

NOVEMBER 1

9:30 a.m.

Select on Small Business

To continue hearings to review the impact of private and commercial credit reporting services on small business, to focus on the accuracy, reliability, and assessability of information released by such services.

424 Russell Building

NOVEMBER 2

9:30 a.m.

Judiciary

To resume hearings on S. 1612, to create a statutory charter which defines the policy and intent of the investigative authority and jurisdictions in matters under the jurisdiction of the FBI.

2228 Dirksen Building

NOVEMBER 6

9:00 a.m.

Agriculture, Nutrition, and Forestry
Agricultural Credit and Rural Electrification Subcommittee

To hold oversight hearings to examine the current operations of the Farmers Home Administration, focusing on recent problems relating to the outstanding debt to the agency and personnel problems associated with loan supervisions and counseling; also to examine the implementation of the guaranteed agricultural loan programs and the economic disaster loan program; and to review the installation of a management information system at the agency.

324 Russell Building

9:30 a.m.

Governmental Affairs
Intergovernmental Relations Subcommittee

To resume hearings on S. 1108, to provide relocation assistance and guidelines for displacement of individuals who are forced to leave their homes

and neighborhoods because of Federally funded projects.

3302 Dirksen Building

NOVEMBER 7

9:30 a.m.

Governmental Affairs

Intergovernmental Relations Subcommittee

To continue hearings on S. 1108, to provide relocation assistance and guidelines for displacement of individuals who are forced to leave their homes and neighborhoods because of Federally funded projects.

1318 Dirksen Building

NOVEMBER 14

9:30 a.m.

*Commerce, Science, and Transportation

To resume oversight hearings to review proposed techniques in the field of industrial development.

235 Russell Building

Foreign Relations

To hold hearings on the following international treaties proposing human rights: the International Convention on the Elimination of All Forms of Racial Discrimination Treaty (Exec. C, 95th Cong., 2d sess.); the International Covenant on Economic, Social and Cultural Rights Treaty (Exec. D, 95th Cong., 2d sess.); the International Covenant on Civil and Political Rights Treaty (Exec. E, 95th Cong., 2d sess.); and the American Convention on Human Rights Treaty (Exec. F, 95th Cong., 2d sess.).

4221 Dirksen Building

NOVEMBER 15

9:30 a.m.

Foreign Relations

To continue hearings on the following international treaties proposing human rights: the International Convention on the Elimination of All

Forms of Racial Discrimination Treaty (Exec. C, 95th Cong., 2d sess.); the International Covenant on Economic, Social and Cultural Rights Treaty (Exec. D, 95th Cong., 2d sess.); the International Covenant on Civil and Political Rights Treaty (Exec. E, 95th Cong., 2d sess.); and the American Convention on Human Rights Treaty (Exec. F, 95th Cong., 2d sess.).

4221 Dirksen Building

Governmental Affairs

Intergovernmental Relations Subcommittee

To resume oversight hearings to examine the scope of the general revenue sharing policy.

3302 Dirksen Building

NOVEMBER 16

9:30 a.m.

Foreign Relations

To continue hearings on the following international treaties proposing human rights: the International Convention on the Elimination of All Forms of Racial Discrimination Treaty (Exec. C, 95th Cong., 2d sess.); the International Covenant on Economic, Social and Cultural Rights Treaty (Exec. D, 95th Cong., 2d sess.); the International Covenant on Civil and Political Rights Treaty (Exec. E, 95th Cong., 2d sess.); and the American Convention on Human Rights Treaty (Exec. F, 95th Cong., 2d sess.).

4221 Dirksen Building

NOVEMBER 20

9:30 a.m.

*Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee

To resume hearings on S. 1250, to develop techniques for analyzing and stimulating technological and industrial innovation by the Federal Government.

5110 Dirksen Building

SENATE—Thursday, October 18, 1979

(Legislative day of Monday, October 15, 1979)

The Senate met at 12 noon, on the expiration of the recess, and was called to order by Hon. HARRY F. BYRD, JR., a Senator from the State of Virginia.

PRAYER

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

Let us pray.

Our Father-God, whose name is love, whose word is truth, whose spirit is goodness, in whose service is perfect freedom, and in knowledge of whom standeth eternal life, into Thy hands we commend our work this day.

"God be in our head and in our understanding;

God be in our eyes and in our looking;
God be in our mouth and in our speaking;

God be in our mind and in our thinking;

God be at our end—and at our departing."

In Thy holy name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,

Washington, D.C., October 18, 1979.

To the Senate:

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

WARREN G. MAGNUSON,
President pro tempore.

Mr. HARRY F. BYRD, JR., thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

THE JOURNAL

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

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

ORDER FOR RESTORATION OF LEADERSHIP TIME

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time of the two leaders be restored up to not to exceed 5 minutes each.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none. It is so ordered.

PROTECTING OUR NATIONAL SECURITY

Mr. ROBERT C. BYRD. Mr. President, as Senate committees continue to work on the SALT II treaty and as the treaty and associated issues are discussed in the

• This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Senate, in the media, and among the public, it is important to be attentive to the need to protect security-sensitive information.

In order to consider all aspects of the treaty and fulfill its constitutional responsibility, it is necessary for the Senate and certain of its committees to take account of some highly classified information.

In this respect, the Senate Select Committee on Intelligence, of which I am an ex officio member, has a particular responsibility. The committee has made an in-depth study of the capabilities of the United States to monitor the SALT II treaty. I have been in the process of reviewing the committee's detailed and classified report on this subject, and I have been impressed by the quality of the work and the care with which the committee and its staff treat this sensitive information.

The Intelligence Committee, under the leadership of the Senator from Indiana (Mr. BAYH) and the Senator from Arizona (Mr. GOLDWATER), has rendered an important service to the Senate.

For the Senate to be able to make informed decisions on matters relating to our national security, and particularly on an issue as significant as the SALT II treaty, Senators need to have access to certain classified information. But in having access to this information, Senators and their staff assume the responsibility for avoiding any leaks or breaches of security.

The leaking of privileged information is not a new problem in Washington. Access to information is a source of power and, in this city, power can be used to pursue many different goals. Some individuals leak information for personal or career advancement; political figures may leak information in order to curry favor with the media; bureaucrats or staff may seek to promote their personal interests or those of the agencies they represent. Others may leak information because they believe that it is in the national interest to do so. And, of course, there are public officials who "selectively declassify" information to bolster their case for a particular program or to block programs that they oppose.

Some information leaks are harmless. Perhaps too much information is withheld from the public as sensitive when really it is not sensitive. But one leak creates an incentive for a counterleak. Soon the distinction between what is sensitive and what is not becomes blurred. If the process is unchecked, over time, there is little of value left to leak.

There is certain information that I believe all of us would agree is legitimately classified. I am referring to information on special defense programs and intelligence collection procedures and capabilities on which our national security depends.

The leaking of security-sensitive information is a very serious matter, a process that threatens the very foundations of our national security. It cannot be condoned.

Earlier this year, the leadership on both sides of the aisle consulted with the Director of Central Intelligence, Ad-

miral Turner, and others in the administration to establish procedures for handling highly sensitive national security information related to the SALT II treaty.

The joint leadership discussed this with the chairmen and ranking members of the Armed Services Committee, the Foreign Relations Committee, and the Select Committee on Intelligence. On the whole, with one or two serious exceptions, these procedures seem to have worked very well.

With the continued cooperation of Senators and their staff—and their staff—these procedures can continue to work well.

I urge that, as the Senate debates SALT II in the weeks to come, Senators and our staffs remain mindful that it is the national security interests that are at stake, not our personal interests, not our interests in advancing ourselves, not our career interests, not our interests in playing to the media. It is the security of the Nation that we are talking about and we must be mindful always of the national security implications of the information at our disposal.

I want to compliment the staff of the Select Committee on Intelligence. I have been reading the highly secret report that was written, and which was alluded to in a newspaper column just this week. A staff member of that committee brought the report to my house in a briefcase. He would not leave without it. In other instances, it was brought by a staff member to my office. The staff member would not leave my office while I had the report.

That is the way it should be done. I do not take umbrage because, as a U.S. Senator or as the majority leader, I am not permitted to take such material home. I do not think I should be permitted to take it home. I could lose it; I could leave it somewhere inadvertently. I could copy it down. If I had it in my office, I could Xerox it. I could put it into a safe, intending that, of course, it be protected. But I do not have the kind of 24-hour security necessary to protect information of this kind. The Intelligence Committee is handling this highly secret information as it should.

So I compliment the members and the staff of the Select Committee on Intelligence for the strict regulations that are being followed with respect to that highly sensitive report. Insofar as this Senator is concerned, those regulations have been followed.

I think we all need to be mindful of this—Senators and our staffs—and we must proceed in a manner that reflects credit on the United States and fully protects our national security.

I yield the floor.

Mr. BAKER. Mr. President, I join in the admonitions of the majority leader and I do so not only as minority leader, but as an ex officio member of the Intelligence Committee and a member of the Senate Committee on Foreign Relations.

From that experience I have learned that nothing—nothing—is more important to the Senate's access to important information than the proof that we can keep a secret.

If we do not prove we can keep a

secret, we are not going to have the quality of information we require from the intelligence community and others for fear of a resumption of the massive leaks that occurred in this town for so long.

It is imperative we prove we can keep our mouth shut.

I was a member of the original Intelligence Committee and I saw firsthand the negotiations that went on in that committee with the CIA, the DIA, the NSA, the other intelligence agencies, the FBI, and the concern, the real fear, they had that if we established an oversight committee of the Senate, that if they turned over that information it would be minutes, days, or weeks, until it was out and the lives of agents jeopardized, highly sensitive information compromised, and the national security of the Nation would be impaired.

I saw that concern, and I heard it over and over.

I participated in the effort to convince the intelligence apparatus of this Government that we could keep a secret.

So, Mr. President, it is of more than passing importance to me to see we perform on the promise that the Senate has implicitly made to every intelligence agency in the Government that we will treat that information discretely and appropriately. That is why we set up the Intelligence Committee, which is a select committee. We choose the members well, and I trust them. That is why we set up the special secure facilities, the National Office of National Security Information, located in a particular place in this Capitol. That is why we have done these things.

But, Mr. President, it is absolutely essential that every one of us turn his attention to plugging any incipient leaks, because to do otherwise is not only dangerous, but it is a breach of the confidence that the Government has placed in the Senate, and our ability to maintain those confidences in the future.

(Later the following occurred:)

Mr. GLENN. Mr. President, remarks were made on the Senate floor about 10 minutes ago, by the majority leader and the minority leader, regarding security matters in the Senate. I associate myself completely with the remarks that were made at that time. I was listening on the speaker in my office and came over as soon as I heard that subject come up.

Mr. President, I think we have reached the stage where, if we are not very careful, we are about to do irreparable harm to our Nation as well as to the U.S. Senate as an institution.

When reports appear in the public press, quoting top secret material that we are working in the U.S. Senate, with regard to the SALT treaty, in spite of all procedures and all the precautions we have taken, then I say we have to be very, very careful. Security matters are not established lightly. Security classifications of individual pieces of correspondence or individual studies or memorandums are not classified lightly, particularly in the area of what we can do with regard to monitoring the Soviet Union, what is being done by agents, what is being done at clandestine sites, what is being done by satellites, what is

being done by all the potential intelligence sources. This is of the highest order of classification.

When some details of reports we have in the Intelligence Committee, which are of the highest classification in the land, start to show up in public print, we had better be careful.

Neither Members of the Senate nor staff members can take it upon themselves to decide unilaterally that these established classifications are not important, nor should they take these matters to the press or leak them to the press for their private political gain or for their personal ambitions.

When we do that, we risk the lives of agents who are representing this country outside this Nation's borders; we risk the lives of their families, perhaps. We also risk giving away the manner in which we obtain some of this information, so that it no longer will be available to us, from whatever source, whether in space or on the surface. If we do this, we vitally affect the lives of people as well as the ability to monitor the SALT treaty, and we give away intelligence information that might well be critical in other areas, quite apart from the SALT treaty.

I will not belabor this point. I have spoken on it repeatedly in committee.

Mr. HARRY F. BYRD, JR. Mr. President, I associate myself with the remarks made earlier by the distinguished majority leader and the distinguished minority leader concerning the need for the Senate to safeguard critical national security information. The majority leader, as he always does, ably put this matter into focus.

It is extremely important that we, as Members of the Senate as well as our staffs, who in many cases act briefly in our behalf, recognize that just because we are Senators or just because they are staff members, we have no right to leak to the press, or otherwise make available to the public or to individuals, classified documents pertaining to the national defense of our Nation.

I was delighted that I was in the Chamber this morning when the distinguished majority leader and the distinguished minority leader spoke about this matter. They are right in what they have said, and I am pleased to associate myself with their views and to express to each my appreciation, as an individual Senator, for their comments this morning.

U.S. DISTRICT COURT RULING ON TERMINATION OF MUTUAL DEFENSE TREATY WITH TAIWAN

Mr. BAKER. Mr. President, the U.S. District Court for the District of Columbia held that President Carter exceeded his constitutional authority by unilaterally terminating the U.S. Mutual Defense Treaty with Taiwan.

The ruling came in a case brought by the distinguished Senator from Arizona (Mr. GOLDWATER). Senator GOLDWATER has been diligent in the defense of the Senate's prerogatives, and everyone in this Chamber has not always agreed with his positions and points of view. I agree with his advocacy of the point of view

that the Senate has a role in the abrogation of a treaty solemnly ratified by this group.

But whether everyone agrees with him or not, I think we should all acknowledge today that Senator GOLDWATER has made an important contribution to the continuing unfoldment of the definition of the role of the Senate in the formulation of foreign policy.

I will await with great interest the further judicial review of the decision made on yesterday in the suit brought by Senator GOLDWATER. I urge that we take account of our responsibility. If the decision of the lower court is upheld, then, of course, it will be incumbent on the Senate to further consider that matter, that is, the abrogation of the treaty with Taiwan.

I am not taking a position now on the merits of that case. I am simply saying we owe Senator GOLDWATER a debt of gratitude for his effort to further extend and elaborate the institutional role of the U.S. Senate.

Mr. President, I offer him my congratulations. I offer him my congratulations not only for an effort well undertaken, but for a significant contribution.

Mr. JAVITS. Will the Senator yield?

Mr. BAKER. I yield.

Mr. JAVITS. The fact is that that amendment is still pending. That is, that matter is still before us.

I think we have facilitated Senator GOLDWATER's action because Senators RIBICOFF, PERCY, and I advised the court that the appointment of counsel for the Senate in no way made that a preemptive appointment, which is an argument made against it.

I look forward also to the fact that it will be decided in a definitive way, as it should be. I think he has rendered a service in raising the issue.

All of us were very careful to preserve all his rights while these proceedings were going on.

Several Senators addressed the Chair.

Mr. BAKER. I thank the Senator from New York for his remarks. I agree with every one of them.

I have said this often, and I repeat it again: The first year I came to the Senate in 1967, one of my predecessors at this desk told me that JACK JAVITS—if he will excuse the informality—is not only a great Senator, but he is the Senate's lawyer.

In this case, and many others, he has proven his competence and the value of his contribution.

Mr. PROXMIRE. Will the Senator from Tennessee yield on that point with respect to Senator GOLDWATER?

Mr. BAKER. I am glad to yield.

Mr. PROXMIRE. I want to join the distinguished Senators in praise of the remarkable Senator from Arizona.

Not only did he perform a service in carrying this fight to the courts and in winning, but he performed a service because his cause was correct.

I feel very strongly that no President of the United States, Republican or Democrat, should be able to act unilaterally after the Senate of the United States has solemnly acted to affirm a treaty. We have that treaty power. We should jeal-

ously guard our powers. They have been eroded in the past.

I have great admiration, respect, and affection for the Senator from Arizona. I think in this case he served the cause of the country, not only in standing up for a Senate right, but because he is right. He is dead right in indicating that the Congress of the United States or the Senate of the United States should have this authority.

Mr. BAKER. Mr. President, I thank the Senator.

I am sure Senator GOLDWATER will be equally grateful for his remarks.

Mr. PROXMIRE. I might add that I know the Presiding Officer (Mr. HARRY F. BYRD, JR.) if he were not presiding, would want to speak on this matter.

Senator HARRY F. BYRD, JR. has also made a very strong fight for the right of the Congress, the Senate particularly, to uphold its authority under the Constitution.

I think I can speak for him in saying, he, too, feels very strongly that Senator GOLDWATER deserves great commendation for having won this battle in the courts.

I yield to the majority leader.

Mr. ROBERT C. BYRD. Mr. President, I share in the compliments being extended to Senator GOLDWATER. I admire and respect him for his desire to uphold the prerogatives of this institution and, certainly, the constitutional process.

