].
Borgiasz, William S., [redacted].
Borochoff, Steve E., [redacted].
Bower, Martha H., [redacted].
Boyer, John C, III, [redacted].
Boyless, James A., [redacted].
Boyt, Raymond E., [redacted].
Bramlitt, Larry T., [redacted].
Brickman, Jerry M., [redacted].
Bright, Daniel W., [redacted].
Brink, Burton L., [redacted].
Brisco, Worthey C., Jr., [redacted].
Briscoe, Norman R., [redacted].
Britto, John D., [redacted].
Brooks, Michael E., [redacted].
Brough, Rulon L., [redacted].
Brown, George T., [redacted].
Brown, Kirk L., [redacted].
Brown, Paul D., Jr., [redacted].
Brown, Robert J., [redacted].
Brown, Stephen D., [redacted].
Brown, Steven C., [redacted].
Browning, Gary E., [redacted].
Bryan, Reginald B., [redacted].
Bryant, Ronald G., [redacted].
Bryce, Edward G., [redacted].
Bryden, John R., [redacted].
Buendel, Gerald A., [redacted].
Buis, Gary L., [redacted].
Burcham, Roy F., Jr., [redacted].
Burckle, Edwynn L., [redacted].
Burgess, Edward P., Jr., [redacted].
Burke, Bron A., [redacted].
Burns, Patrick A., [redacted].
Busby, William S., III, [redacted].
Byrd, John L., [redacted].
Caissie Paul A., [redacted].
Caldwell, Mark S., [redacted].
Callahan, Joseph R., Jr., [redacted].
Callender, Marion E., Jr., [redacted].
Calvert Mike, [redacted].
Campbell, Clarence L., Jr., [redacted].
Campbell, James L., [redacted].
Campbell, William E., [redacted].
Canny, Regis, [redacted].
Capps, Lawrence D., [redacted].
Carlton, Gaylord K., [redacted].
Carmichael, Bruce W., [redacted].
Carr, Ralph R., [redacted].
Carr, Wendy J., [redacted].
Carter, Dorothy K., [redacted].
Cason, Milton C., Sr., [redacted].
Castelli, Garry L., [redacted].
Caulder, Leland M., Jr., [redacted].
Cavit, Dennis D., [redacted].
Cecil, Douglas M., [redacted].
Chandler, Clifford H., Jr., [redacted].
Chaney, Robert W., [redacted].
Charles, Jeffrey R., [redacted].
Charters, Patrick S., [redacted].
Childress, Creed T., Jr., [redacted].
Chin, Marvin L., [redacted].
Chiniara, Anthony J., [redacted].
Chmar, Mark S., [redacted].
Choate, Timothy J., [redacted].
Chrisinger, Lance E., [redacted].
Christopher, Charles H., II, [redacted].
Cirillo, Linda S., [redacted].
Clark, David F., [redacted].
Clark, Fred P., [redacted].
Clarkson, Thomas P., Jr., [redacted].
Clayson, Rickie L., [redacted].
Clemens, William A., [redacted].
Coffee, William R., [redacted].
Cole, Garry W., [redacted].
Colello, Dean A., [redacted].
Coleman, Stephen R., [redacted].
Collene, Dennis M., [redacted].
Collier, Daniel J., [redacted].
Collier, George A., [redacted].
Collins, Thomas J., [redacted].
Collman, Gregory R., [redacted].
Coln, Barry K., [redacted].
Coltharp, Douglas C., [redacted].
Condit, Roger B., III, [redacted].
Conklin, William G., II, [redacted].
Conley, Raymond E., [redacted].
Connell, Ruthann, [redacted].
Converse, Curtis D., [redacted].
Cook, Edward M., [redacted].
Cook, Joseph J., [redacted].
Cook, Wyatt C., [redacted].
Cooner, Walter J., Jr., [redacted].
Cooper, John D., [redacted].
Cooper, Virgil L., [redacted].
Copsey, Gary L., [redacted].
Cornelius, Russell K., [redacted].
Cornell, Thomas E., III, [redacted].
Costello, Michael E., [redacted].
Crabtree, Eric W., [redacted].
Crane, Sharon M., [redacted].
Crawford, Victoria K., [redacted].
Crawley, John L., III, [redacted].
Cressman, Frederick W., III, [redacted].
Croft, Joann, [redacted].
Cronk, Richard J., [redacted].
Cross, Stephen E., [redacted].
Crow, Robert P., Jr., [redacted].
Crowe, Jerry W., [redacted].
Crowe, William E., Jr., [redacted].
Cry, Michael A., [redacted].
Curione, Robert G., [redacted].
Curran, Stephen M., [redacted].
Currie, Douglas E., [redacted].
Curry, William A., Jr., [redacted].
Cutler, Mary K., [redacted].
Damratoski, Charles A., Jr., [redacted].
Danforth, Rhoda, S., [redacted].
Davenport, James H., [redacted].
Davenport, Michael A., [redacted].
Davidson, Scott J., [redacted].
Davis, Colvin L., [redacted].
Davis, Conrith W., Jr., [redacted].
Davis, Fred T., Jr., [redacted].
Davis, Gary L., [redacted].
Davison, Scott E., [redacted].
Day, Albert W., [redacted].
Day, Larry M., [redacted].
Debruler, Douglas R., [redacted].
Decarvalho, Luiz O., [redacted].
Decker, Stephen J., [redacted].
Decoursey, Robert L., [redacted].
Decuir, Kenneth M., [redacted].
Deeble, Kenneth M., [redacted].
Degi, Bruce J., [redacted].
Deleo, Richard L., [redacted].
Destefano, Thomas M., Jr., [redacted].
Diamond, Wright W., III, [redacted].
Dicenzo, Anthony M., [redacted].
Dickey, Raymond P., [redacted].
Dietz, John K., [redacted].
Dill, David H., [redacted].
Dipentino, Daniel F., [redacted].
Dishart, Urban E., III, [redacted].
Dismuke, Oscar H., [redacted].
Divelbiss, Charles G., Jr., [redacted].
Dixon, William R., [redacted].
Dlouhy, David W., [redacted].