While I may disagree with the position that he has taken, I certainly do not disagree with respect to our admiration and respect for him.

I call attention that on this subject, Mr. President, I may have something more to say about this later. I do not intend to talk much at length right now because I first want to read this very lengthy ruling which I have in my hand.

But in this morning's Washington Post there is a paragraph which reads as follows, in regard to Judge Gasch:

Gasch indicated in June that he felt Carter had exceeded his authority by unilaterally terminating the 1954 treaty, but said the members of Congress challenging his action lacked proper legal "standing" because Congress had not expressed an opinion on the issue.

Within hours of his ruling, the Senate passed a resolution that declared its view that the Taiwan treaty could not be terminated without Senate approval.

That is an absolute error—absolute error. The Senate has not passed any resolution that declared its view that the Taiwan treaty could not be terminated without Senate approval.

Now, if the judge was under that impression, then that may have affected his decision. But, certainly, that is an error and it is conceivable that the judge was misinformed to that extent.

That is misinformation. I wanted to call it to the attention of the readers of the RECORD.

There was a vote in June on an amendment substituting language for the resolution that was reported by the Foreign Relations Committee, but there was never any final disposition of that matter.

The resolution itself is still on the calendar—Calendar No. 113 Senate Resolution 15, resolution concerning mutual defense treaties. So there was a

vote on an amendment, but the final vote on the resolution itself never occurred. As a matter of fact, the chairman of the Committee on Foreign Relations had offered an amendment which clearly would have put the matter in focus, but the Senate was not able to reach a vote on it. So the matter went back on the calendar, without any final decision.

It is quite conceivable that the Senate could have rejected the resolution after having approved the amendment, which in effect would have killed the amendment.

So the record should show that the Senate did not pass any resolution that declared its view that the Taiwan Treaty could not be terminated without Senate approval. I hope the court takes cognizance of that fact.

I thank the Senator for yielding.

(Mr. PROXMIRE assumed the chair.)

Mr. HARRY F. BYRD, JR. Mr. President, on June 6, 1979, the Senate, by a vote of 59 to 35, adopted my proposal that no mutual defense treaty between the United States and any other nation could be abrogated without Senate approval. While the resolution itself was not formally adopted, the Senate spoke loud and clear as to the merits of the issue.

The distinguished Presiding Officer, the Senator from Wisconsin (Mr. PROXMIRE), was a cosponsor of that proposal, which received affirmative action on the part of the Senate.

Yesterday, Judge Oliver Gasch of the U.S. District Court for the District of Columbia upheld exactly that same proposition. He ruled that President Carter must have approval of the Congress or of the Senate before our defense ties with the Republic of China on Taiwan can be severed. Specifically, Secretary of State Cyrus Vance has been prohibited from taking any action to cause the defense pact to be terminated unless and until such approval is obtained.

I commend Judge Gasch for upholding the position taken by the Senate on June 6. But, more important, I commend him for having the courage to uphold the Constitution in what must have been a very difficult case.

Opinions on relations with Taiwan and with Mainland China differ in the Congress and in the country. Personally, I favor establishing diplomatic relations with mainland China—but I do not favor casting Taiwan overboard.

But the important point is that a mutual defense treaty cannot be terminated by a President alone, but must be done in partnership with the Senate—just as it was created jointly by the President and the Senate.

Judge Gasch's decision is a reversal for the President and is a reversal which could have been avoided had the President acted within the limits of his constitutional authority in the first instance. He exceeded his authority, and he has now been called to task.

Judge Gasch's decision is a victory for our distinguished colleague, the Senior Senator from Arizona, Mr. GOLDWATER, who brought the suit in Federal court. I congratulate Senator GOLDWATER.

The matter of Taiwan can be settled quickly. The President or his supporters

in the Senate could submit the matter to the Senate for a decision. Frankly, I do not understand why it was not done previously.

THE GASCH DECISION ON TREATY TERMINATION

● Mr. HELMS. Mr. President, the decision of U.S. District Judge Oliver H. Gasch on the role of Congress in treaty termination is an historic reaffirmation of the powers of the legislative branch in the face of usurpation by the executive branch.

This is an issue which has been under intense debate from the very first day of this session. The President acted arbitrarily and illegally in his unilateral decision to terminate the mutual defense treaty with the Republic of China; moreover, he acted imprudently in taking the action last December while Congress was out of session and not available for consultation as a body.

Now Judge Gasch has vindicated the position of those of us who argued that the President's action was unconstitutional and illegal. What his decision does is to reaffirm that the Senate, in particular, has a constitutional role in foreign policy, that the Senate indeed does participate in executive functions. It is perfectly obvious under the Senate rules that whenever we take up matters such as treaties or nominations, we go into executive session. We go into executive session because we are performing executive functions. Judge Gasch has ruled that when the United States is a "Party" to a treaty, that "Party" is not the President acting alone. The President merely communicates the decision of the constitutional process.

Now that the judicial branch has acted to reaffirm the plain meaning of the Constitution, and to reaffirm the precedents which I cited in my additional views in the Foreign Relations Committee Report on Senate Resolution 15, I think that it would be folly for the President to seek to appeal this decision. Appeal would merely exacerbate the constitutional crisis into which we have been thrown by the President's illegal actions. In the opinion of the Senator from North Carolina, the President was led into his decision by bad advice from the Department of State.

The State Department has had a long history of regarding the U.S. Congress as the main obstacle to its free wheeling concepts of foreign policy, concepts which have led to the diminishing of U.S. influence, and the erosion of U.S. interests. I hope that the President will reject any further advice he gets to continue his confrontation with Congress on this issue.

Mr. President, I believe that the main point is that elected and appointed officials are ultimately responsible to the people of the United States. The Constitution established the Congress, and the Senate in particular, to advise the President on foreign policy, and to act as a check upon arbitrary actions. The Gasch decision will not in any way interfere with the legitimate conduct of foreign policy by the President; it simply insures that stability and legality will strengthen U.S. policy decisions and guarantee that a national consensus lies behind the President. I cannot imagine

that any President would want to act without the Congress behind him. That way would lead to dictatorship.

I think that the President's future course of action should be clear. If he wishes to terminate the Mutual Defense Treaty with the Republic of China, he should act now to send a message to the Senate and have his request approved by a two-thirds vote; or he could ask for legislation to be approved by a majority of both Houses of Congress. I think that he should feel confident in his decisions, confident that Congress will support them. By trying to evade the Constitution and to evade the test of congressional decision, he exposes his weakness to the world. It would be far better for the President, for the country, and for the world community to abandon any thought of appealing the Gasch decision, and to send a message to Congress properly requesting termination in the constitutional form.●

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business, not to extend beyond 12:30 p.m., and that Senators may be permitted to speak therein up to 5 minutes each.

The ACTING PRESIDENT pro tempore. There is such an order.

The Chair recognizes the Senator from Wisconsin.

BIRTHDAY OF SENATOR HELMS

Mr. BAKER. Mr. President, today is the birthday of our distinguished colleague from North Carolina (Mr. HELMS).

I do not see him in the Chamber now, but if he were here, I would wish him happy birthday.

THE ROOT OF THE PROBLEM

Mr. PROXMIRE. Mr. President, in 1967 I pledged to speak out on this Nation's shameful inaction on the Genocide Convention. In the 18 years that had passed since the Convention's adoption by the United Nations, 63 countries had endorsed the treaty's fundamental condemnation of genocide as a crime against humanity. I felt it a great wrong that the United States was not among them.

Today, 12 years after I made my pledge, 30 years after the treaty's initial adoption, the number of signatories has grown to 83—and still the United States has not ratified the Convention, choosing instead to stand conspicuously apart from this consensus of civilized nations.

Why does this country present such an image of disinterest? Is it that we as a people consider the issue an unimportant one?

I am convinced that this is not so. Americans are deeply concerned with human rights, in this country and abroad. Examples of political repression or religious persecution offend our moral consciousness. They outrage our sense of humanity. Genocide, the ulti-

mate denial of human rights, is clearly repugnant to our national values. It is not a trivial matter to the people of this Nation.

Instead, it is the indifference of the Senate that is the root of the problem. Our Nation should have set an international example on this basic moral question, but through the Senate's lack of moral direction and initiative, we have yet to follow the example set for us by the rest of the world community. By neglecting this treaty for three decades, the Senate has neglected its moral obligation to the country and to itself. I respectfully urge my colleagues to meet these obligations, and to ratify the Genocide Convention.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

DEPARTMENT OF THE INTERIOR APPROPRIATIONS, 1980

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having arrived, the Senate will now resume consideration of the pending business, H.R. 4930, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (H.R. 4030) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1980, and for other purposes.

The Senate resumed consideration of the bill.

Mr. JAVITS. Mr. President, I understand that each side has 10 minutes.

The PRESIDING OFFICER. Each side has 5 minutes. There is a 10-minute limitation overall on time on the motion when made.

Mr. JAVITS. Very good.

I yield 30 seconds to the Senator from Alaska.

The PRESIDING OFFICER. The motion has not been made, so there is no time until the motion has been made.

Mr. STEVENS. Mr. President, I ask unanimous consent to proceed on my own time without interfering with the time of the Senator from New York at this time.

The PRESIDING OFFICER. No time is running until the motion has been made.

Without objection, it is so ordered.

The Senator from Alaska may proceed.

Mr. ROBERT C. BYRD. Mr. President, I have no objection to the Senator from Alaska proceeding, but I wish to call attention that the Senate will resume consideration of H.R. 4930 at 12:30 p.m. at which time no further points of order, debate, motions or amendments with respect to the bill shall be in order; except a motion to reconsider the vote by which an amendment by the Senator from New York (Mr. JAVITS) was agreed to.

The PRESIDING OFFICER. The Senator is absolutely correct.

I understood the Senator from Alaska asked unanimous consent to proceed.

Mr. STEVENS. I do ask unanimous consent to proceed for the purpose of offering a technical amendment to section 308 to correct an error made in that amendment.

The PRESIDING OFFICER. Without objection, the Senator from Alaska is recognized for that purpose.

UP AMENDMENT NO. 658

Mr. STEVENS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an unprinted amendment numbered 658.

On pages 57 and 58 delete Section 308 and insert in lieu thereof the following:

"Sec. 308. Notwithstanding the provisions of any other law, the State of Alaska is exempted from application of the provisions of Section 7(1) of the Export Administration Act of 1979 (Public Law 96-72)."

Mr. STEVENS. Mr. President, section 308 was included in this bill at my request to rectify a problem created by passage of the Export Administration Act Amendments of 1979. The language presently in the bill, however, is too broad as it would render ineffective laws and regulations in existence prior to the enactment of Public Law 96-72 which was not our intention and, therefore, the language in the bill is in error.

The amendment I have sent to the desk would delete section 308 as included in the committee bill and substitute language exempting Alaska only from the provisions of section 7(1) of the Export Administration Act. This action will protect existing timber sales contracts in Alaska allowing for export of red cedar for which there is no domestic market.

Mr. President, this amendment has been cleared with the manager of the bill. It will allow the continued export of red cedar under limited circumstances from Alaska, and I believe this has been explained to all concerned.

I ask that this amendment, which is highly technical in nature, be adopted. It does not change the intent of the committee bill, but rather clarifies that intent.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska.

The amendment was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JAVITS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. I thank the Senator from New York.

UP AMENDMENT NO. 651

Mr. JAVITS. Mr. President, I move to reconsider amendment No. 651 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 Senator from New York has 5 minutes.

Mr. JAVITS. Mr. President, I yield myself 2 minutes.

Mr. President, this matter has been fully debated, and the appropriation is authorized by the 1978 amendments to the Economic Opportunity Act of 1964. The only question that has arisen is the nature of the distribution.

The nature of the distribution of the Community Services Administration today would be about three-quarters of the funds to the SSI recipients and the AFDC, and 25 percent to Governors under State plans dealing with mainly elderly people with incomes of less than 125 percent of the poverty level.

But there are 3 weeks before this goes into the computers of the distributing agency and, therefore, ample time for that agency to adopt the plans which have now emerged from the Finance Committee, which will emerge from the Human Resources Committee this Friday and which will emerge from committees in the House of Representatives.

Mr. President, I deeply believe we have enough confidence in our ability to get an agency to do what we want so that, if the money comes through conference, it will be worked out exactly the way we want it.

At worst, this is not an impossible distribution, but we prefer a more optimum one, and I am confident we will get it.

Lastly, in fairness to the Budget Committee, I reiterate what I said before. I am expressing my confidence as the author, and the cosponsors I think are with me, to Senator MUSKIE and to Senator BELLMON that we understand that what is worked out here if this carries, as I hope very much it will, will be entirely in their hands to work out between the budget and this appropriation, both of which will be in conference.

My sole purpose is to get this on the track so that there can be prompt action. Otherwise, it will be so delayed that it will not do what we all want it to do. That is my only purpose.

I know I and I believe the Senate will have complete confidence in them to work it out.

Mr. President, I yield 1 minute to Senator NELSON of Wisconsin.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized for 1 minute.

Mr. NELSON. Mr. President, I rise to endorse the proposal made by the distinguished Senator from New York. I do not think there is any other way to get the money out to give fuel assistance to the low income people than to adopt this proposal for the appropriations immediately.

Both the Human Resources Committee and the Finance Committee are dealing with programs now, but there is no way to put in place a new piece of legislation with a new formula and get the assistance out there in time before January, February, or March, if we follow that procedure. So I think it is urgent that we adopt this appropriation.

I wrote a letter to the President on this question urging immediate action on September 21, 1979. Mr. President, I

ask unanimous consent that that letter be printed in the RECORD.

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

U.S. SENATE,

Washington, D.C., September 21, 1979.

HON. JIMMY CARTER,
The President, The White House, 1600 Pennsylvania Avenue, Washington, D.C.

DEAR MR. PRESIDENT: On September 12, 1979, you spoke before the American Association of Retired People and the National Retired Teachers Association in Hartford, Connecticut, and outlined a Low-income Energy Assistance program for fiscal years 1980 through 1983 to provide financial assistance to low-income households to offset the impact of excessive heating bills and increasing energy costs.

I am in full accord with the Administration that there is an overwhelming and urgent need to help low-income persons, particularly older Americans, pay for increased residential energy costs. As you know, I have been working over the past few months with members of your Administration on an energy assistance program for low-income households, as well as on a weatherization program to conserve energy and reduce energy consumption in poor and near-poor households. On September 7, 1979, I introduced S. 1725 to provide authority of a Comprehensive Energy Conservation Services program to assist low-income individuals and families with their energy-related needs.

I am writing to you at this time because of the immediate crisis low-income Americans face this winter. As weather grows colder, reports are already beginning to surface in Northern States that people are unable to pay the cost to secure essential fuel oil for heating purposes. Over the next 30 days, that crisis will compound and place the health and well-being of many persons in jeopardy.

It is, therefore, my judgement that the Administration would be well advised to initiate an energy assistance program for low-income individuals and families for the 1979/1980 winter season as soon as possible. Such a program should be based on the programs that have been tried, tested, and implemented under the authority of 222(a)(5) of the Economic Opportunity Act over the past three years.

There are a number of factors which have led me to this judgment. First, it could take several weeks, perhaps one or two months, before Congress approves an authorization bill to conduct a new low-income energy assistance program. Right now, there are more than ten proposals pending before the Congress to deal with the energy-related needs of the low-income population, and at least six authorizing Committees that may consider such legislation.

Second, even assuming a new authorization bill could be enacted rapidly, an appropriation bill to implement the program subsequently would have to be enacted. This means that the House and Senate Appropriations Committees would be delayed in considering the appropriate funding level for an energy assistance program for low-income persons until after the authorization process was completed. Using existing legislative authority under the Economic Opportunity Act has the benefit of allowing the appropriations committees to begin their deliberations immediately.

Third, and perhaps most importantly, the Subcommittee on Employment, Poverty, and Migratory Labor has developed information that any new energy assistance program for low-income individuals and families needs 60 days lead-time from the point at which the appropriation bill is enacted to time at which eligible recipients actually receive assistance.

Given this time frame, and the uncertain-

ties of the legislative process, I believe that the Administration should proceed to design and implement an energy assistance program based upon existing statutory authority.

During the past three years, the Community Services Administration (CSA) has operated a low-income assistance program, utilizing legislative authority which was originated by the Subcommittee on Employment, Poverty, and Migratory Labor. CSA has the experience to design and implement a program this winter that is effective and easy to administer, and with which the administrative agencies in the various States are quite familiar.

For these reasons, I urge the Administration to submit to Congress a supplemental appropriation bill requesting, at the very least, the \$1.2 billion you have stated as the Administration's commitment to energy assistance for low-income persons for fiscal year 1980. If the Administration were to hold back its request for this appropriation until the windfall oil profits tax is enacted into law, a perilous situation could result this winter—a situation that must be avoided.

I will appreciate your serious consideration of this request, and stand ready to assist the Administration in whatever way I can be helpful.

Best wishes.

Sincerely,

GAYLORD NELSON,

Chairman, Subcommittee on Employment, Poverty, and Migratory Labor.

Mr. NELSON. Mr. President, on Thursday, October 11, 1979, the Community Services Administration published in the Federal Register the rules applicable to the fuel assistance program that will be dispensed this season by the Federal Government.

Mr. President, I ask unanimous consent that these rules be printed in the RECORD.

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

COMMUNITY SERVICES ADMINISTRATION

[45 CFR Part 1061; CSA Instruction 6143-]
EMERGENCY ENERGY CONSERVATION PROGRAM;
ENERGY CRISIS ASSISTANCE PROGRAM

Agency: Community Services Administration.

Action: Final rule.

Summary: The Community Services Administration is filing an amendment to the final rule on the Energy Crisis Assistance Program. This rule is required to implement the fiscal year 1980 appropriation which includes funding for the program. This rule details how these energy funds will be allocated and sets forth project application and post grant requirements.

Effective date: October 11, 1979.

For further information contact: Mr. Edward J. Freel or Mr. Wallace W. Lumpkin, 2000 K Street NW., Suite 350, Washington, D.C. 20006, Telephone (202) 254-9833, Teletypewriter (202) 254-6218.

Supplementary information: On September 4, 1979, CSA published in the Federal Register (44 FR 51780) (45 CFR 1061) a final rule for its FY 80 Energy Crisis Assistance Program with a notation that while the rule was final and effective in 30 days due to the emergency nature of the program, CSA would welcome comments through September 19, 1979, and that the rule could be amended to reflect comments, if warranted.

A number of comments have been received from the public and other federal agencies which CSA believes are important enough to warrant amending the rule. Subpart 1061-70 is reprinted in its entirety for the convenience of the public and supersedes the September 4, 1979 regulation.

CSA received 107 comments by September 19, 1979. Comments came from many differ-

ent types of groups including Community Action Agencies (39), Aging Offices (12), Legal Service Agencies (10), and State Governments (15). Many of the comments referred to questions of clarification and those changes have been incorporated into the amended regulation.

Many comments urged CSA to designate Community Action Agencies as the local administering agencies. It is CSA's position that it would not be consistent with congressional intent to compel Governors to utilize a specific local administering network. CSA does anticipate that Governors will utilize Community Action Agencies where they have demonstrated the capability to effectively implement energy assistance programs. CSA wishes to remind prospective grantees that they must provide for the participation of the poor.

Many commentators urged GSA to raise the income eligibility level to 150 percent of the CSA poverty threshold, if not for all persons, then at least for the elderly and the handicapped. CSA does not believe that raising the income level to 150 percent of the poverty level would be consistent with congressional intent. CSA does believe that this question should receive serious consideration in the development of future energy assistance programs.

Many comments urged GSA to establish a timetable for processing the State Funding Plans and to provide the states with additional guidance for developing the State Funding Plans. While it is not possible to provide a timetable for the review and approval of the State Funding Plans, CSA is committed to reviewing and approving the plans expeditiously. CSA will also be providing a guidance to the states concerning the review process to be used by the Regional Directors. In addition, a number of changes made in the regulation serve to clarify the type of information required in the plans.

Many commentators indicated that the reporting requirements were excessive. Appendix C in the original final rule has been revised, reformatted and included in the body of the regulation as § 1061.70-16. CAP Form 11, OEO Form 393 and CSA Form 380 will no longer be required for State and local governments; instead, standard assurances under Part V of OMB Circular A-102 should be provided. CSA has amended the regulation further to require that the CSA Form 440 and SF 269 be provided on a quarterly basis rather than bi-weekly. SF 272 should also be provided quarterly. Grantees, however, are to submit bi-weekly until January 30, 1980 the following information in addition to the other reporting requirements: total number of households assisted, total number of individuals assisted, total number of elderly-headed households assisted, total dollars obligated for heating fuel, and total dollars obligated for other purposes.

While CSA agrees that a bi-weekly reporting requirement is stringent, CSA also believes that it is in the public interest at least during the heating season to have current program information be available.

Many commentators indicated that the 10 percent administrative cost would not be sufficient to provide for adequate monitoring, processing of forms, certification, and outreach. CSA realizes the need for sufficient administrative funds and has made available from FY 79 Crisis Intervention Funds to each state up to \$100,000 for planning and implementing the FY 80 Energy Crisis Assistance Program. This is in addition to the allowed 10 percent to be expended from FY 80 program funds. CSA believes that to permit more than 10 percent of the funds to be expended on administration would be inconsistent with the intent of the Congress.

This amended rule will go into effect on October 11, 1979. OMB clearance No. 116-R-3363 under the Federal Reports Act for the use of the reporting requirements in this application has been received. CSA is waiving a comment period because any further delay

would be impractical and contrary to the public interest. Additional delay would render it impossible to publish a final rule prior to the onset of winter weather, would not provide Governors sufficient time to plan for winter-related problems in their states, and would not be consistent with Congressional intent that this program be operated during the cold weather months.

For these same reasons, an emergency exception to the regulatory analysis provision in Executive Order 12044 is appropriate. In addition, such an analysis would not be feasible because no monies have been appropriated to date, and it is unclear at what level the program will be eventually funded. In any event, CSA has conducted somewhat similar programs since FY 77 so that this rule will not be significantly different than the prior years nor impose significantly different burdens on grantees.

Graciela (Grace) Olivarez,
Director.

45 CFR Part 1061 is amended by revising subpart 1061.70, "Energy Crisis Assistance Program" to read as follows:

Subpart 1061.70—Energy Crisis Assistance Program

Sec.

1061.70-1 Effective Date.

1061.70-2 Applicability.

1061.70-3 Policy.

1061.70-4 Who can apply for funds.

1061.70-5 Administration of the program at the State Level.

1061.70-6 Local administering agency[ies]

1061.70-7 How a local program is operated.

1061.70-8 What these funds can be used for.

1061.70-9 Who is eligible to participate in this program.

1061.70-10 Termination of program.

1061.70-11 How a Governor requests funds.

1061.70-12 General funding policies.

1061.70-13 Post-funding requirements.

1061.70-14 CSA application review and approval process.

1061.70-15 Coordination with utility/fuel vendors.

1061.70-16 State Funding Plans.

Appendices

A—Regional Office Addresses.

B—CSA Poverty Guidelines.

C—CAP Form 11, Assurance of Compliance with . . . Title VI of the Civil Rights Act of 1964.

D—CSA Form 393, Certificate of Applicant's Attorney.

E—CSA Form 440, Project Progress Review Report.

F—SF-269, Financial Status Report.

G—SF-272, Federal Cash Transactions Report.

H—OEO Form 380, Accounting System Certification Form.

Authority: Sec. 602, 78 Stat. 530 (42 U.S.C. 2942).

Subpart 1061.70—Energy Crisis Assistance Program

§ 1061.70-1 Effective date.

October 11, 1979.

§ 1061.70-2 Applicability.

This subpart is applicable to Energy Crisis Assistance grants funded under section 222 (a) (5) of the Economic Opportunity Act of 1964 as amended, if the assistance is administered by the Community Services Administration.

§ 1061.70-3 Policy.

(a) The primary intent of the program is to make funds available to states to enable Governors to respond to energy-related crises affecting poor and near poor households, which are caused by the high cost of energy and an anticipated severe winter.

(b) This one-time CSA-funded program does not entitle any household to a certain amount and/or form of assistance.

§ 1061.70-4 Who can apply for funds.

(a) Governors of each State, Puerto Rico and the Virgin Islands, and the Mayor of the District of Columbia may apply for funds un-

der this program. (Note: All references in this document to "Governor" include the Mayor of the District of Columbia.)

(b) The funds will be distributed by CSA among the States and the District of Columbia according to a formula based on climate, fuel, and low-income population factors. If additional funds for this program become available, CSA may revise the distribution formula if conditions so warrant.

(c) To make a request, the Governor will submit a State Funding Plan to the CSA Regional Office serving his/her state. (See Appendix A). This will begin the formal application process.

(d) For further information regarding the application process see § 1061.70-11.

§ 1061.70-5 Administration of the Program at the State Level.

The Governor may choose any agency to serve as the grantee of record for this program, which meets the following criteria:

(a) Has proven experience in administering, monitoring, or operating programs for the poor;

(b) Will be able to implement the program and provide services in a timely manner throughout the state;

(c) Has a sound fiscal system and proven acceptability of its audits; and

(d) Will be able to comply with CSA's program and financial reporting requirements.

Where there are either administrative or legislative impediments that would prevent an agency at the State level from implementing the delivery of services in a timely manner, CSA will work with the Governor to develop an alternate plan which could include the option of designating more than one grantee for the state.

§ 1061.70-6 Local Administering Agency(ies)

The Governor also has the flexibility to choose the local administering agency(ies), such as community action agencies, aging offices and welfare offices. [Note: This does not preclude using the single state grantee as a deliverer.] However, in making the determination regarding the local operator(s), the Governor must assure that the operator(s) has:

(a) Experience in operating programs that serve the poor;

(b) The ability to carry out, or arrange for the outreach activities outlined in § 1061.70-7; and

(c) An adequate accounting system with appropriate fiscal controls.

§ 1061.70-7 How a local program is operated.

(a) *Serving clients.*—(1) *Reaching Potential Clients.*

(i) The local administering agency is required to provide assistance to those households that do not have access to other supportive service networks but are income eligible for this program as well as to those who do have such access.

(ii) To carry out this mandate effectively, local delivery systems must notify, inform, and contact persons potentially eligible for this program through, for example, the use of outreach workers, community groups, decentralized intake and certification systems, mass mailings, radio and TV spots, use of community newspapers, church bulletins, etc. In the State Funding Plan, the Governor must describe how outreach services will be provided to potential clients eligible for services. Expenses for these activities are to be included as administrative costs.

(2) *Serving the elderly.* Highest priority should be placed on serving the elderly. Therefore, local program operators should offer special services. Suggested activities include:

(i) Intake and certification by mail;

(ii) Scheduled appointments;

(iii) Transportation;

(iv) Use of senior citizen centers for provisions of services; and

(v) Intake and certification in residences

for persons unable to leave their residences due to infirmity or fear of victimization.

In the State Funding Plan, the Governor must describe how priority will be given to serving the elderly.

(3) *Serving Renters.* This program is also intended to serve renters who are experiencing an energy related crisis. In the State Funding Plan, the Governor must indicate how renters in an energy-related crisis will be served. For example assistance might be provided where a renter lives in a building heated with natural gas provided for in his/her rent; but where because the heating is inadequate, the renter has to purchase two electric space heaters and pay the electric bill himself.

(b) *Limitations on payments.* In no event shall the sum of all assistance under this program made to and/or on behalf of any household, exceed the actual amount needed to ameliorate the household's energy-related problem or \$400 whichever is less. In the event a Governor wants to set assistance limits at a lower level and/or provide for varying the maximum assistance level up to the \$400 limit based on factors such as: climate, fuel, and low income population, he/she must provide in the State Funding Plan justification including the specific criteria used as the basis for changing or varying the limits of assistance.

(c) *Appeal by household which has been denied assistance.* (1) The grantee of record will ensure that each program operator will make known to all applicants procedures for review of the partial or complete denial of assistance under the program to any household. If the agency has an existing process which includes the elements listed below its continued use will satisfy the requirements of this policy.

(2) The state-designed procedures are to be applicable to partial or complete denials of requests for assistance for specific, tangible benefits to low-income households, e.g. utility payments, in-kind assistance, etc. for which the grantee of record currently is receiving CSA funds. The procedures will not apply to such activities as community organization, information and referral, etc.

(3) For purposes of this policy we will consider that there has been a denial of assistance when the benefits or services and/or funds currently are available, the local program operator has the authority to provide or disburse them, and the applicant falls within or believes that he/she can prove that he/she falls within the income eligibility and established program guidelines.

(4) CSA will provide a model form for States and local program operators to use in designing their intake/application form. CSA will notify the public in the Federal Register as soon as possible about this model form.

(5) In addition operators will develop procedures for reviewing denials of assistance which will include:

(i) Provisions for notifying the applicant in writing of the reasons for denial of assistance, that he/she may request a review of the denial and may submit additional information (in writing or orally) which the applicant believes would warrant a favorable determination;

(ii) Provisions for reviewing the denial of an application for assistance in a timely manner if such is requested by the applicant. This should include the specific assignment of responsibility to a senior level official other than the person making the initial determination;

(iii) Provisions for notifying the applicant in writing of the agency's final decision; and

(iv) The methods the agency will employ to publicize the existence of the appeal process.

(6) If the population served by the local program operator includes a sizable non-

English speaking group, procedures, written materials, and publicity shall be made available in that language.

(7) A written description of the above required procedures shall be maintained on file by the local program operator and shall be available for public inspection.

(8) All documents relating to specific denials of assistance and action(s) taken will be maintained in the agency's files for the length of time required by CSA policy on "Retention and Custodial Requirement for Records." These records will be available for review by CSA officials upon request.

§ 1061.70-8 What these funds can be used for.

Funds made available under this program must be used to provide assistance to eligible households to offset the high cost of household energy. Only the following types of assistance can be provided with these funds:

(a) Payments to vendors and suppliers of fuel, goods, and other services.

(b) The establishment of lines of credits with fuel/utility vendors for the benefit of eligible households. The Governors may provide limitations on the use of lines of credits such as: limiting the line of credit to the elderly and the handicapped only, establishing a specific duration of a future credit to the elderly and varying the maximum level (not to exceed \$400). The Governor must describe in the State Funding Plan how future credits will be used in that particular state.

(c) Direct money assistance not to exceed \$50 for the duration of the program to eligible households in those cases where a household is without resources to pay for other necessities as a result of paying utility/fuel bills, or as a means of implementing activities allowable under paragraph (d) of this section. Such payments shall be made by check only and not with coin or currency.

(d) Where necessary to prevent hardship or danger to health, the provision of immediate assistance in the form of goods or services such as emergency fuel deliveries, warm clothing, blankets, temporary shelter, emergency repairs to housing such as patching a roof or replacing a broken window, food, medicines or other supportive services. Funds under this program shall not be used to weatherize homes.

§ 1061.70-9 Who is eligible to participate in this program.

(a) *Income Eligibility.* Households with incomes at or below 125 percent of the CSA Poverty Guidelines and households whose heads receive SSI shall be eligible for assistance under this program. No state may change these income eligibility guidelines.

(b) *Program Eligibility.* The Governor may specify certain program eligibility criteria by defining what constitutes an energy-related crisis in that particular state. Where a Governor wants to establish such eligibility criteria, he/she must provide an explanation and justification in the State Funding Plan for the Eligibility criteria selected as well as a description of the procedures to be used in determining the program eligibility. The Governor may not require proof of unpaid fuel bills or notices of termination of utility service as criteria for eligibility under this program. The Governor also has the option to use income eligibility criteria as the sole eligibility criteria.

(c) *Income disregard.* Payments made under this program are not to be considered as income for purposes of determining eligibility or benefits under any income maintenance program. The Governor also has the option assistance, veterans benefits, food stamps, or Supplemental Security Income.

(d) *Determination of Income Eligibility Required of Grantees.* Proof of income eligibility is required. The period for determining eligibility will be not more than 12 months nor less than the 90 day period preceding the request for assistance. When proof of eli-

gibility is unavailable, an applicant must sign a declaration of income eligibility. In such cases, the local program operator must make a reasonable number of spot checks to verify income eligibility.

§ 1061.70-10 Termination of program.

No funds under this program may be obligated after September 30, 1980. For this program, "obligation" shall mean certification for assistance by the program operator of a specific eligible household.

§ 1061.70-11 How a Governor requests funds.

(a) Applications for funds under this program will be for the statewide coverage. CSA will establish set-asides to serve Native Americans and farmworker groups.

(b) Within 15 calendar days of the effective date of this subpart, the Governor will submit a State Funding Plan to the appropriate CSA Regional Office with all the information required in section 1061.70-16. The State Funding Plan must provide a timetable indicating when services will be provided at the local level.