Doering, Richard P., xxx-xx-xxxx.
Dohlman, Wayne R., xxx-xx-xxxx.
Dolle, Dennis B., xxx-xx-xxxx.
Donovan, Gregory J., xxx-xx-xxxx.
Dornette, Mark E., xxx-xx-xxxx.
Doten, Neal L., xxx-xx-xxxx.
Dougherty, Joseph P., Jr., xxx-xx-xxxx.
Dougherty, William B., xxx-xx-xxxx.
Douglas, Arthur G., xxx-xx-xxxx.
Douglas, Donald A., xxx-xx-xxxx.
Douglas, James L., Jr., xxx-xx-xxxx.
Dow, Ryan S., xxx-xx-xxxx.
Drain, John W., Jr., xxx-xx-xxxx.
Drake, Leo M., xxx-xx-xxxx.
Drifmeyer, Kenneth R., xxx-xx-xxxx.
Driggers, Mitchell N., xxx-xx-xxxx.
Dspain, Michael L., xxx-xx-xxxx.
Dufresne, Ronald R., xxx-xx-xxxx.
Dugas, George K., xxx-xx-xxxx.
Duggan, James W., xxx-xx-xxxx.
Duke, Carter S., xxx-xx-xxxx.
Duncan, Stanley W., xxx-xx-xxxx.
Dunn, Robert A., xxx-xx-xxxx.
Dura, Timothy L., xxx-xx-xxxx.
Eastham, Michael H., xxx-xx-xxxx.
Eberhart, Charles S., xxx-xx-xxxx.
Eberling, Raymond A., xxx-xx-xxxx.
Eckert, Daniel F., xxx-xx-xxxx.
Edens, Phyllis J., xxx-xx-xxxx.
Edwards, Stephen R., xxx-xx-xxxx.
Eglinton, Donalt J., xxx-xx-xxxx.
Ehmen, Robert L., xxx-xx-xxxx.
Ellerbeck, Dennis L., xxx-xx-xxxx.
Elliott, Michael S., xxx-xx-xxxx.
Ellis, Paul V., xxx-xx-xxxx.
Enlund, Irene P., xxx-xx-....
Erdahl, Robert E., Jr., xxx-xx-xxxx.
Erdelt, Kenneth P., xxx-xx-xxxx.
Estrada, Franklin A., xxx-xx-xxxx.
Evans, Edwin R., xxx-xx-xxxx.
Evans, Lewis H., xxx-xx-xxxx.
Evans, Richard D., xxx-xx-xxxx.
Everly, Walter K., xxx-xx-xxxx.
Fadum, Torgeir G., xxx-xx-xxxx.
Fahie, Charles D., xxx-xx-xxxx.
Fairbanks, Tim A., xxx-xx-xxxx.
Fairlie, Andrew A., xxx-xx-xxxx.
Farkas, Peter T., Jr., xxx-xx-xxxx.
Farrell, James M., xxx-xx-xxxx.
Fayne, Barry D., xxx-xx-xxxx.
Federinko, John F., xxx-xx-xxxx.
Fee, Jeffrey G., xxx-xx-xxxx.
Fehl, John W., xxx-....
Fellows, Richard T., xxx-xx-xxxx.
Fenn, Alvin W., xxx-xx-xxxx.
Fernandez, Mark A., xxx-xx-xxxx.
Fernandez, Richard, xxx-xx-xxxx.
Fernandezizquierdo, Octavio, xxx-xx-xxxx.
Finnegan, Lawrence J., Jr., xxx-xx-xxxx.
Fischer, William H., xxx-xx-xxxx.
Fish, Jim C., xxx-xx-xxxx.
Fisher, Charles B., xxx-xx-xxxx.
Fisk, Robert B., III, xxx-xx-xxxx.
Fitzpatrick, Joseph H., xxx-xx-xxxx.
Fitzpatrick, Paul F. X., xxx-xx-xxxx.
Flamish, Richard A., xxx-xx-xxxx.
Flannery, Robert L., xxx-xx-xxxx.
Fletcher, Joseph V., xxx-xx-xxxx.
Flint, Lee W., xxx-xx-xxxx.
Flowers, Lewis D., xxx-xx-xxxx.
Folkerts, John H., xxx-xx-xxxx.
Folkes, Thomas F., xxx-xx-xxxx.
Force, Robert K., xxx-xx-xxxx.
Forcier, Bernard C., xxx-xx-xxxx.
Forness, Terry L., xxx-xx-....
Forrester, Conrad T., xxx-xx-xxxx.
Fowler, Dennis B., xxx-xx-xxxx.
Fox, Jennifer B., xxx-xx-....
Fox, Joseph L., xxx-xx-xxxx.
Franklin, James J., xxx-xx-xxxx.
Franklin, Loras E., xxx-xx-xxxx.
Fraser, William M., III, xxx-xx-xxxx.
Fred, Martha E., xxx-xx-xxxx.
Freeman, Louis L., xxx-xx-xxxx.
Freeman, Paul L., xxx-xx-xxxx.
Freitas, Armand P., xxx-xx-xxxx.
French, William G., xxx-xx-xxxx.
Frill, Dennis R., xxx-xx-xxxx.
Fritts, George D., xxx-xx-xxxx.
Fulop, Michael A., xxx-xx-xxxx.
Gagnon, Raymond C., Jr., xxx-xx-xxxx.
Gallagher, Clayton G., Jr., xxx-xx-xxxx.
Gallagher, William F., Jr., xxx-xx-xxxx.
Gallion, Donald R., xxx-xx-xxxx.
Gammon, Thomas V., xxx-xx-xxxx.
Gamon, Robert E., xxx-xx-xxxx.
Garbe, Thomas F., xxx-xx-xxxx.
Garcia, Jose C., xxx-xx-xxxx.
Gardner, Clifford C., xxx-xx-xxxx.
Gardner, Kenneth S., III, xxx-xx-xxxx.
Garland, David E., xxx-xx-xxxx.
Gaskill, Roy B., xxx-xx-xxxx.
Gatewood, Clinton F., xxx-xx-xxxx.
Gatewood, Milton T., xxx-xx-xxxx.
Gendron, Gerald J., Jr., xxx-xx-xxxx.
Gerfen, Larry R., xxx-xx-xxxx.
Gibbons, Francis J., xxx-xx-xxxx.
Gilbride, Richard L., xxx-xx-xxxx.
Giles, Gerald L., xxx-xx-xxxx.
Gillespie, Cheryl M., xxx-xx-xxxx.
Gillespie, Jerome F., xxx-xx-xxxx.
Gillespie, William A., xxx-xx-xxxx.
Gillis, James B., xxx-xx-xxxx.
Gillmore, Charles P., xxx-xx-xxxx.
Giorvigen, Rick M., xxx-xx-xxxx.
Goad, Dan M., xxx-xx-xxxx.
Goble, Mark O., xxx-xx-xxxx.
Godfrey, Ronald G., xxx-xx-xxxx.
Goebel, Stephen J., xxx-xx-xxxx.
Goetz, William L., xxx-xx-xxxx.
Goode, Samuel P., xxx-xx-xxxx.
Goodell, Gary G., xxx-xx-xxxx.
Gordon, Wayne A., xxx-xx-xxxx.
Gosdin, Malcolm E., Jr., xxx-xx-xxxx.
Gove, Channing L., xxx-xx-xxxx.
Graham, Sanford M., Jr., xxx-xx-xxxx.
Grasso, Joseph D., xxx-xx-xxxx.
Gration, Jonathan S., xxx-xx-xxxx.
Gray, Steven R., xxx-xx-xxxx.
Green, Edward L., xxx-xx-xxxx.
Green, Michael E., xxx-xx-xxxx.
Greenly, Mark D., xxx-xx-xxxx.
Greenwaldt, Thomas R., xxx-xx-xxxx.
Gregor, Stephen W., xxx-xx-xxxx.
Grimes, Joe M., xxx-xx-xxxx.