(c) CSA requested from OMB a complete waiver of the clearinghouse review procedures for the FY 80 Energy Crisis Assistance Program. OMB has granted a waiver under the following conditions transmitted in a letter dated August 29, 1979:

(1) The Governor's State Funding Plan will be subject to modified procedures of Part III of A-95. To the fullest practicable degree, the State agency responsible for development of the plan will involve the State clearinghouse in the development phase. Where such early coordination is not possible, the plan will be sent to the State clearinghouse not later than simultaneously with the submission of the plan to CSA;

(2) The State clearinghouse will determine the degree to which areawide clearinghouses should be involved in the review process and a normal 45 day review period will be afforded, on an *after the fact* basis;

(3) CSA's approval of the State Funding Plan will be conditional, in that the State plan may be subject to possible subsequent revision to accommodate any appropriate recommendations for its modifications as provided by clearinghouses in the A-95 review process. The State operating agency will be instructed to make every effort to accommodate such recommendations and will provide appropriate clearinghouses with a statement as to its final judgment on each recommendation. As a result of this requirement CSA must require that any revisions made to the State Funding Plan be submitted to the appropriate CSA Regional Office for approval;

(4) CSA will provide State and appropriate areawide clearinghouses, via Standard Form 424, with an information copy of the "block" grant award to the State agency receiving the funds;

(5) In addition the State agency will provide, for each "sub-state" project grant award, information to the State and appropriate areawide clearinghouses as to the amount of monies awarded, to whom, and the purpose of each award. For these substate award notifications the use of Standard Form 424 is encouraged but is not mandatory.

(d) If a state fails to submit a State Funding Plan within 15 calendar days of the effective date of these regulations or if a submitted plan is not acceptable for approval, CSA may develop and implement a plan for the state.

§ 1061.70-12 General funding policies.

(a) *Matching Share.* A matching share is not required for this program. However, states and local program operators are encouraged to mobilize additional resources to supplement and support this program.

(b) *Maintenance of Effort.* Resources for similar services scheduled to be provided this heating season under state and local authorities shall not be reduced because of this

program nor shall this program be used as a substitute for such services. The Director of CSA may make exceptions only in those situations where a strict application of this requirement would result in unnecessary hardship or be inconsistent with the purposes of the Energy Crisis Assistance Program.

(c) *Administrative Costs.* The grantee of record may expend up to 10% of the total state grant for administrative and program support costs. Where the grantee has contracted out performance of all or part of the work program, such as outreach, grantee must provide a reasonable portion of these administrative funds to those program operators to enable them to administer the program.

(d) *Overexpenditures.* If the grantee of record incurs expenditures in excess of the total amount of the approved grant, the amount of the overexpenditure must be absorbed by the grantee of record.

(e) *Procurement.* In accordance with OMB Circulars A-110 and A-102 all proposed sole source contracts where only one bid or proposal is received in which the aggregate expenditure is expected to exceed \$5,000 must receive prior approval by the appropriate SCA Regional Office.

§ 1061.70-13 Post-funding requirements.

(a) *Audit.* The graduate of record will not be required to have a separate audit of this program. The program including its contracted-out components will be audited at the time of the grantee of record's regularly scheduled audit. Five copies of the audit shall be submitted by the auditor to the appropriate CSA Regional Auditor concurrent with submission to the grantee of record.

(b) *Project Reporting.* The grantee of record is required to submit a Project Progress Review Report CSA Form 440 on a quarterly basis to cover activities performed in this program. Grantee will also submit bi-weekly, until January 30, 1980 the following information in addition to the other reporting requirements: total number of households assisted, total number of individuals assisted, total number of elderly-headed households assisted, total dollars obligated for heating/fuel bills, total dollars obligated for other purposes.

(c) *Financial Reporting.* The grantee of record must submit a separate SF-269, Financial Status Report, covering activities for this program on a quarterly basis with a final report due 90 days after the end of the program. The grantee of record shall follow these procedures for submission of the SF 269: one copy to the appropriate CSA Regional Office, one copy to Grants Accounting Branch, Finance and Grants Management Division, CSA Headquarters, 1200 19th Street N.W., Washington, D.C. 20506, and one copy to Energy Crisis Assistance Task Force, 2000 K Street, N.W., Washington D.C. 20006.

(d) *Evaluation.* In the event that CSA undertakes a national evaluation of this program, the cooperation of the grantee of record, the local program operators, and that of participating utility/fuel vendors will be requested.

(e) *Prohibition against transfer to another grant.* Funds unobligated at the termination of the grant cannot be transferred by the grantee of record to another grant.

§ 1061.70-14 CSA application review and approval process.

(a) CSA Regional Directors are delegated the authority for final approval of grants under this program.

(b) Based on a uniform review process, Regional Directors will determine the adequacy of State Funding Plans.

(c) Once a plan has been approved by the Regional Director, Regional Offices will expedite the processing and forward the Statement of CSA Grant (CSA Form 314) to the grantee of record chosen by the Governor. Upon receiving the CSA Form 314, the grant-

ee of record must sign it and return it to the CSA Regional Office.

(d) A state may amend its State Funding Plan only with the prior approval of the appropriate CSA Regional Director.

(e) When a state deviates from its approved state plan, without CSA approval, upon investigation, CSA will take appropriate action.

§ 1061.70-15 Coordination with utility/fuel vendors.

The Governor must ensure that in each case where payment is certified that:

(a) Reconnection of utilities and/or delivery of fuel is made upon certification for payment;

(b) For any remaining balances, the customer is offered a deferred payment arrangement or a level payment plan;

(c) A reconnection charge is paid only where such a charge was company practice prior to September 1, 1979; and

(d) No security deposit is required to be paid except where such a deposit was required by state law or explicit state regulations prior to September 1, 1979 and, where required by law or regulation is included in a deferred payment arrangement.

§ 1061.70-16 State Funding Plans.

The Governor will submit a State Funding Plan to the appropriate CSA Regional Office. The State Funding Plan will include the following:

(a) A letter from the Governor within the 30-day comment period and a request for a specific amount of funds.

(b) The following elements as described in this subpart:

- (1) State Administering Agency.
- (2) Local Administering Agency(ies).
- (3) Timetable for Implementation.
- (4) Outreach Activities.
- (5) Elderly Priority.
- (6) Renters.
- (7) Program Guidelines.
- (8) Appeals Process.

(c) Information on the following:

(1) A plan for monitoring to ensure immediate investigation, and if warranted, redress in cases of poor administration of the program, faulty and/or inadequate eligibility certification, duplication and fraud.

(2) A summary of administrative costs and the activities to be performed.

(3) A list of the areas to be served by the program, the distribution of funds by area, and the specific factors used in making the allocation.

(4) A plan for providing management and fiscal technical assistance to the local administering agencies.

APPENDIX A—CSA REGIONAL OFFICE ADDRESSES

Mr. Ivan Ashley, Regional Director, CSA Region I, E-400, John F. Kennedy Fed. Bldg., Boston, Massachusetts 02203, Phone: (617) 223-4080/FTS-8-223-4080, Boston; Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont.

Mr. John C. Finley, Acting Regional Director, CSA Region II, 26 Federal Plaza, 32nd Floor, New York, New York 10007, Phone: [212] 264-1900/FTS-8-264-1900, New York; New Jersey, New York, Puerto Rico, Virgin Islands.

Dr. W. Astor Kirk, Regional Director, CSA Region II, Old U.S. Courthouse, P.O. Box 160, 9th and Market Streets, Philadelphia, Pennsylvania 19105, Phone: [215] 597-1139/FTS-8-597-1139, Philadelphia; Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia.

Mr. William "Sonny" Walker, Regional Director, CSA Region IV, 101 Marietta Street NW, Atlanta, Georgia 30303, Phone: [404] 221-2717/FTS-9-242-2717, Atlanta; Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee.

Mr. Glenwood Johnson, Regional Director, CSA Region V, 300 South Wacker Drive,

24th Floor, Chicago, Illinois 60606, Phone: [312] 353-5562/FTS-8-353-5562, Chicago; Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin.

Mr. Ben T. Haney, Regional Director, CSA Region VI, 1200 Main Street, Dallas, Texas 75202, Phone: (214) 767-6126/FTS-8-729-6125, Dallas; Arkansas, Louisiana, New Mexico, Oklahoma, Texas.

Mr. Wayne Thomas, Regional Director, CSA Region VII, 911 Walnut Street, Kansas City, Missouri 64106, Phone: (816) 374-3761/FTS-8-758-3761, Kansas City; Iowa, Kansas, Missouri, Nebraska.

Mr. David Vanderburgh, Regional Director, CSA Region VIII, 1951 Stout Street, Federal Building, Denver, Colorado 89294, Phone: (303) 837-4767/FTS-8-327-1767, Denver; Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming.

Mr. Alphonse Rodriguez, Regional Director, CSA Region IX, 450 Golden Gate Avenue, Box 36008, San Francisco, California 94102, Phone: (415) 556-5400/FTS-8-556-5400, San Francisco; Arizona, California, Hawaii, Nevada, Trust Territories.

Mr. N. Dean Morgan, Regional Director, CSA Region X, 1321 Second Avenue, Seattle, Washington 98101, Phone: (206) 442-4910/FTS-8-399-4910, Seattle; Alaska, Idaho, Oregon, Washington.

APPENDIX B—COMMUNITY SERVICES ADMINISTRATION

125 PERCENT OF POVERTY INCOME GUIDELINES FOR ALL STATES EXCEPT ALASKA AND HAWAII

Size of family unit	Non-farm family	Farm family
1	\$4,250	\$3,638
2	5,625	4,800
3	7,000	5,963
4	8,375	7,125
5	9,750	8,288
6	11,125	9,450

For family units with more than 6 members, add \$1,375 for each additional member in a non-farm family and \$1,163 for each additional member in a farm family.

POVERTY GUIDELINES FOR ALASKA

Size of family unit	Non-farm family	Farm family
1	\$5,338	\$4,562
2	7,050	6,013
3	8,763	7,463
4	10,475	8,913
5	12,188	10,363
6	13,900	11,813

For family units with more than 6 members, add \$1,713 for each additional member in a non-farm family and \$1,450 for each additional member in a farm family.

POVERTY GUIDELINES FOR HAWAII

Size of family unit	Non-farm family	Farm family
1	\$4,913	\$4,158
2	6,488	5,525
3	8,063	6,863
4	9,638	8,200
5	11,213	9,538
6	12,788	10,875

For family units with more than 6 members, add \$1,575 for each additional member in a non-farm family and \$1,338 for each additional member in a farm family.

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

Mr. JAVITS. Mr. President, I reserve the remainder of my time.

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. HUDDLESTON I yield 5 minutes to the Senator from Maine (Mr. MUSKIE).

The PRESIDING OFFICER. The Senator has 5 minutes remaining.

Mr. ROBERT C. BYRD. I yield 3 minutes to Mr. MUSKIE.

The PRESIDING OFFICER. The Senator from Maine is recognized for 3 minutes.

Mr. MUSKIE. Mr. President, the other day on the first Javits amendment I indicated my concern about the amendment. I still think from the point of view of the parliamentary situation that it is most unfortunate that this amendment has been offered to this bill. The issue is in the budget conference which has not yet completed its work. Yesterday that conference was on the verge of collapse. This program was an important bargaining chip for the Senate conferees to use in undertaking to close the gap between the Senate and House budget conferees.

Now, because of the events that have already taken place on this floor, and which are about to take place, the value of that bargaining chip has been pretty well dissipated.

The Senate ought to know that the Senate budget conferees this morning made an offer to the House conferees on a package of functions and programs which included not the \$1.45 billion we are talking about for this amendment but the \$1.6 billion that I indicated the other day it was our intention to offer. There is another way, a more orderly way to do it than this way.

But if we continue to ignore our regular procedures and to use ways like this in order to achieve objectives, no matter how worthwhile, pretty soon you are going to nibble away at the budget process, and there will not be much left. I appreciate the expression of confidence in me that the distinguished Senator from New York has just stated. But it is not a question of my credibility or my personal prerogatives or my integrity; it is a question of how you get these things done.

Every budget resolution is a package of tradeoffs. In order to get tradeoffs you have got to be prepared to give up something to get something. Now, surely, that is not an unfamiliar notion in the Senate of the United States, and a budget conference is no different. You have to give up something to get something, and that is all I have been arguing for.

But, Mr. President, I appreciate the fact that the other day a majority of the Senate, a bare majority, supported me in taking this position on procedural grounds. But it is not fair to them, to those who would have supported the program on its merits, to ask them to jump through that hoop again. It simply is not fair, and I do not think it is fair to ask me to do it.

So the value of the bargaining chip having been almost totally dissipated by what has already happened, I am not going to insist on a procedural position that I asked the Senate to take the other day.

I will vote for the Javits amendment now. This is the situation where we are, and I will support this amendment, having expressed my doubt about the procedure.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. Mr. President, I yield myself 30 seconds more.

Mr. President, when I said to Senator MUSKIE that I had confidence in him, of course, I have it personally. I have demonstrated that for 20 years, but I mean in respect of this negotiation. I do not believe he has lost his bargaining chip, whatever it may mean. I believe he still has it because of the fact that both issues are still in conference.

Mr. MUSKIE. Mr. President, will the Senator yield for a comment? Yesterday afternoon, when we included this in our package offer, Congressman GIAMMO said to me, "You have not given us anything here. It is obvious the Senate wants this as badly as we do." That is what I mean by having dissipated the bargaining chip.

Mr. JAVITS. May I say to the Senator you are too experienced a Senator to take the word of a bargainer in anything like that. The actual fact is this has yet to emerge from both conferees, so I deeply believe nothing whatever has been lost, but if something has been lost—

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

Mr. ROBERT C. BYRD. Mr. President, do I have more time? I yield 30 seconds.

Mr. JAVITS. The bigger point is if we are going to get this show on the road for people who otherwise might not survive the fact that we do not act, that is the whole issue, and I hope the Senate will vote "no" on the motion to reconsider.

I yield back the remainder of my time.
Mr. ROBERT C. BYRD. Mr. President, is there any time left at all?

The PRESIDING OFFICER. The Senator has 42 seconds remaining.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senator from Massachusetts may have up to 3 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. No objection. Reserving the right to object, if I may, I would like to add Senator DURENBERGER and Senator LEVIN as cosponsors.

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

Mr. KENNEDY. Mr. President, this amendment I am supporting with Senator JAVITS and others is a simple matter of strict necessity. We face an immediate crisis for our most needy families. My fellow Senators need only call their Governor's office to get a sense of the alarm and frustration that is growing over the impact of soaring prices on our constituents.

Mr. President, according to a DOE Advisory Committee, from 1972 to 1978, while the Consumer Price Index increased 55.9 percent, fuel prices increased 151.7 percent.

In 1978, the average median-income family spent 10.4 percent of their income on direct household expenditures for energy, while low-income families spent 25.3 percent, or more than one-quarter of their income directly on energy.

If energy prices increase by 50 percent this year, the average low-income family could find itself spending 38 percent of its family budget directly on energy, and as much as 27.5 percent even after eliminating automobile use.

National averages, while troubling, understate the true picture for regions like New England, where direct energy expenditures could approach 50 percent of the family budget if energy prices increase 50 percent over 1978.

Energy prices have far outstripped increases in income, resulting in a loss of \$4 billion in purchasing power for 16.2 million low-income households since 1972.

Clearly, past Government efforts to alleviate this crushing burden are inadequate. The crisis intervention program is only reaching an estimated one-tenth of the eligible families at the current low appropriation levels.

Our amendment would appropriate \$1.2 billion for the purpose of aiding low-income families this winter. Together with the \$250 million we have already approved in the Labor-HEW appropriations bill, a total of \$1.45 billion will thus be available as early as is legislatively possible this winter.

CSA has all necessary authority to spend this appropriation in a manner that is consistent with our intention here today.

I urge my colleagues to support this amendment.

Mr. President, the case for this amendment was made the other evening, and I know it has been restated here during the few moments before the vote. But one point I want to underline is the issue of timing. There are many good intentions of Members of the Senate and the administration about how to deal with a critical problem we are going to face in the colder climates this winter.

There are different ideas of the best way to meet this particular challenge. But what we are resorting to here today, Mr. President, is a mechanism and a means which has been tried, and has been successful in the past. It has worked effectively, it has provided relief, and this does provide the only opportunity for us to assist the millions of elderly people, needy people, and poor people in our society who are paying an enormously disproportionate share of their scarce income for heating bills.

It seems to me imperative that if we are serious about trying to deal with the problem this winter we must take action now to uphold earlier Senate action in favor of this particular amendment.

I join with my colleagues in urging the Senate to reject reconsideration of this amendment.

The PRESIDING OFFICER. All time has expired.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. LEVIN may proceed for 2 minutes.