Grimm, David A., xxx-xx-xxxx.
Groebe, Gerald R., xxx-xx-xxxx.
Grones, John G., xxx-xx-xxxx.
Guarino, William R., xxx-xx-xxxx.
Guest, Thomas L., xxx-xx-xxxx.
Gulbranson, Blaine D., xxx-xx-xxxx.
Haar, Ronald D., xxx-xx-xxxx.
Hack, Miles, Jr., xxx-xx-xxxx.
Haggstrom, Glenn D., xxx-xx-xxxx.
Hahn, Carrel W., xxx-xx-xxxx.
Hahn, John D., xxx-xx-....
Hails, Edward T., Jr., xxx-xx-xxxx.
Haley Paula W., xxx-xx-xxxx.
Hall, Barry C., xxx-xx-xxxx.
Hall, John A., xxx-xx-xxxx.
Hall, Stephen B., xxx-xx-xxxx.
Hamilton, David E., Jr., xxx-xx-xxxx.
Hammer, Steven L., xxx-xx-xxxx.
Handrich, William F., xxx-xx-xxxx.
Hansen, Kip L., xxx-xx-xxxx.
Hargis, Thomas S., xxx-xx-xxxx.
Harlow, Barry R., xxx-xx-xxxx.
Harrington, Patrick J., xxx-xx-xxxx.
Harris, James C., xxx-xx-xxxx.
Harris, Paul H., xxx-xx-xxxx.
Harrison, Joe F., xxx-xx-xxxx.
Harrison, Sandra L., xxx-xx-xxxx.
Harvey, Flossie N., xxx-xx-xxxx.
Hasling, Robert F., Jr., xxx-xx-xxxx.
Haugen, Gordon J., xxx-xx-xxxx.
Hawk, Gilbert R., xxx-xx-xxxx.
Hawkins, Jerome D., xxx-xx-xxxx.
Hayer, Christopher F., xxx-xx-xxxx.
Hayes, Philip C., xxx-xx-xxxx.
Hays, Geoffrey L., xxx-xx-xxxx.
Heald, Russell W., xxx-xx-xxxx.
Healey, Ralph G., Jr., xxx-xx-xxxx.
Healion, Deirdre A., xxx-xx-xxxx.
Heberle, Frederick J., xxx-xx-xxxx.
Heinen, Roger L., xxx-xx-xxxx.
Heiser, John L., xxx-xx-xxxx.
Heiserman, Dennis W., xxx-xx-xxxx.
Henthorn, David E., xxx-xx-xxxx.
Hernandez, Armando A., xxx-xx-xxxx.
Herve, Keith E., xxx-xx-xxxx.
Hess, Barry R., xxx-xx-xxxx.
Hester, Charles B., xxx-xx-xxxx.
Hibbard, Larry S., xxx-xx-xxxx.
Higashihara, Ken K., xxx-xx-xxxx.
Higgins, Mary K., xxx-xx-xxxx.
Highberg, Stewart P., xxx-xx-xxxx.
Hightower, Janice M., xxx-xx-xxxx.
Hill, Bartholomew G., xxx-xx-xxxx.
Hnat, Anthony R., xxx-xx-xxxx.
Hobbs, Warren W., xxx-xx-xxxx.
Hobbs William C., xxx-xx-xxxx.
Hockett, Michael C., xxx-xx-xxxx.
Hodges, Harry J., III, xxx-xx-xxxx.
Hodgson, Dean J., xxx-xx-xxxx.
Hoehna, Klaus J., xxx-xx-xxxx.
Hoile, Daniel L., xxx-xx-xxxx.
Holbert, Alexander S., Jr., xxx-xx-xxxx.
Holden, Paulette D., xxx-xx-xxxx.
Holden, William E., Jr., xxx-xx-xxxx.
Holmes, David K., xxx-xx-xxxx.
Holmes, Kenton H., xxx-xx-xxxx.
Hopkins, Harry A., xxx-xx-xxxx.
Hopper, Martin P., Jr., xxx-xx-xxxx.
Horting, Daniel R., xxx-xx-xxxx.
Horton, John A., xxx-xx-xxxx.
Houston, Henry J., xxx-xx-xxxx.
Hovey, Martin S., xxx-xx-xxxx.
Howard, Ernest G., xxx-xx-xxxx.
Howard, James N., Jr., xxx-xx-xxxx.
Howe, Todd M., xxx-xx-xxxx.
Howell, David E., xxx-xx-xxxx.
Hubatka, Larry D., xxx-xx-xxxx.
Hubbard, Richard P. G., xxx-xx-xxxx.
Huddleston, James E., xxx-xx-xxxx.
Hudson, Frederick S., xxx-xx-xxxx.
Hudson, Lanson J., xxx-xx-xxxx.
Hudson, Paul J., xxx-xx-xxxx.
Hughes, Robert G., xxx-xx-xxxx.
Hughes, Wayne E., xxx-xx-xxxx.
Humphrey, Margie L., xxx-xx-xxxx.
Hunt, James W., xxx-xx-xxxx.
Hunt, Steven L., xxx-xx-xxxx.
Hunter, Eugene A., xxx-xx-xxxx.
Hunter, Jon C., xxx-xx-xxxx.
Hutchens, Landon R., xxx-xx-xxxx.
Hutcherson, Norman B., xxx-xx-xxxx.
Hutchinson, Harold E., xxx-xx-xxxx.
Hyland, David J., xxx-xx-xxxx.
Ifland, George V., xxx-xx-xxxx.
Illies, Curtis A., xxx-xx-xxxx.
Inselman, John D., xxx-xx-xxxx.
Isaacks, William L., xxx-xx-xxxx.
Ivey, Patrick L., xxx-xx-xxxx.
Jackson, Donald M., xxx-xx-xxxx.
James, Thomas G., Jr., xxx-xx-xxxx.
Java, Bruce J., xxx-xx-xxxx.
Jenkins, Richard G., xxx-xx-xxxx.
Jenkins, Thomas H., xxx-xx-xxxx.
Jensen, Glynn E., xxx-xx-xxxx.
Jensen, Terry W., xxx-xx-xxxx.
Jeremica, Vernon B., xxx-xx-xxxx.
Jinneman, Bruce M., xxx-xx-xxxx.
Johnson, Charlie D., xxx-xx-xxxx.
Johnson, Jackie M., xxx-xx-xxxx.
Johnson, Jerry S., xxx-xx-xxxx.
Johnson, Michael E., xxx-xx-xxxx.
Johnson, Paul E., xxx-xx-xxxx.
Johnston, James E., Jr., xxx-xx-xxxx.
Johnston, Richard S., xxx-xx-xxxx.
Jones, David J., xxx-xx-xxxx.
Jones, Johnny R., xxx-xx-xxxx.
Jones, Larry C., xxx-xx-xxxx.
Jones, Phillip D., xxx-xx-xxxx.
Jones, Stephen M., xxx-xx-xxxx.
Jones, Walter I., xxx-xx-xxxx.
Jones, William B., xxx-xx-xxxx.
Jones, Wilmer E., xxx-xx-xxxx.
Jordan, Howard W., xxx-xx-xxxx.
Joubert, Joseph G., xxx-xx-xxxx.
Juarez, Richard F., xxx-xx-xxxx.
Judge, Michael R., xxx-xx-xxxx.
Justice, Stanley L., xxx-xx-xxxx.
Kaiser, John F., xxx-xx-xxxx.
Kalinoski, Robert E., xxx-xx-xxxx.
Katz, Robert A., xxx-xx-xxxx.
Kays, Larry E., xxx-xx-xxxx.
Kazmierczak, Ronald A., xxx-xx-xxxx.
Kazqak, Donald J., Jr., xxx-xx-xxxx.
Keating, Christopher B., xxx-xx-xxxx.
Kelley, Michael A., xxx-xx-xxxx.
Kelley, Michael J., xxx-xx-xxxx.
Kelly, Gregory F., xxx-xx-xxxx.