● Mr. DOLE. Mr. President, I want to commend my distinguished colleague from New York, Mr. JAVITS, for offering the low-income fuel assistance amendment to the Interior appropriations bill. This amendment, which appropriates \$1.2 billion to be transferred to the Community Services Administration, is a timely measure which received affirmative action by this body on Tuesday, and we must not reverse that action today. There have been arguments made during the debate on this amendment that the Senate should not allow this type of

legislative language to be attached to an appropriations bill. I do not intend to demean those arguments, but I must confess that those poor and needy families who are beginning to feel the cold chill of the pending winter weather find it difficult to understand the parliamentary budgetary problems which have been debated on the Senate floor.

Mr. President, there is a time crunch. Old man winter is not about to wait for the Congress to go through their legislative shenanigans before he starts to flex his muscle. We have no choice, we must act now and act responsibly, or else innocent low-income families will bear the brunt of our irresponsibility. We need to get this program rolling and get this money out as soon as possible. If we can act affirmatively on this proposal, the bureaucratic mechanism needed to get these checks out can be set in motion immediately. This would mean that those qualified recipients could begin receiving their checks sometime in January.

FINANCE COMMITTEE ACTION

Mr. President, the Finance Committee has recently acted on a low-income energy assistance program which is generally consistent with the Javits proposal. As the ranking Republican on that committee, I offered a low-income fuel proposal last week. I am happy to announce that the majority was able to see the necessity for this sort of assistance, and we were able to reach an adequate compromise.

The provisions adopted by the committee would involve direct cash payments to welfare recipients, including SSI, AFDC and food stamp recipients. States at their option could receive as a block grant the funds otherwise designated for direct cash payments to any or all of the three welfare recipient categories and use those funds for a plan of their own devising. The funds for payments to welfare recipients, for State block grants, would be allocated among the States under a formula which takes into account heating degree days, by low income population and residential energy expenditures.

Mr. President, the Javits amendment assures that the maximum amount of money allowed under the budget will go to low-income people this winter. The CSA has the needed authority to initiate this program. All they need are the funds to make it operable. Energy prices have risen dramatically and there is no question as to the necessity for this legislation. For those individuals who live in those regions of our country most severely affected by harsh winter weather there is no greater concern than that of enabling them to pay their heating bills. I have been concerned about this problem for some time, and I have had occasion to speak with not only consumers but also with small- and medium-sized fuel oil dealers.

Mr. President, the ripple effect of OPEC's price gouging on oil extends to both the consuming and selling sectors of our economy. I have listened to small- and medium-sized fuel oil dealers tell me about the severe cash flow problems they expect to encounter this winter. These dealers expect to be hit from both sides,

as they are being forced to pay higher prices for the very fuel which they sell, while they expect that their own customers will have increasing difficulty in paying for this same fuel. It is a "no win" situation for both the dealers and the consumers, because their own money is being shuttled to OPEC's oil sheiks even as soon as they complete a transaction. They are at the mercy of OPEC, whose cartel price policies show "no mercy."

Small- and medium-sized oil dealers are accumulating increasing amounts of customer debt, because their customers cannot afford to pay for their fuel. Inflation, which itself is spurred on by OPEC's increasing oil prices, is making it more difficult for low- and middle-income customers to pay the inflated fuel bills. In turn, they cannot afford to pay the fuel dealers for oil, and need to have credit extended for longer periods of time.

Mr. President, unless we can rectify this situation these small- and medium-sized dealers will be driven out of business by this severe cash flow problem. Thus reducing competition in a sector of our marketplace already suspected of having too little competition and too much collusion. The smaller and medium-sized independent oil dealers feel, quite legitimately, that they are at the mercy of their suppliers, the large oil companies.

FUEL OIL GUARANTEE ACT OF 1979

The Senator from Kansas is deeply alarmed at this problem for it threatens our free enterprise system. As a society, we cannot afford to let any segment of our national economy go out of business due to severe circumstances over which they have no control.

In an effort to remedy this problem, I introduced on September 20, 1979, the "Fuel Oil Guarantee Act," S. 1783.

This bill would give banks the necessary impetus to extend additional credit to fuel oil dealers when they need such credit in order to stay in business, and provide their users with needed fuel oil. The bill provides for a guaranteed loan program to be administered under the Small Business Administration.

The eligibility for these loans would be tied to the 1978 volume of fuel oil sold by the dealer rather than by the dollar volume of his business. In this way, small dealers whose dollar volume has been inflated by the outrageous OPEC price increases will not be squeezed out of business.

OPEC: THE REAL ENEMY

Mr. President, the Senator from Kansas would like to state to his colleagues that he introduced this very legislation and is in support of the Javits low-income fuel assistance amendment to the Interior bill today, due in large part to the unconscionable price gouging practices of OPEC and the seeming inability of the Carter administration to adequately deal with our energy problem. During the last year, the price of home heating oil has been increased by 100 percent, while gasoline prices at the pump have increased by nearly as high a margin.

The essence of our problem is simply this: The Carter administration has persistently failed to deal effectively with OPEC, and has adopted policies which sanction and strengthen this foreign car-

tel. For example, since last November, the President has not bought any oil for our strategic oil reserves, which now holds only 94 million barrels—barely enough to let us survive for 12 days. In deference to OPEC's oil sheiks, Mr. Carter has unaccountably stopped building our strategic oil reserve. This policy only allows OPEC to threaten us more, raise prices higher, and wreak havoc on the very same consumers which the Javits amendment today seeks to assist. What we are really being forced to do is sanction OPEC policy toward the United States and insist that our taxpayers and consumers bear the brunt.

NEEDED: A COHERENT ENERGY POLICY

Mr. President, in his July 15 television address, President Carter told us that we have met the enemy in the energy "moral equivalent of war," and that the enemy is us because of our inordinate consumption of energy. Certainly, the punitive consequences of OPEC's price racking policies on all our consumers would verify the President's finding that our own people are the enemy. It apparently has not occurred to the President to look in the opposite direction and see that if anyone is the enemy, it is OPEC, and that this cartel has declared the "moral equivalent of economic war" on us. By yielding to OPEC, failing to build up our strategic oil reserve, and engaging in a continuous policy of appeasement toward OPEC in general, the President is only enabling this cartel to punish our own people more severely in the future.

The Javits amendment, like my Fuel Oil Guarantee Act, will help to mollify the pressure on those segments of our economy most in need at this time of year. But such "first aid" proposals cannot cure our long-term energy crisis any more than a bandage can cure cancer.

What this country needs, and cries out for on a daily basis, is a coherent national energy policy which aims to weaken the very core of our energy disease—OPEC. Punishing our own consumers and then giving them first aid is not a cure to our disease, only a temporary treatment for the symptoms. It is at the very least a necessary gesture of succor which our Government is morally obligated to give to its own people. We must put the interests of our own people above the interests of foreign powers. ●

Mr. LEVIN. Mr. President, I rise in support of Senator Javits' amendment. I believe that it is imperative that we act now, not next spring, to provide help to those citizens who may have difficulty meeting the increased cost of energy this winter, and who, without this help, may literally freeze in the dark.

With the price of home heating oil doubling over the past year or so, the consequences of not providing assistance of this sort could be tragic during the coming winter. We already know that the poor and elderly spend a much larger percentage of their total income on basic heating needs than do others in our society, as much as 50 percent of their income in some of the colder regions of the country. With the recent dramatic increases in fuel prices, this situation will only be aggravated, and many Americans simply will not be able to afford to keep their homes heated to a tolerable level.

This is not a new problem; thousands of households in my own city of Detroit found their gas service discontinued last winter and this spring because of inability to pay their bills. The problem is not new, but it will be far more critical this year than ever before, assuming a normal winter or worse, if we do not help those faced with the stark choice of keeping their homes heated or their stomachs full.

Whatever the merits of deregulation of energy prices, and those of us in this body have disagreed over that issue in the past, we must all agree that we cannot inflict the burden of deregulation on those who were not involved in the decisions to deregulate, and who can least afford to bear their consequences. I note that even the American Petroleum Institute, which must certainly be one of the strongest proponents of decontrol of fuel prices, has recognized that the burden falls disproportionately upon the poor, and has urged that special consideration be given to their problems. These problems are not, in my view, a matter of political philosophy; they do not involve a judgment of the relative merits of free market capitalism versus Federal Government intervention. They are rather a matter of simple compassion for those who bear the brunt of policy decisions, whatever their merits, which have been made by their Government.

I know that some have argued that we need not address this issue now; that we can wait until we are able to calculate the revenues which will be produced by the windfall profits tax, and then pass a supplemental appropriation to provide this aid. I am one who not only supports a strong windfall tax, but believes that a strong tax is essential to justify decontrol of crude oil prices, and to make an investment in our Nation's energy future. I also believe that the tax should ultimately finance a program of assistance to those in our society who have difficulty meeting their fuel needs.

But in this instance, with winter weather already upon us in my State and other regions of the country, I do not think we can afford to wait. Even if we appropriate these funds today, it will still take some time for the CSA to put in place the machinery to distribute the money. If we wait until next year, until we can pass a supplemental, we may be in the ridiculous position of providing after-the-fact aid next spring to those who may already have suffered the dire consequences we hope to forestall.

Mr. President, I support this amendment, and I urge my colleagues to give it their overwhelming support.

Mr. JAVITS. Mr. President, I ask unanimous consent to proceed for 10 seconds.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. JAVITS. Mr. President, I ask unanimous consent that Senator BYRD of West Virginia be added as a co-sponsor.

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

● Mr. WEICKER. Mr. President, pending before this body is the Javits amendment which would provide \$1.2 billion

to the Community Services Administration for emergency energy assistance to elderly and poor persons during this winter season. This is in addition to the \$250 million appropriated under the 1980 Labor-HEW bill the Congress accepted last month for CSA's emergency energy program.

As a cosponsor of the Javits amendment, I firmly believe that this is the best solution before the Senate and before this Congress to the problem of assisting poor and fixed-income Americans meet the high cost of energy this winter. Time is of the essence. Just last week, it snowed from New England to Washington, D.C. In many parts of the Northeast, the winter heating season has already begun. And with that, many of our elderly and poor will be faced with the intolerable choice of choosing between heating and eating.

The cost of energy, already high, has skyrocketed. Home heating oil will cost at least 50 percent more this winter than last, and could reach \$1 a gallon, several times its cost 5 years ago. Thus, even if the winter is relatively mild, and less fuel is needed, fuel bills will be higher, tragically higher for those already on tight budgets who will have to make impossible choices between heating, food, clothing, and other necessities.

We all agree, here in the Congress and in the White House, that something should be done to save these people from the financial hardship this winter will have on them.

Mr. President, I realize that a number of alternative low-income energy assistance proposals are being debated at this time. But, we do have the crisis intervention program already in place in the sense of administrative procedures, several years of experience, and trained people to carry it out. While this program has had problems in the past, this is the first year we will have given CSA, the administering agency, some lead-time by early funding. I am confident that they will do a much better job than in the past and we will really be able to respond to the need this winter.

The program mechanics are fairly simple: Each State will receive a share of the funds based on a formula which factors in the severity of the winter, the relative increase in the cost of fuel and the number of low-income individuals in the State. The State Governors submit a plan for the administration of the program. Eligibility requirements will be the same as in past years: Households at 125 percent or less of U.S. census poverty level—currently \$7,750 for a family of four and \$5,200 for a family of two—or for heads of households eligible for SSI, the supplementary security income assistance. Recipients receive up to a maximum of \$400 per household and benefits will be in the form of assistance with utility bills relating to energy. Part of the benefit could be in the form of cash grants, maximum of \$50, or for such emergency items as blankets, food, and so forth.

Mr. President, this Congress has precious little time to debate this issue; that the real issue is basic human need, and we must not forget that. I urge the Senate to reverse itself and vote in favor of

keeping the heat on for millions of Americans this winter.●

● Mr. McGOVERN. Mr. President, I am pleased to have the privilege of joining with my distinguished colleague, Senator JAVITS in offering this important amendment.

I appreciate the concerns of many Members who have expressed concern about the need to enact legislation through the normal channels as well as the inappropriateness of attaching this amendment to the Interior appropriations bill. I do not think anybody can argue that it would be better to follow such procedures. We are, however, rapidly approaching an emergency which must be dealt with immediately.

As my colleague from New York has pointed out, even if we enact this proposal today, at least 80 days will pass before the first fuel assistance check is issued. In other words, no family would actually receive financial assistance until January. I can tell you that the winter is fast approaching South Dakota and that I am already receiving letters from constituents who have begun to draw down on their existing heating oil supplies. Many of them have no idea as to how they will afford additional supplies when their storage tank is empty.

This remains the only vehicle available for Congress to provide emergency assistance to those who will be most impacted by the increasing price of energy. Energy prices in the last 3 months have gone up at the rate of 68 percent over the last year. Hearings held in the Senate Human Resources Committee have already documented that many low income families will be spending upwards of 50 percent of their income to stay warm this winter.

Frankly, this is a very simple amendment. We are creating no new program. The Community Services Administration has all the authority they need to administer the funds. We have not increased the budget. We have simply transferred funds which were originally earmarked for the strategic petroleum reserve for emergency fuel assistance.

Mr. President, we cannot afford to argue the appropriateness of this amendment, or how much the transfer of these funds will affect the synthetic fuel budget in the bill. As my colleague, Senator DURKIN, pointed out yesterday—how does one explain a parliamentary, procedural difficulty to families who are having to choose between heating, eating and paying the rent. We must take action now to make this money available. This is our only opportunity to prevent almost certain tragedies this winter.●

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the motion to reconsider the amendment (UP No. 651) of the Senator from New York which was agreed to. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH) and the Senator from Hawaii (Mr. INOUE) are necessarily absent.

I further announce that, if present and voting, the Senator from Indiana (Mr. BAYH) would vote "nay."

Mr. STEVENS. I announce that the Senator from Nevada (Mr. LAXALT) and the Senator from Wyoming (Mr. SIMPSON) are necessarily absent.

The PRESIDING OFFICER (Mr. BAUCUS). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 11, nays 85, as follows:

[Rollcall Vote No. 365 Leg.]

YEAS—11

Armstrong	Exon	McClure
Byrd	Helms	Morgan
Harry F., Jr.	Kassebaum	Tower
Cochran	Long	Wallop

NAYS—85

Baker	Gravel	Pell
Baucus	Hart	Percy
Bellmon	Hatch	Pressler
Bentsen	Hatfield	Proxmire
Biden	Hayakawa	Pryor
Boren	Heflin	Randolph
Boschwitz	Helms	Ribicoff
Bradley	Hollings	Riegle
Bumpers	Huddleston	Roth
Burdick	Humphrey	Sarbanes
Byrd, Robert C.	Jackson	Sasser
Cannon	Javits	Schmitt
Chafee	Jepsen	Schweiker
Chiles	Johnston	Stafford
Church	Kennedy	Stennis
Cohen	Leahy	Stevens
Cranston	Levin	Stevenson
Culver	Lugar	Stewart
Danforth	Magnuson	Stone
DeConcini	Mathias	Talmadge
Dole	Matsunaga	Thurmond
Domenici	McGovern	Tsongas
Durenberger	Melcher	Warner
Durkin	Metzenbaum	Weicker
Eagleton	Moynihan	Williams
Ford	Muskie	Young
Garn	Nelson	Zorinsky
Glenn	Nunn	
Goldwater	Packwood	

NOT VOTING—4

Bayh	Laxalt	Simpson
Inouye		

So the motion to reconsider was rejected.

AMENDMENT NO. 519

(Purpose: To increase funds for the Rural Fire Protection and Control Fund)

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that the special orders relating to the Johnston-Durkin amendment and the Pressler amendment be reversed and that it be in order to consider now the Pressler amendment.

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

Mr. PRESSLER. Mr. President, I call up my amendment No. 519 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. PRESSLER) proposes an amendment numbered 519.

Mr. PRESSLER. I ask unanimous consent that further reading be dispensed with.

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

The amendment is as follows:

On page 33, line 7, delete "\$58,018,000" and insert in lieu thereof "\$73,518,000".

Mr. PRESSLER. Mr. President, I ask for a rollcall vote on this amendment.

Mr. HUDDLESTON. Mr. President, may I inquire what the parliamentary procedure is with regard to a rollcall on a tabling motion that would precede his amendment?

The PRESIDING OFFICER. It will take unanimous consent to order the yeas and nays on a tabling motion.

Mr. HUDDLESTON. I ask unanimous consent that the yeas and nays be ordered on any tabling motion that may be made on Senator PRESSLER's motion.

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. PRESSLER. Mr. President, in regard to the rural fire protection and control program, I point out that it is the core fire control program in almost all the States. In my own State, as much as 40 percent of fire prevention and control activities derives from a State allocation of funds from the Federal program. Thus, Mr. President, there is a genuine national interest in maintaining a Federal presence in rural fire protection of eligible State and private forest lands. Fire does not respect the boundaries between State or private lands and Federal lands.

This program does not involve a large bureaucracy of Federal personnel out in the field. Instead, the program relies on non-Federal personnel and State and local efforts to apply Federal funds and Federal fire control and prevention research and expertise to the task of safeguarding Federal, State, and private forests. This is an exceptional approach to Federal involvement in the function of Government. All too often, Federal help instigates the creation of a new layer of bureaucracy. The rural fire protection and control program of the Forest Service has effectively carried on fire suppression assistance activities in cooperation with the States for years without creating more Federal bureaucracy.

This program is a matching program in which States put up the same amount as they are allocated from Federal funds.

Smoke management and suppression requirements of the Federal Clean Air Act have significant impact on States. As with so many other Federal programs which have stimulated new regulations and rules, the Clean Air Act does not adequately compensate other units of Government for the increased costs which they must bear as a result of such regulatory creations.

While this program does not immediately relate to clean air regulations, there is no doubt that it represents an easing of that burden on the States. Through the program fires are prevented and fought and, in the process and to the extent that these federally assisted activities are successful in combating fire, smoke is diminished as an air pollutant.

If I may be permitted to corrupt an old truism, where there is fire there is smoke. The Federal support in fighting fire helps other governmental units in a small way to bear the burden of Federal clean air standards.

I understand that the Office of Management and Budget rationale for recommending no money at all for this program was that, on a nationwide average basis, the Federal funds represented only 14 percent of all funds spent in the States on rural fire prevention and control activities.

I do not see the logic of that rationale. In fact, it seems to be a flimsy rationalization for destroying a minimal program which facilitates the dissemination of Federal fire prevention and control expertise and research to State and local governments.

I might also stress that it is strange that effective Federal assistance programs are proposed for elimination when we continue to pour money into ineffective Federal programs. This has been judged an effective Federal program. This is not the time to slash drastically the already very small Federal assistance for State and local fire prevention efforts, not with over 10,000 fires so far this year in California and extremely dry conditions in many States like Minnesota and fires in Montana.

Some could ask why is a Federal contribution to a legitimate Federal involvement in one of the most basic safety functions of Government everywhere in the world not considered a legitimate area? I certainly suggest that it is.

The cuts that are occurring in this area will have a great impact on many of our States. I have circulated to each Senator the listing of the amount under the fiscal year 1979 allocation, fiscal year 1980 projected under the committee bill, and what it would be under the Pressler amendment. This amendment restores it almost to the level of the fiscal year 1979 allocation.

For those reasons, Mr. President, I ask that this amendment be considered. I also ask unanimous consent that Senators THURMOND, BIDEN, and DURENBERGER be added as cosponsors of this amendment.

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

Mr. PRESSLER. Mr. President, I yield back my time.

Mr. MAGNUSON. Will the Senator yield?

Mr. PRESSLER. Yes, I yield.

Mr. MAGNUSON. I have been very active in the establishment of a fire academy and things of that kind. The academy is supposed to dig out information where big fire departments might have technical information but smaller fire departments, particularly volunteer departments, will not have it. As I understand the amendment of the Senator from South Dakota, this would involve a great number of volunteer fire departments.

Mr. PRESSLER. Yes, as I understand it, for the development of fire control training courses for volunteer firemen, development and fabrication of fire-fighting tools and equipment used largely in rural areas, technical assistance in protecting firefighters, and direct funding of State-administered fire prevention control activities.

My understanding is that this would have a great impact on volunteer firemen.

Mr. MAGNUSON. Because most rural fire departments are volunteer departments. They do not have the expertise and this would allow them to participate in the national fire academy teachings, things of this kind.

Another thing: I understand that the

amendment would lower the fire insurance rates in several places.

Mr. PRESSLER. That is good news.

(Mr. EXON assumed the chair.)

Mr. HUDDLESTON. Mr. President, I shall use my own time for a minute. I hope the distinguished chairman is not confusing this program with the rural fire department program that is administered through the Department of Agriculture, which does go directly to the rural volunteer fire departments.

Mr. MAGNUSON. No, this deals with forest fires and activities of that kind. That is of interest to me. We are talking about programs that are important to the small towns and the forest areas of my State, who have volunteers.

Mr. HUDDLESTON. I just wanted to make sure the Senator did not have this confused with the other program that is funded in the agricultural appropriation bill.

Mr. MAGNUSON. The two programs are separate.

Mr. HUDDLESTON. They are separate programs. This deals with fire control programs, not directly with fire departments. It provides grants to programs operated through the State foresters.

I yield myself, Mr. President, 3 minutes.

Mr. President, let me say first of all that I am fully sympathetic with the goal expressed by the Senator to maintain rural fire control support for State and private lands at the 1979 level. I have supported this program for many years, as has the Appropriations Committee. Repeatedly, successive administrations have attempted to phase out this program on the basis that the States should take it over on their own. Just as repeatedly, the Congress has restored funding for it in response to the various State and local agencies that benefit from the program.

But Mr. President, let me emphasize again that we cannot restrain Federal spending as the Senate has twice voted to do in budget resolutions and still fully fund every popular program. We cannot satisfy all the congressional demands for budget increases and still fully fund every ongoing program without permitting undesirable and unacceptable increases in Federal spending.

The committee has tried in every way that it can to accommodate Senators' priorities. The committee recommendations alone provided \$700 million in unbudgeted appropriations directly in response to individual Senators' requests. Since we have had this bill on the floor we have added more than \$2 billion more in response to Senators' requests. The only reason that we are not in worse shape with respect to the budget and to the congressional spending ceiling is that the committee, after months of hearings and months of staff analysis, was able to develop substantial budget reductions to offset these congressional add-ons. Nevertheless, I must call to the Senate's attention that we are continuing to push beyond the Senate's own limitation on outlays for fiscal 1980. Senators who participated in the recent second budget resolution debate are well aware that, as a whole, we are already \$2.5 billion over our own adopted outlay ceiling on the basis of appropriation bills

already approved by the Senate. Now, in this bill, we are pushing another \$400 million over that ceiling, even without fully assessing the impact of the \$1.2 billion in outlays associated with the fuel assistance program, which was finally enacted just a few minutes ago.

Mr. President, we cannot have it both ways. We cannot vote on the budget resolution to restrain Federal spending and then vote for every budget increase that happens to be popular.

It is not that we have neglected the Forest Service. We are already \$15 million over the budget for rural fire control, and for the Forest Service as a whole we are nearly \$200 million over the budget. I hope Senators will keep these numbers in mind in deciding whether to support this additional increase in the appropriation bill.

One final note: let me point out to Senators that they failed to reduce this bill by more than \$100 million on Tuesday by the margin of only one vote. Those 48 Senators who voted then to reduce this bill will, I hope, keep in mind their desire to cut Federal spending on this amendment as well.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. STEWART. Mr. President, I ask the Senator from South Dakota if he will yield some time to me?

Mr. PRESSLER. I will yield, Mr. President, but first I would like to list the groups supporting this, if that is possible at this time.

The PRESIDING OFFICER. The Senator from South Dakota has 4 minutes and 31 seconds remaining.

Mr. PRESSLER. Mr. President, this effort is supported by the Association of State Foresters, National Forest Products Association, Volunteer Firemen's Council, South Dakota Game Fish and Parks Department, National Fire Protection Association, American Forestry Association, and the Forest Farmers Association.

Mr. President, I ask unanimous consent to have printed in the RECORD a paper entitled "Rural Fire Protection and Control Program, State Allocations."

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

RURAL FIRE PROTECTION AND CONTROL PROGRAM—STATE ALLOCATIONS

	Fiscal year 1979 allocation	Fiscal year 1980 projected under committee bill	Under the Pressler amendment		Fiscal year 1979 allocation	Fiscal year 1980 projected under committee bill	Under the Pressler amendment
Alabama	\$757,000	\$371,000	\$755,391	Nebraska	405,000	198,000	404,149
Alaska	520,000	255,000	518,895	Nevada	330,000	162,000	329,307
Arizona	180,000	88,000	179,618	New Hampshire	281,000	138,000	280,409
Arkansas	676,000	331,000	674,563	New Jersey	504,000	247,000	502,941
California	1,043,000	1,001,000	2,038,656	New Mexico	360,000	176,000	359,244
Colorado	744,000	365,000	742,438	New York	715,000	350,000	713,498
Connecticut	144,000	71,000	143,697	North Carolina	829,000	406,000	827,259
Delaware	71,000	35,000	70,850	North Dakota	170,000	83,000	169,643
Florida	919,000	450,000	917,070	Ohio	427,000	211,000	426,103
Georgia	872,000	428,000	870,168	Oklahoma	414,000	203,000	413,130
Hawaii	189,000	93,000	188,603	Oregon	831,000	407,000	829,254
Idaho	553,000	271,000	551,838	Pennsylvania	792,000	388,000	790,336
Illinois	287,000	141,000	286,397	Rhode Island	137,000	67,000	136,712
Indiana	185,000	91,000	184,611	South Carolina	789,000	386,000	787,343
Iowa	150,000	73,000	149,685	South Dakota	575,000	282,000	573,792
Kansas	423,000	207,000	422,111	Tennessee	708,000	347,000	706,513
Kentucky	605,000	296,000	603,729	Texas	651,000	318,000	649,632
Louisiana	765,000	375,000	763,393	Utah	300,000	147,000	299,370
Maine	632,000	310,000	630,672	Vermont	102,000	50,000	101,785
Maryland	404,000	198,000	403,151	Virginia	793,000	389,000	791,334
Massachusetts	395,000	193,000	393,172	Washington	837,000	410,000	835,242
Michigan	770,000	377,000	768,383	West Virginia	450,000	221,000	449,055
Minnesota	582,000	285,000	580,777	Wisconsin	762,000	373,000	760,399
Mississippi	781,000	383,000	779,359	Wyoming	353,000	173,000	352,258
Missouri	724,000	355,000	722,479	Puerto Rico	47,000	23,000	46,901
Montana	616,000	302,000	614,706	Guam	47,000	23,000	46,901

Mr. PRESSLER. Mr. President, I yield 2 minutes to my good friend from Alabama.

The PRESIDING OFFICER. The Senator from Alabama is recognized for 2 minutes.

Mr. STEWART. Mr. President, I rise today in support of Senator PRESSLER's amendment to H.R. 4930, the Interior Department and related agencies appropriation bill, which would restore funding for the rural fire protection and control program to the fiscal year 1979 level. As we know, the President recommended no money for the rural fire protection and control program for fiscal year 1980. The Senate and the House made recommendations of \$15 million, or approximately one half of the funding level for 1979. I have concern that \$15 million is only half of what is needed in this program and support the Senator from South Dakota's amendment which would raise the funding level for this program to \$30.5 million.

There is a great deal of merit to this program which provides assistance to States in fighting and preventing forest fires on non-Federal, State, and private lands. The money to the States under this program funds State-administered fire prevention and control activities, helps to provide technical assistance for the fighting of cer-

tain types of rural fires, trains volunteer firemen, and assists in the development of firefighting equipment.

While there are States that have shown the ability to meet their firefighting needs through State funds, too many States, rich in timber resources, lack the ability to adequately address the problem of rural fire protection and control without the financial help this program provides. I speak not just for the rural areas in my own State of Alabama which benefit so greatly from this small Federal outlay, but for all rural areas which will feel the impact of this reduction in federal assistance. A reduction in this program will, in many cases, mean a loss of jobs, which, in turn means a loss of firefighting manpower. Put simply, a reduction in the assistance under this program will mean more fires and a greater loss of timber in every State.

Our forests represent one of our Nation's great natural resources; a renewable resource which, through care and conservation, can continue to serve a variety of our national needs. But care and conservation require dollars. The comparatively small amount of Federal outlay under the rural fire protection and control program goes an impressively long way. The Federal Government gets a return on its money every

time the State forest services lend their assistance to Federal firefighters in their States. Much of the money under this program goes to volunteer firemen in the various States. I have seen on a firsthand basis the resourcefulness and dedication of the volunteer fireman, and the lengths which a dollar will go when placed in his hand.

The State Forest Services have a difficult and often defeating task in attempting to manage non-Federal, State, and private forest land. The assistance made available to the States under the rural fire protection and control program has done a great deal to aid them in their monumental task, and has caused a significant reduction in damage from fires to our timberland and our rural areas.

I commend the Senator from South Dakota for his amendment and urge the Senate to consider favorably this measure.

Mr. THURMOND. Mr. President, I rise in support of the amendment offered by the able junior Senator from South Dakota (Mr. PRESSLER) of which I am a cosponsor, to increase funding for forestry fire protection and control programs by \$15,500,000. Failure to provide funding at a level at least approximately equal to that provided last year would severely cripple the status of these

fire protection programs which depend on both Federal and State funds to provide forest fire protection to State and private forest lands.

Cooperative Federal-State forest fire protection programs originated with the Clark-McNary Act in 1924, which had as its purpose the protection of forest and water resources. Thus, there is a long-standing and well-recognized vested public interest at both national and State levels in the protection, conservation and development of forest and related natural resources. Protection of forest resources on State and private lands from destruction by wildfire is basic and absolutely necessary if benefits are to be realized, in the form of forest products, hunting and fishing, water supplies, and aesthetic, environmental values.

Sharply curtailing Federal-State cooperative forest fire protection at a time when protection, conservation and development of our natural resources and environmental values is a critical national need would be shortsighted, unwise, and unconscionable.

The results of drastically reducing Federal cooperative forest fire control funding would be:

First. Greatly decreased fire control capability on the State level in all States.

Second. Increased numbers of wildfires as well as forest acreage burned, not only destroying needed forest resources but also homes and other improvements within and in close proximity to forested areas.

Third. The reduction of technical forest fire control support currently being provided by the U.S. Forest Service to the States.

Fourth. A reduction in the number of State fire control crews available to help suppress wildfires on Federal lands.

Fifth. Increased siltation and pollution of lakes and streams from accelerated erosion resulting from wildfires.

Sixth. A reduction in the supply of forest products needed to meet future national needs and to serve international markets.

Seventh. A rise in unemployment as fire control employees lose their jobs.

Mr. President, wildfire is the greatest enemy of our forest resources. These additional funds are needed to help State fire control personnel combat this enemy in an effective manner. The States simply lack the resources to do the job without a modest amount of Federal funding and technical assistance. I believe this cooperative Federal-State fire protection program definitely serves the national interest, and I, therefore, urge the Senate to adopt this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. PRESSLER addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. Mr. President, I have no requests for time. I have made the arguments I want to make. I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. HUDDLESTON. Mr. President, I yield back the remainder of my time

and move that the amendment of the Senator from South Dakota be laid on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from South Dakota. All time has been yielded back, 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 Indiana (Mr. BAYH), the Senator from Hawaii (Mr. INOUE), the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Montana (Mr. MELCHER) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Nevada (Mr. LAXALT), the Senator from Illinois (Mr. PERCY) and the Senator from Wyoming (Mr. SIMPSON) are necessarily absent.

The PRESIDING OFFICER (Mr. STEWART). Is there any other Senator in the Chamber who wishes to vote?

The result was announced—yeas 37, nays 56, as follows:

[Rollcall Vote No. 366 Leg.]

YEAS—37

Belmon	Glenn	Muskie
Bentsen	Gravel	Nunn
Burdick	Hart	Proxmire
Byrd	Hatfield	Randolph
Harry F., Jr.	Hayakawa	Ribicoff
Byrd, Robert C.	Huddleston	Stevenson
Chafee	Humphrey	Stone
Chiles	Johnston	Talmadge
Church	Levin	Tsongas
Cohen	Long	Welcker
DeConcini	Lugar	Williams
Eagleton	Metzenbaum	Zorinsky
Exon	Moynihan	

NAYS—56

Armstrong	Goldwater	Pell
Baker	Hatch	Pressler
Baucus	Heflin	Pryor
Biden	Heinz	Riegle
Boren	Helms	Roth
Boschwitz	Hollings	Sarbanes
Bradley	Jackson	Sasser
Bumpers	Javits	Schmitt
Cannon	Jepsen	Schweiker
Cochran	Kassebaum	Stafford
Cranston	Leahy	Stennis
Culver	Magnuson	Stevens
Danforth	Mathias	Stewart
Dole	Matsunaga	Thurmond
Domenici	McClure	Tower
Durenberger	McGovern	Wallop
Durkin	Morgan	Warner
Ford	Nelson	Young
Garn	Packwood	

NOT VOTING—7

Bayh	Laxalt	Simpson
Inouye	Melcher	
Kennedy	Percy	

So the motion to table the amendment was rejected.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that the order for the yeas and nays on the Pressler amendment be vitiated.

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

Mr. PRESSLER. Mr. President, I urge passage of my amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Dakota.

The amendment was agreed to.