Kern, Konrad E., [redacted].
Keyes, Ricky J., [redacted].
Kiele, William A., [redacted].
King, Christine L., [redacted].
King, Randy R., [redacted].
King, Robert M., [redacted].
Kirtland, Michael A., [redacted].
Kirtley, Alan D., [redacted].
Kish, Steven, Jr., [redacted].
Knight, Gregory F., [redacted].
Knutson, Knute C., [redacted].
Knutzon, George K., [redacted].
Kopas, Steven F., [redacted].
Kopec, John S., [redacted].
Kopf, Alan L., [redacted].
Korntved, Harold L., [redacted].
Kouns, Barry L., [redacted].
Kowa, Mike W., [redacted].
Krause, Steven J., [redacted].
Kraynik, Robert J., [redacted].
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Kringer, Leo E., Jr., [redacted].
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Kunciw, Janet L., [redacted].
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Lampley, Virginia A., [redacted].
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Laras, Frank, [redacted].
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Latterman, Donald, [redacted].
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Ludwig, Carol E., [redacted].
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Magee, Gregory L., [redacted].
Maggard, Terrance F., [redacted].
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Mailhiot, Gary S., [redacted].
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Maxwell, Jesse R., [redacted].
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McManus, Billie R., [redacted].
McMullin, Michael C., [redacted].
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Meade, Thomas L., [redacted].
Meinhart, Richard M., [redacted].
Mejia, Manuel, Jr., [redacted].
Mellon, James C., [redacted].
Melton, Gerald E., [redacted].
Mendola, Christopher P., [redacted].
Mercer, Bradford D., [redacted].
Merrill, Bruce R., [redacted].
Merriman, Thomas H., [redacted].
Merritt, Jennie S., [redacted].
Mescher, Michael J., [redacted].
Metcalf, Drew N., [redacted].
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Minissale, Vincent, [redacted].
Miranda, Jay M., [redacted].
Mitchell, Larry D., [redacted].
Monfort, Ralph D., [redacted].
Monhemius, Erwin D., [redacted].
Montague, Kenneth A., [redacted].
Moore, John M., [redacted].
Moores, Phillip, [redacted].
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Morger, Rancal E., [redacted].
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Morrison, Charles, [redacted].
Mosby, David L., [redacted].
Moses, Bruce A., [redacted].
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Moss, Oliver J., III, [redacted].
Mroczek, Laverne A., [redacted].
Muhleman, David E., [redacted].
Muise, Alan D., [redacted].
Mumaugh, Daniel J., [redacted].
Muncy, Robert C., [redacted].
Murdter, John H., [redacted].
Mychalishyn, Michael, [redacted].
Myers, Lawrence P., [redacted].
Myers, Robert N., [redacted].
Myrick, Michael D., [redacted].
Nafziger, John W., [redacted].
Nagel, Robert J., [redacted].
Naugle, Eldon L., [redacted].
Neese, Robert L., [redacted].
Neff, David C., [redacted].
Nehrboss, Richard K., [redacted].
Neilson, Harvey B., A., [redacted].
Nelson, Edward A., [redacted].
Nelson, Robert L., Jr., [redacted].
Newell, Bruce A., [redacted].
Newman, George H., [redacted].
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Newquist, Jerreld L., Jr., [redacted].
Newton, Gary J., [redacted].
Nicholas, Lawrence A., [redacted].
Nolin, Walter H., Jr., [redacted].
Norred, Murray M., [redacted].
Norris, Michael L., [redacted].
Nyberg, Roland D., [redacted].
Obrien, John P., [redacted].
Obrien, William, [redacted].
Ockman, Randy P., [redacted].
Oconnor, John E., Jr., [redacted].
Oestreich, Mark D., [redacted].
Ogan, Andrew J., [redacted].
Oholendt, Ronald G., [redacted].
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Oliver, Lloyd W., [redacted].
Oliver, Michael J., [redacted].
Olsavicky, Sue Ann A., [redacted].
Omeally, John M., [redacted].
Orr, Michael J., [redacted].
Orr, Stephen R., III, [redacted].
Owen, James R., [redacted].
Owens, Onnie D., Jr., [redacted].
Padgett, Raymond G., [redacted].
Paquette, Robert E., [redacted].
Pardeck, Ronald L., [redacted].
Parker, Gail M., [redacted].
Parker, Robert L., [redacted].
Parkinson, Kelly E., [redacted].
Parks, Carlton R., [redacted].
Parks, Edward C., [redacted].
Parks, James B., [redacted].
Parma, Patrick J., [redacted].
Parris, Charles A., [redacted].
Patch, James C., Jr., [redacted].
Patterson, J. Barry, [redacted].
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Patton, David C., [redacted].
Patton, Jeffrey L., [redacted].
Paulson, Christopher M., [redacted].
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Pearsall, Arthur E., Jr., [redacted].
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Perkins, Lana D., [redacted].
Perkins, Mark M., [redacted].
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Piazza, Thomas J., [redacted].
Pierce, Sammy A., [redacted].
Pike, Dennis L., [redacted].
Plant, Thomas J., [redacted].
Pleasant, Joseph E. G., [redacted].
Ploetner, Billy G., [redacted].
Plummer, Benjamin E., [redacted].
Plummer, Joseph W., [redacted].
Poates, Carolyn A., [redacted].
Podonsky, Glenn S., [redacted].
Poe, Don R., [redacted].
Poff, James D., [redacted].