Mr. PRESSLER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HUDDLESTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that the special order relating to the Johnston-Durkin amendment be vitiated.

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

Mr. KENNEDY. Mr. President, I want to express my strong opposition to the provision in the Department of the Interior appropriation bill which would reduce the entitlement for imported residual fuel oil from 50 percent to 30 percent and make future changes in the program subject to a one-House veto.

From the beginning there has been a great deal of confusion over the purpose of the entitlements for imported refined products. To some they appear to be nothing more than an unjustified giveaway for the benefit of the Northeast at the expense of the rest of the Nation. This, in my view, represents a serious misunderstanding of not only the entitlements program but the purpose of crude oil price controls. Whether one agrees with such controls or not, their clear intent is to distribute the benefits of "old" low-cost domestic crude oil to the American consumer. For obvious reasons of history, geology and geography, all Americans do not have equal access to "old" crude oil. This situation was remedied by equalizing, at least in a nominal sense, the access of all refiners to old crude oil. This was done through the entitlements program.

The effect of the program was to equalize petroleum costs for all but one class of consumers—those dependent upon imported refined product. There was no reason why people dependent upon imported product should not share equally in the benefits of the price controls. They certainly had as much right to these benefits as those dependent upon imported crude oil.

I therefore believe we should not tie the President's hands in this matter.

Mr. GLENN. Mr. President, much of the debate over this bill concerns large-scale items involving billions of dollars. That is both necessary and appropriate because of the immediate impact such expenditures have on our economy. I think it is wise to remind ourselves from time-to-time that there are also small items in appropriation bills which may have little impact on our economy in the succeeding year but which may have very large beneficial impacts in later years.

One such item in H.R. 4930 concerns low-grade heat recovery which is located under the item of heat recovery component technology. This modestly funded program, which will have a total of 8.5 million dollars in fiscal year 1980, is one that I have followed with active interest over the past few years.

The program concerns the utilization of waste heat from the presently operating uranium enrichment plants at Portsmouth, Ohio; Oak Ridge, Tenn.; and Paducah, Ky., as well as the facility at Savannah River, S.C. These plants, which are inherently inefficient, reject a total of 12.8 x 10⁶ btu per hour, equivalent to 4,000 MW of electricity, which is the equivalent of about 20 million barrels of oil per year.

The program to study the possible use of this waste energy is now beginning to produce results which to my mind provide the highest justification for increasing the funding levels for fiscal year 1980. I expressed that view to the distinguished chairman of the Appropriations Subcommittee on the Department of the Interior and related agencies, Senator BYRD, and I am pleased that my requests to provide an additional \$4.5 billion appropriation to the Department of Energy for low-grade heat recovery technology was supported by the committee and is contained in this bill. I would like to take a moment to give an example, using the uranium enrichment facility at Portsmouth, Ohio, of the possible future benefits that may accrue from this program.

The Bechtel Corp. recently completed a study for the Department of Energy that concluded that approximately 1,600 new, direct, and indirect, jobs representing a payroll of the order of \$20 million per year, could be created within 5 years from applications involving greenhouses, lumber predrying, and grain and hay drying. All of this I should add, in an area of chronic high unemployment in southeastern Ohio. The potential energy savings at Portsmouth alone are of the order of nearly 7 million barrels of oil per year. Equivalent benefits can be expected at the other nuclear facilities as well.

Mr. President, this is a program which can achieve benefits from energy conservation within a relatively short amount of time and with a relatively modest investment.

Mr. President, we are not going to solve our energy problem by making one massive investment in one kind of energy source. We need to seek out all the best ideas and fund them to the extent needed to establish their feasibility. And our No. 1 priority in this respect should be energy conservation. The waste heat utilization program is an excellent example of the kind of investments we should be making in conservation, and points to the kind of benefits we may expect. It is a program that is good not only for Ohio. It is good for the entire country.

Mr. President, this bill also is of importance to Ohio, and the Nation, for other reasons. Contained in the legislation is \$15 million to be used to acquire lands identified for inclusion in the Cuyahoga National Recreation Area—funds that I requested in testimony before the Senate Appropriations Committee.

These funds will permit this vital land-acquisition program to continue—permitting the Department of the Interior to secure land in this essentially urban area before development costs and inflation make further acquisitions prohibitively expensive.

This new National Recreation Area in Ohio exists in the center of a heavily populated area—the corridor along several miles of the Cuyahoga River—stretching from Cleveland to Akron, Ohio. Intense development pressures are raising the costs for land. A centralized urban recreation area, like Cuyahoga, deserves priority funding not only to keep land acquisitions down, but also to

expedite serving the millions of Ohioans and other Americans who need access to an expanded and improved Cuyahoga National Recreation Area.

The CRA is the only major open space left between Cleveland and Akron. It is within an hour's drive of 5 million people and an easy tankful of gas away from 15 million. Located near three major interstate highways and several State highways, and accessible by train, the area and its many attractions are already receiving national visitors as well. The Congress has established and is improving a priceless recreational and environmental facility for millions of Americans to use and appreciate.

Mr. President, also included in the bill are funds needed at several historic Ohio sites: \$196,000 for the Perry Victory Column and \$57,000 for its rehabilitation and exterior lighting, \$161,000 for the Mound City Group, and \$108,000 for the home of William Howard Taft. I am pleased that Cuyahoga and these sites will continue to provide recreational and cultural services to Ohioans and visitors from other States.

● Mr. MUSKIE. Mr. President, today the Senate will complete action on S. 4930, the Department of the Interior appropriations bill of 1979. While I support the bill in its final form, I do want to express my concern about one of its provisions.

I am speaking of section 303, as amended by the Appropriations Committee regarding the petroleum products entitlement policy authorized under section 4(a) of the Emergency Petroleum Allocation Act of 1973. The amendment effectively reduces the portion of an entitlement available to an importer of residual fuel oil from 50 percent to 30 percent. The amendment freezes all other petroleum product entitlements at their April 30, 1979 level. And, finally, the amendment provides that any future changes in entitlements policy be submitted to the Congress by the administration as an "energy action," subject to the disapproval of either House within 15 days of promulgation.

Mr. President, my concern with this provision is twofold: First, the change that is proposed for the residual fuel oil entitlement would mean higher energy prices in my home State of Maine and a number of other States. Second, subjecting the administration of our entitlements program to a one-House legislative veto is a legislative act, and is inappropriate on an appropriations bill.

This effort to legislate on an appropriation bill means the amendment is subject to a point of order, under rule 16. The bill, as passed by the House of Representatives, made no reference to the entitlements program.

I understand, however, that revisions to the amendment will be made in conference which will preserve the existing program. Under these circumstances, I will not raise the point of order in objection to this provision. And I reserve my right to oppose the conference report if this matter is not successfully resolved.●

The PRESIDING OFFICER. The question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. HUDDLESTON. Mr. President, have the yeas and nays been ordered on passage?

The PRESIDING OFFICER. They have been.

Mr. HUDDLESTON. Mr. President, I would like to call the Senate's attention to a matter in the bill of particular interest to the distinguished Senator from Indiana (Mr. BAYH). This involves a section of the committee report, at page 40, that reflects a misunderstanding of an agreement made at the subcommittee level to provide funding for a Mining and Mineral Resources Research Institute to be located in the State of Indiana.

The subcommittee members accepted the amendment of the Senator from Indiana (Mr. BAYH), but apparently there was some confusion over the amendment's intent. The legislature of a State plays a role in forwarding to OSM the name of a public college or university that should be designated as a mineral institute by OSM. As Senator BAYH pointed out in subcommittee, the Indiana State Legislature does not meet again until after the first of the year—January 7, 1980, to be exact—and 30 days should be granted for the legislature to designate Indiana's nominee. Therefore, I would like the record to reflect the date February 8, 1980,—not January 1, as stated in the report, as the date upon which the \$270,000 designated for Indiana shall revert to OSM's operating account if no school in the State of Indiana—the State that ranks sixth in coal production from surface mining—is found eligible under current criteria.

Mr. STEVENS. Mr. President, I just want the Senate to know that the Senator from Kentucky (Mr. HUDDLESTON) and the Senator from West Virginia (Mr. ROBERT C. BYRD) have been most patient with me on this bill, and I thank them for their consideration of a timing problem of mine which delayed consideration of this bill.

But, all in all, the bill before us is a good one, and I hope it has the support of the Senate.

I am also grateful to the Senator from North Dakota for his assistance on the bill and, as I say, I hope we will have an overwhelming vote for passage of the bill so that we can do well in conference on the subject.

Mr. ROBERT C. BYRD. Mr. President, I want to express my appreciation to the Senator from Alaska (Mr. STEVENS). Without his cooperation, the Senator from Kentucky, who is the acting manager of the bill, and I would have had an extremely difficult course to follow.

The Senator from Alaska is always attentive to his responsibilities as indicated by his presence at the hearings, his presence at the markup, and he has demonstrated the finest kind of cooperation always during our service together on this Interior appropriations bill.

The PRESIDING OFFICER. The question is, Shall the bill pass? The yeas and nays have been ordered, and 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) and the Senator from Hawaii (Mr. INOUE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Nevada (Mr. LAXALT), the Senator from Illinois (Mr. PERCY), and the Senator from Wyoming (Mr. SIMPSON) are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming (Mr. SIMPSON) would vote "yea."

The PRESIDING OFFICER (Mr. PRYOR). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 86, nays 9, as follows:

[Rollcall Vote No. 367 Leg.]

YEAS—86

Baker	Goldwater	Nelson
Baucus	Gravel	Numm
Bellmon	Hart	Packwood
Bentsen	Hatfield	Pell
Biden	Hayakawa	Pressler
Boren	Heflin	Pryor
Boschwitz	Heinz	Randolph
Bradley	Hollings	Ribicoff
Bumpers	Huddleston	Riegle
Burdick	Humphrey	Sarbanes
Byrd, Robert C.	Jackson	Sasser
Cannon	Javits	Schmitt
Chafee	Jeppen	Schweiker
Chiles	Johnston	Stafford
Church	Kassebaum	Stennis
Cochran	Kennedy	Stevens
Cohen	Leahy	Stevenson
Cranston	Levin	Stewart
Culver	Long	Stone
Danforth	Magnuson	Talmadge
DeConcini	Mathias	Thurmond
Dole	Matsunaga	Tower
Domenici	McClure	Tsongas
Durenberger	McGovern	Warner
Durkin	Melcher	Weicker
Eagleton	Metzenbaum	Williams
Exon	Morgan	Young
Ford	Moynihah	Zorinsky
Glenn	Muskie	

NAYS—9

Armstrong	Hatch	Roth
Byrd,	Helms	Wallop
Harry F., Jr.	Lugar	
Garn	Proxmire	

NOT VOTING—5

Bayh	Laxalt	Simpson
Inouye	Percy	

So the bill (H.R. 4930), as amended, was passed.

Mr. HUDDLESTON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. GLENN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make clerical and technical corrections in the engrossment of the Senate amendments.

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

Mr. HUDDLESTON. Mr. President, I move that the Senate insist upon its amendments and request a conference with the House of Representatives thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer (Mr. PRYOR) appointed Mr. ROBERT C. BYRD, Mr. HOLLINGS, Mr. BAYH, Mr. JOHNSTON, Mr. HUDDLESTON, Mr. LEAHY, Mr. DECONCINI, Mr. BURDICK, Mr. DURKIN, Mr. STEVENS, Mr. YOUNG, Mr. HATFIELD, Mr. BELLMON, Mr.

McCLURE, and Mr. LAXALT conferees on the part of the Senate.

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 exceed 30 minutes, and that Senators may speak thereon up to 5 minutes each.

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

STATE VERSUS FEDERAL REGULATION OF INSURANCE

Mr. THURMOND. Mr. President, one of the recurring issues which comes before the Senate is the notion that the Federal Government can do a better job than the States in regulating insurance. History should teach us a lesson. The Federal Government has certainly not made a record of excellence as a regulator. Regulatory reform is now one of the key issues in the Senate.

Recently an article on this subject appeared in a major paper in my home State. I believe it is very important to share with my colleagues. If there is one message that most of us receive from home, it is "get the Federal Government off our backs."

Mr. President, I ask unanimous consent that the editorial "Federal Insurance Control Looms Again," from the State, Columbia, S.C., October 14, 1979, be printed at this point in the RECORD.

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

FEDERAL INSURANCE CONTROL LOOMS AGAIN

Armed with a new report from the General Accounting Office citing flaws and abuses in state insurance regulation, some members of Congress are likely to push again for federal takeover of insurance regulation. The GAO report should be further warning for the states to stand guard and clean up their insurance acts where necessary.

There have been several attempts in recent years to get Congress to repeal the 35-year-old McCarran-Ferguson Act, which specifically gives the individual states the right to regulate insurance.

In a way, it is rather easy to get the ball rolling in Washington towards federal insurance regulation. What happens is that any number of reports or accounts—the latest one by GAO serving as an example—can be dredged up showing where states have made messes of insurance. There have in fact been some insurance disasters, particularly in the car insurance field, but a few shambles here and there do not warrant dismantling the concept of state regulation.

The GAO document does not recommend outright that the national government take insurance authority away from the states, but the report provides fuel for those Congressmen who want to go off in that direction again.

Some of the findings of the new report, which concentrates on auto insurance, are that states do a poor job of devising rate classifications and that there is not much difference in rates between states which highly regulate the prices and those states which don't. It cites inadequate financial reporting requirements of insurance companies, and a revolving-door relationship between insurance regulatory agencies and the industry.

This latter point noted that the principal

regulatory personnel, especially chief insurance commissioners, often are hired from the industry and also join insurance companies after leaving public office. This seems to be an odd criticism. As with many other highly specialized and complicated fields, there is bound to be some interchange between government and private industry.

Portions of the GAO report certainly have merit. A case in point: it urges the regulators and the industry to provide consumers with more information about insurance needs and cost options.

In the intricate, multi-billion dollar business of insurance, it is not hard to pull out consumer and regulatory horror stories that would tempt some members of Congress to step into this issue. The problem is, as experience has shown over and over, there is little likelihood that the federal government will do any better.

SHIFTS IN UNITED STATES-SOVIET BALANCE OF POWER

Mr. THURMOND. Mr. President, a highly regarded evaluation of the shifting balance of military power from the United States to the Soviet Union will be made public in December of this year.

The International Institute for Strategic Studies in London will publish at that time its annual study of "The Military Balance."

Because of the importance of this report and the rapid trend against the United States, Editor John L. Frisbee of the Air Force Magazine has taken the unusual step of commenting on this study prior to its official publication. He warns that the U.S.S.R. is implementing a global strategy.

In an editorial in the October issue of this magazine, entitled "The Military Balance 1979-80," Editor Frisbee points to the lack of leadership in Washington, despite these serious developments.

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

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

THE MILITARY BALANCE 1979-80

Each year, in early September, the International Institute for Strategic Studies in London publishes "The Military Balance" for the current and coming years. Through an exclusive arrangement with IISS, AIR FORCE Magazine has reprinted the Institute report in our December issue for the past eight years. We will publish it again in December 1979.

The Institute, as most of our readers know, is an independent center for research in defense-related areas and is universally recognized as the leading authority in its field. Its reputation has been built on adherence to cold facts and, where judgments are made, on cautious conservatism. To paraphrase a TV commercial, when IISS speaks, people listen.

In the past, we have reserved comment on "The Balance" until it appeared in AIR FORCE Magazine. Because of some unusually significant reporting and analysis, we are breaking that precedent.

The Institute reports this year that in the strategic area, "the capabilities of the Super-Powers will continue to increase despite SALT II, if asymmetrically. On the Soviet side, older land-based missiles are being replaced by more accurate systems carrying greater numbers of warheads. Extrapolation of this trend will create a theoretical vulnerability of U.S. land-based systems by the mid-1980s which greater hardening cannot

redress. . . . Given the time lag inherent in the production and deployment of new strategic systems and the new constraints introduced by SALT II, it will be eight to ten years before the U.S. could again restore a degree of invulnerability to their land-based deterrent forces. . . ."

That means the deterrent value of U.S. strategic forces will be pretty much limited—by 1982, we believe—to preventing an attack on the U.S. itself. This unwelcome wind of change will have turned inside out the nuclear umbrella that has protected U.S. allies and external interests. That leads to another significant IISS judgment.

Until this year, it generally has been accepted that the US had some 7,000 tactical nuclear weapons in Europe, compared to about 3,500 for the USSR—an apparently comfortable margin that should give the Kremlin long thought about starting trouble in Europe (or other theaters, for that matter) or about first use of nukes if a conventional war were launched.