Polce, Ronald L., [redacted].
Ponds, Clarence, [redacted].
Poole, Kenneth H., [redacted].
Pope, Wallace, [redacted].
Popper, Shirley L., [redacted].
Porter, Riley P., [redacted].
Posey, Charles R., II, [redacted].
Postal, Mark F., [redacted].
Postel, James C., Jr., [redacted].
Pound Miles S., [redacted].
Pounder, Joseph J., III, [redacted].
Powell, Nancy A., [redacted].
Prescott, Glenn E., [redacted].
Preston, Richard R., [redacted].
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Provenzano, Salvatore T., [redacted].
Provost, Karl J., [redacted].
Pruden, Mary J., [redacted].
Pruitt, Daniel B., [redacted].
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Quinn, Scott T., [redacted].
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Quintin, Michael B., [redacted].
Railton, Ione E. E., [redacted].
Ramsey, Charles E., [redacted].
Randle, Suzanne M., [redacted].
Rasmussen, Frank H., [redacted].
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Rauth, Donald R., [redacted].
Records, Robert E., [redacted].
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Reese, George R., [redacted].
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Reis, Robert A., [redacted].
Remington, Charles L., [redacted].
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Rollo, Jerry R., [redacted].
Rook, Richard, C., [redacted].
Root, Linda J. M., [redacted].
Ross, Donald O., Jr., [redacted].
Roth, Franklin D., [redacted].
Rowley, Douglas S., [redacted].
Rozdal, Edward J., [redacted].
Rubinos, Jane E., [redacted].
Ruhmann, Edwin P., IV, [redacted].
Runt, David J., [redacted].
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Rybacki, Kai L., [redacted].
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Smith, Ronnie, [redacted].
Smith, William F., [redacted].
Smith, William T., [redacted].
Snook, Richard D., [redacted].
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Snyder, Rita M., [redacted].
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Spence, David E., [redacted].
Spencer, Richard E., [redacted].
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Spruell, Harold D., [redacted].
Stabley, Stevenson E., [redacted].
Stanley, James L., Jr., [redacted].
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Steck, Henry E., [redacted].
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Surline, John T., [redacted].
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Thedieck, Ann H., [redacted].
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Umbarger, Robert F., [redacted].
Unger, Virgil F., [redacted].
Urbanski, David P., [redacted].
Vancleave, Marjory A., [redacted].
Vandeusen, Frederick I., [redacted].
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Viator, Robert D., [redacted].
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Watkins, Robert D., [redacted].
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Wells, J. D., [redacted].
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Whiteford, John E., Jr., [redacted].
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Whittenberg, Edward L., [redacted].
Whyte, Arthur G., Jr., [redacted].
Wichman, Dennis L., [redacted].
Wieners, Frederick L., [redacted].
Wilcox, Brent K., [redacted].
Williams, Charles P., [redacted].
Williams, Keith L., [redacted].

Williams, Thomas G., xxx-xx-xxxx.
Williamson, Brian D., xxx-xx-xxxx.
Wilson, John D., xxx-xx-xxxx.
Wingfield, Clifton R., xxx-xx-xxxx.
Winkler, Horst P., xxx-xx-xxxx.
Winthrop, Michael F., xxx-xx-xxxx.
Wittmeyer, John R., xxx-xx-xxxx.
Witzel, John C., xxx-xx-xxxx.
Woodruff, Alan H., xxx-xx-xxxx.
Woodruff, Howard G., xxx-xx-xxxx.
Worley, Robert E., xxx-xx-xxxx.
Wortman, Robert S., xxx-xx-xxxx.
Wright, Michael E., xxx-xx-xxxx.
Wyatt, Donovan E., xxx-xx-xxxx.
Wycoff, Wayne T., Jr., xxx-xx-xxxx.
Wysong, Robert D., xxx-xx-xxxx.
Yankee, Marlon W., xxx-xx-xxxx.
Yarbrough, Thomas S., xxx-xx-xxxx.
Yaskin, Anthony S., xxx-xx-xxxx.
Yates, James P., xxx-xx-xxxx.
Yeoman, Paul D., xxx-xx-xxxx.
Young, Carol L., xxx-xx-xxxx.
Young, Karl B., xxx-xx-xxxx.
Young, Levonne, xxx-xx-xxxx.
Zenner, Pamela J., xxx-xx-xxxx.
Ziegler, Cavid J., xxx-xx-xxxx.
Zukerberg, Jane R., xxx-xx-xxxx.

To be second lieutenant

Adkison, Robert T., xxx-xx-xxxx.
Aston, Scott J., xxx-xx-xxxx.
Ayers, Francis H., Jr., xxx-xx-xxxx.
Black, Norman A., III, xxx-xx-xxxx.
Borton, Larry R., xxx-xx-xxxx.
Boschert, Kermit V., xxx-xx-xxxx.
Bovenizer, John O., xxx-xx-xxxx.
Braid, Richard P., xxx-xx-xxxx.
Canda, William R., xxx-xx-xxxx.
Caraway, James A., xxx-xx-xxxx.
Conrad, James D., xxx-xx-xxxx.
Cope, William H., Jr., xxx-x...
Costello, Joseph K., III, xxx-xx-xxxx.
Crawford, Cameron M., xxx-xx-xxxx.
Crawford, Michael L., xxx-xx-xxxx.
Culotta, Joseph M., Jr., xxx-xx-xxxx.
Dgornaz, Luis E., xxx-xx-xxxx.
Dillenburg, Stephen J., xxx-xx-xxxx.
Doneth, William D., III, xxx-xx-xxxx.
Duus, William A., xxx-xx-xxxx.
Dylewski, Gary R., xxx-xx-xxxx.
Fennell, Clarence J., xxx-xx-xxxx.
Ferris, Ellis G., xxx-xx-xxxx.
Garrison, Robert G., xxx-xx-xxxx.
Grabosky, Joseph P., xxx-xx-xxxx.
Green, Steven A., xxx-xx-xxxx.
Gunn, Roam A., xxx-xx-xxxx.
Hamilton, Dale E., xxx-xx-xxxx.
Hardy, David A., xxx-xx-xxxx.
Heincker, William R., xxx-xx-xxxx.
Hennessy, Michael T., Jr., xxx-xx-xxxx.
Hildreth, Robert A., xxx-xx-xxxx.
Hoke, James E., xxx-xx-xxxx.
Houle, Edward H., xxx-xx-xxxx.
Howell, Randy L., xxx-xx-xxxx.
Hull, Paul D., xxx-xx-xxxx.
Jacobsen, John E., xxx-xx-xxxx.
Jenschke, Erwin B., Jr., xxx-xx-xxxx.
Johann, Stephen M., xxx-xx-xxxx.
Johnson, Bruce G., xxx-xx-xxxx.
Jones, Edward S., xxx-xx-xxxx.
Jones, Gary L., xxx-xx-xxxx.
Kingman, Richard T., xxx-xx-xxxx.
Knuff, Richard A., xxx-xx-xxxx.
Konecay, Tom R., xxx-xx-xxxx.
Lebas, John C., Jr., xxx-xx-xxxx.
Lunsford, Guy D., xxx-xx-xxxx.
Morgan, David E., xxx-xx-xxxx.
Nakauchi, James J., xxx-xx-xxxx.
Odell, Brian R., xxx-xx-xxxx.
Peele, David C., xxx-xx-xxxx.
Phelps, John A., xxx-xx-xxxx.
Pierce, Orie O., Jr., xxx-xx-xxxx.
Powell, Thomas A., xxx-xx-xxxx.
Rankin, William J., xxx-xx-xxxx.
Rider, Richard D., xxx-xx-xxxx.
Roark, Charles W., xxx-xx-xxxx.
Robison, Richard H., xxx-xx-xxxx.
Rodriguez, Jose F., xxx-xx-xxxx.
Ryan, Robert G., xxx-xx-xxxx.
Saatzer, Patrick M., xxx-xx-xxxx.
Scott, Jess B., xxx-xx-xxxx.
Seagren, Thomas J., xxx-xx-xxxx.
Simpson, Charles R., xxx-xx...
Simpson, Steven M., xxx-xx-xxxx.
Sjolund, Clifford L., Jr., xxx-xx-xxxx.
Smerchek, Dana M., xxx-xx-xxxx.
Stan, Robert L., xxx-xx-xxxx.
Swope, Timothy W., xxx-xx-xxxx.
Torrington, Allan R., xxx-xx-xxxx.
Turner, Kristin M., xxx-xx-xxxx.
Waddell, Thomas P., xxx-xx-xxxx.
Wetzig, William C., Jr., xxx-xx-xxxx.
Whitmire, Thomas J., xxx-xx-xxxx.
Williamson, Michael L., xxx-xx-xxxx.
Willier, Glen D., II, xxx-xx-xxxx.
Wood, Stephen G., xxx-xx-xxxx.
Young, Esli K., xxx-xx...

EXTENSIONS OF REMARKS

URANIUM MILL SITE RESTORATION ACT OF 1978

HON. DAN MARRIOTT

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 22, 1978

● Mr. MARRIOTT. Mr. Speaker, yesterday I introduced H.R. 11698, the Uranium Mill Site Restoration Act of 1978. This bill would provide grants to States to carry out a restoration plan for abandoned uranium mill tailings.

This is necessary because of preliminary studies by ERDA in 1974 which identified 19 sites in the States of Arizona, Colorado, Idaho, New Mexico, Oregon, Texas, Utah, and Wyoming, where there existed large quantities of radioactive uranium mill tailings at the sites of inactive mills.

Comprehensive studies were completed by DOE on these sites last November. They are all mill sites which produced by far the greatest part of their output of uranium under contracts with the U.S. Atomic Energy Commission during the period 1947 through 1970.

In recent years there has developed a growing concern about the possible adverse effects to the public from long-term exposure to low-level sources of radiation from these tailings at the sites of the inactive mills.

I feel very strongly that the Congress needs to address this serious problem. Action has already been taken by the 92d Congress and again by the 95th to address this problem in Grand Junction, Colo. However, this was only a beginning, and now action is necessary to resolve it at the remaining 19 sites.

The problem is particularly acute in my State because of the large unstabilized mill tailings located in downtown Salt Lake City.

This covers a 128-acre area, which is clearly a threat to the health and welfare of those Utahans who live, work, or travel near them. These tailings were left there by the Vitro Chemical Co., which processed uranium ore under contract to the Federal Government between 1951 and 1964, and vanadium between 1965 and 1968.

In addition to the Salt Lake site, there are two other sites in Utah located at Green River and Mexican Hat.

The other sites are located in Monument Valley, Ariz.; Tuba City, Ariz.; Durango, Colo.; Maybelle, Colo.; Naturita, Colo.; Rifle, Colo.; Slick Rock, Colo.; Lowan, Idaho; Ambrosia Lake, N. Mex.; Shiprock, N. Mex.; Lakeview, Oreg.; Falls City, Tex.; Ray Pointe, Tex.; Riverton, Wyo., and Spook, Wyo.

This comprehensive piece of legislation deals with the problem of the tailings and calls for a federally funded program to be carried out by the individual States. In order to participate, the State makes application to the Department of Energy within 3 years. Should a State not wish to participate, then the DOE would undertake this restoration project.

In addition, it calls for a pilot study in Salt Lake City to determine to what extent, if any, radiation from uranium mill tailings at abandoned sites contaminates structures located within a 10-mile radius and to what extent it poses a health hazard to individuals living or working in the area. The Salt Lake site was chosen because of the location of the tailings within a large metropolitan area.

I urge my colleagues to carefully consider this legislation as a solution to the serious threat these abandoned uranium mill tailings pose to many of our citizens.●

MAZZOLI RENEWS SUPPORT FOR PUBLIC FINANCING OF CONGRESSIONAL RACES

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 22, 1978

● Mr. MAZZOLI. Mr. Speaker, as one who has long advocated public financing of congressional campaigns—and twice voted for public financing—I am appalled over the bill which comes before us today which is supposed to serve as the vehicle for public financing.

I strongly oppose the rule providing for the consideration of H.R. 11315.

This bill, which would cut by 70 percent what political parties can spend on House races and by 50 percent what political action fund-raising committees of business, labor, and other groups can