Now the institute finds that instead of the rough parity reported in our March 1979 issue (p. 47), "there currently exists a 25% advantage to the Warsaw Pact in terms of deliverable [our emphasis] warheads likely to be deployed in a European conflict and a moderate 13% advantage to the Warsaw Pact in terms of the effectiveness of those warheads when measured against the three parameters of survivability, assurance of penetration, and flexibility. . . . We note that this balance is sustained by American central systems (*Poseidon* SLBMs) allocated to SACEUR for Europe's defense (but counted in SALT. If these central systems are removed from the equation, the Warsaw Pact advantage rises to almost 60% in both numbers and effectiveness. Continued deployment of SS-20 intermediate-range ballistic missiles . . . will alter the balance substantially in favor of the Warsaw Pact if NATO's Theater Nuclear Forces are not increased or modernized or both."

It follows from this that if US strategic and theater nuclear forces are both neutralized, potential conflict between the superpowers or their alliances is most likely to be at the conventional level, where the USSR has an advantage in military manpower and a wide quantitative lead in offensive equipment.

For example, the USSR's inventory of tanks, according to "The Balance," stands at about 50,000, compared to 10,500 for the US, and the Soviet Navy continues to emphasize amphibious ships and attack submarines. Finally, the Soviet Union is stockpiling (our term) large quantities of up-to-date military equipment in such strategic locations as Libya, South Yemen, Ethiopia, and Vietnam along the West's oil and raw materials supply routes.

From this evidence and a great deal more comparative data in the new "Military Balance," we find strong support for our belief that the USSR is implementing a carefully integrated global strategy, elements of which claim fleeting public attention but which, as a unified strategy, has been obscured by the shadows of détente, oil, and inflation.

In ten years, the USSR has moved patiently, step by step, from strategic inferiority to parity-plus, headed for superiority; from gross inferiority in theater nuclear forces to parity-plus, headed for superiority; from parity in conventional forces to superiority; and from a land-locked continental nation to a global presence headed for global hegemony. "Hair by hair," as the Russian proverb goes, "you can pluck the whole beard."

This outbound passage from military inferiority has cost the Soviet people dearly—from eleven to fifteen percent of each year's gross national product. But the Kremlin's goal of world domination has been judged by the few who rule to be worth the sacrifices of the many who serve.

The relative decline of Western power is not likely to be reversed by anything short of heroic measures. We do not see such measures in the immediate offing, but there is a growing grass-roots recognition—at least in this country—that all is not well. That's a first step. If the people will tell their leader where they want to go, perhaps the leader will lead them.

—JOHN L. FRISBEE, *Editor*.

MESSAGES FROM THE HOUSE

At 12:21 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the following bill, with an amendment in which it requests the concurrence of the Senate:

S. 1157. An act to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1980, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. TOWER, from the Committee on Armed Services:

Robert W. Komer, of Virginia, to be Under Secretary of Defense for Policy.

By Mr. WARNER, from the Committee on Armed Services:

Edward Hidalgo, of the District of Columbia, to be Secretary of the Navy.

By Mr. LEVIN, from the Committee on Armed Services:

Dennis P. McAuliffe, of New Jersey, to be Administrator of the Panama Canal Commission.

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

● Mr. STENNIS, Mr. President, from the Committee on Armed Services, I report favorably the following nominations: In the Air Force there are 2,142 officers to the grade of major and captain (list beginning with Douglas A. Abbott); and, in the Army there are 1,218 officers for promotion to the grade of colonel and lieutenant colonel (list beginning with Colbert L. Flannery), and in the Regular Army of the United States there are 1,923 officers for promotion to the grade of first lieutenant (list beginning with Bruce C. Abbott). Since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again, I ask that they be ordered to lie on the Secretary's desk for the information of any Senator.●

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of October 4, 1979, at the end of the Senate proceedings.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. COCHRAN:

S. 1907. A bill to amend section 3104 of title 38, United States Code, to permit certain service-connected disabled veterans who are retired members of the Armed Forces to receive compensation concurrently with retired pay, without deduction from either; to the Committee on Veterans' Affairs.

By Mr. CANNON (for himself and Mr. LAXALT):

S. 1908. A bill to amend the act entitled "An act to provide for the sale of desert lands in certain States and territories", approved March 3, 1877; to the Committee on Energy and Natural Resources.

By Mr. CRANSTON:

S. 1909. A bill to designate the Sheep Mountain Wilderness Area in the State of California; to the Committee on Energy and Natural Resources.

By Mr. McCLURE:

S. 1910. A bill to authorize and direct the Secretary of the Interior to convey, by quitclaim deed, all right, title, and interest of the United States in and to certain lands that were withdrawn or acquired for the purpose of relocating a portion of the city of American Falls out of the area flooded by the American Falls Reservoir; to the Committee on Energy and Natural Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CANNON (for himself and Mr. LAXALT):

S. 1908. A bill to amend the act entitled "An act to provide for the sale of desert lands in certain States and Territories," approved March 3, 1877; to the Committee on Energy and Natural Resources.

● Mr. CANNON. Mr. President, I introduce for myself and my distinguished colleague (Mr. LAXALT) a bill to amend the Desert Land Entry Act. Specifically, this bill deletes a provision of the act permitting nonresidents to apply for such land in the State of Nevada. Nevada is the only State in which nonresidents are permitted to apply and this exemption is specifically spelled out in the act. In August of last year the Bureau of Land Management reopened the Desert Land Entry application process in response to a suit brought by the Nevada Attorney General. While I am pleased that the act is once again open to applicants, I am concerned that the nonresident exemption will create difficulties.

Nevada is one of the fastest growing States in the Nation. The historical basis for the nonresident exemption which was to entice settlers to an unsettled and barren wilderness no longer applies. Further, the reopening of the application process has led to abuse outside the State by encouraging so-called agents to offer expensive assistance in obtaining "free" land. There is no free land.

In fact the chances of success are very slim. Land with agricultural potential long ago went into private ownership. Development estimates for any remaining marginal land range from \$300 to \$500 per acre. An economic farm unit requires from 600 to 1,000 acres—far larger than can be acquired under the Desert Land Act. There is little chance that an applicant with thorough knowledge of Nevada and the availability of water will succeed. The difficulties are compounded for the nonresident and the opportunity for fraud is great.

I believe the time is right for removing the nonresident exemption in Nevada and I hope this legislation will receive favorable attention. ●

By Mr. CRANSTON:

S. 1909. A bill to designate the Sheep Mountain Wilderness Area in the State of California; to the Committee on Energy and Natural Resources.

SHEEP MOUNTAIN WILDERNESS AREA

● Mr. CRANSTON. Mr. President, I introduce for appropriate reference a bill to designate the Sheep Mountain Wilderness Area in the Angeles and San Bernardino National Forests in California.

Mr. President, in 1975 I introduced legislation to designate a 52,000 acre Sheep Mountain Wilderness Area. At that time, the Forest Service was studying the suitability of designating 31,680 acres in the Angeles and San Bernardino National Forests as wilderness. Following hearings on my designation bill, the Senate Interior Committee recommended expansion of the study area to cover the full 52,000 acres, and the Congress subsequently enacted a Sheep Mountain wilderness study bill.

The Forest Service has now completed its wilderness study of Sheep Mountain and the administration is recommending that 30,400 acres be designated as wilderness. However, based on the data developed in the Forest Service study and additional information provided by individuals who are intimately familiar with the Sheep Mountain area, I strongly believe that 44,400 acres should be designated as wilderness. The bill I am introducing today calls for the 44,400 acre designation.

Located at the back of the Los Angeles Basin, the Sheep Mountain area offers a wilderness experience within an hour's drive of 10 million people. The area is rugged and precipitous; there are five dominating peaks—Mount San Antonio, Dawson Peak, Pine Mountain, Mount Baden-Powell, and Sheep Mountain—with elevations reaching nearly 10,000 feet. There are also beautiful waterfalls and deep pools with substantial numbers of rainbow trout. Some of the canyons, in particular Fish Fork of the San Gabriel River, are almost inaccessible and support perhaps the best trout fishery in southern California.

In addition to its wilderness value, the Sheep Mountain area is important as the habitat of the Nelson bighorn sheep, now considered vulnerable to extinction. Approximately 150 of these wild animals can be found on the hillsides within the boundaries of the proposed Sheep Mountain wilderness. These sheep herds have been isolated from others of their species and are now a stockier animal. But they need the protection wilderness designation affords. The Forest Service's recommendation for wilderness does not cover the entire bighorn sheep range and is inadequate for protection of the bighorn herds. The wilderness boundaries I'm proposing, according to available documents, more closely correspond to the boundaries of the actual range of the bighorn sheep.

I would like to add a few words about the wilderness proposal and its relationship to existing and proposed ski devel-

opment in the Sheep Mountain area. There is an existing ski area at Mt. Baldy with a capacity to handle over 3,300 skiers at one time. The San Bernardino National Forest Supervisor has recently informed me that he has issued a new permit for the Mt. Baldy Ski Area which includes the Stockton Flats area within the ski permit boundary. Expansion of the Mt. Baldy Ski Area into Stockton Flats and construction of lift 1A there would provide ski opportunities for an additional 1,750 skiers. I do not want to preclude the option of expansion of the existing Mt. Baldy Ski Area into Stockton Flats, and have carefully drawn the boundaries in the Sheep Mountain wilderness bill to exclude this area.

The Forest Service has also looked at the potential for ski development on the northeast side of Mt. San Antonio, and in 1969 found that ski development of this area was not economical. However, I am aware of continuing interest in expansion of the Mt. Baldy Ski Area to the northeast of the mountain, and feel that this option should not be foreclosed. Thus, I have also excluded this area from the wilderness proposal.

Mr. President, I believe that we have refined the boundaries since the introduction of the earlier bill in 1975 so as to delete some nonconforming uses. The Sheep Mountain area has long deserved inclusion in the national wilderness system, and it is my hope that the 96th Congress will designate the Sheep Mountain wilderness area.

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

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

S. 1909

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with section 3(c) of the Wilderness Act (78 Stat. 890), certain lands in the Angeles and San Bernardino National Forests which comprise about forty-four thousand four hundred acres and which are generally depicted on a map entitled "Proposed Sheep Mountain Wilderness", and dated October, 1979, are hereby designated as wilderness.

SEC. 2. As soon as practicable after this Act takes effect, a map and legal description of the wilderness area designated by and pursuant to this Act shall be filed with the Interior and Insular Affairs Committee of the House of Representatives and the Energy and Natural Resources Committee of the United States Senate, and such map and description shall have the same force and effect as if included in this Act: *Provided, however, That correction of clerical and typographical errors in such legal description and map may be made.*

SEC. 3. The wilderness area designated by this Act shall be known as the "Sheep Mountain Wilderness" and shall be administered in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness. ●

By Mr. McCLURE:

S. 1910. A bill to authorize and direct the Secretary of the Interior to convey, by quitclaim deed, all right, title, and interest of the United States in and to certain lands that were withdrawn or acquired for the purpose of relocating a portion of the city of American Falls out of the area flooded by the American

Falls Reservoir; to the Committee on Energy and Natural Resources.

AMERICAN FALLS

● Mr. McCLURE. Mr. President, the bill I am introducing today will correct an oversight which should have been taken care of years ago. It will authorize and direct the Secretary of the Interior to transfer to the city of American Falls, Idaho title to its city parks—title which has been mistakenly retained by the Federal Government since 1925.

The facts leading to this situation are interesting.

When the original American Falls Dam was constructed by the Bureau of Reclamation in 1925, the old city of American Falls was moved from its low lying location behind the new dam. The new city, which was platted by the Bureau of Land Management on land purchased from private owners, included a number of city parks.

The city has developed the parks and has used them over the years without knowing they continued to be owned by the BLM. American Falls residents have paid taxes to maintain the parks for the past 54 years, and the parks have been treated as city property.

A recent title search turned up the fact that the Federal Government apparently owns the city golf course, the central city square, and several other smaller parks. Rather than having to lease the parks from the Government, the Bureau of Reclamation has suggested to the city officials that legislation giving title to the city would be the best way to solve the problem. I fully agree.

I am accordingly introducing this measure to accomplish that purpose. I see no reason that it should be controversial; it involves only a small amount of land which has in any case been treated as city property for some time. The Bureau of Reclamation has helped to draft the language I am introducing, and has no objections to its adoption. I might just note also that there is still plenty of land in my State owned by the Federal Government, so this small amount should not be missed.

Correction of this oversight is long overdue, and I ask unanimous consent that the text of my bill be printed in the RECORD.

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

S. 1910

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized and directed to convey by quitclaim deed to the city of American Falls, Idaho, without cost, the following real property located within or adjacent to the city limits of said city of American Falls, reserving all right-of-way and oil and gas in land to the United States:

(a) The area identified as the Campbell Stebbins Park, including the park area located between the Oregon Trail Highway and the Oregon Short Line Railroad, and the area identified as a Public Square, all as shown on the official plat of the Reclamation Addition to the city of American Falls approved October 18, 1923, and recorded in the county of Power, Idaho, as instrument No. 32042.

(b) Block 44 of the original townsite of American Falls;

(c) A tract of land containing 11.7 acres, more or less, described as follows:

Beginning at the Northwest corner of the Southwest quarter of the Southwest quarter (SW $\frac{1}{4}$ SW $\frac{1}{4}$) of section 21, Township 7 South, Range 31 East, Boise meridian; thence South 45 degrees 16' East, a distance of 1870.3 feet, more or less, to the Southeast corner of said SW $\frac{1}{4}$ SW $\frac{1}{4}$; thence North 67 degrees 33' West, a distance of 1434.9 feet, more or less, to a point on the West section line of said section 21, said point being 550.0 feet North of the Southwest corner of said section; thence North along the West section line a distance of 768.7 feet, more or less, to the Northwest corner of the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of said section 21, the point of beginning.

(d) A tract of land containing acres, more or less, described as follows: (Description to be provided later.)

(d) A tract of land containing eight and seventy-nine hundredths (8.79) acres more or less in the South Half of the Southwest Quarter (S $\frac{1}{2}$ SW $\frac{1}{4}$), Section Twenty-eight (28), Township Seven (7) South, Range Thirty-one (31) East, Boise Meridian, Idaho, and more particularly described as follows: Beginning at the Southwest corner of said Section Twenty-eight (28); thence North forty-four degrees and thirty-eight minutes (44°38') East, one thousand eight hundred and sixty-eight and six-tenths (1868.6) feet to the 16 17 corner of said section; thence East along the North boundary of the Southeast quarter Southwest quarter (SE $\frac{1}{4}$ SW $\frac{1}{4}$) of said Section Twenty-eight (28), three hundred sixty-seven and two tenths (367.2) feet to a point; thence South three hundred twenty-four and nine-tenths (324.9) feet to a point; thence North eighty-nine degrees and fifty-nine minutes (89°59') West, ninety-two and eight-tenths (92.8) feet to a point; thence South forty-nine degrees and twenty-three minutes (49°23') West, three hundred sixty-one and nine-tenths (361.9) feet to a point; thence South seventy-eight degrees and thirty-four minutes (78°34') West, seven hundred and eight (708) feet to a point; thence South twenty-six degrees and fifty-five minutes (26°55') West, three hundred thirty-three and seven tenths (333.7) feet to a point; thence South sixty-one degrees and fifty-one minutes (61°51') West, two hundred seventy-one and six-tenths (271.6) feet to a point; thence South forty-three degrees and twenty-nine minutes West, (43°29') two hundred eighty and three-tenths (280.3) feet to a point on the South Boundary of said Section 28; thence South eighty-nine degrees and fifty-nine minutes (89°59') West along the South boundary of said Section 28, thirty-four and nine-tenths (34.9) feet to the place of beginning.

(e) A tract of land containing 8.0 acres, more or less, located in the West Half of the Southwest Quarter (W $\frac{1}{2}$ SW $\frac{1}{4}$), Section Twenty-eight, Township Seven South, Range Thirty-one East, Boise Meridian, Idaho, and more particularly described as follows:

Beginning at the Southwest corner of Section 28; thence South 44°58' East, a distance of 1886.6 feet to the NE corner of the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 28; thence North a distance of 1320 feet to the NE corner of the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 28; thence West, a distance of 30 feet to a point on the East edge of Hillcrest Avenue; thence Southwesterly along a curve on the side of Hillcrest Avenue a distance of 2955 feet to a point on line between Sections 28 and 29; thence South 65.0 feet to the Southwest corner of Section 28, the place of beginning.

Such property shall be conveyed subject to the reservation of rights-of-way for ditches, canals, and pipelines constructed by the authority of the United States and to other existing rights-of-way of record. The conveyance of such property shall contain a reservation to the United States of all oil and gas in the land, together with the right to prospect for, mine, and remove the same under such regulation as the Secretary of the Interior may prescribe.●

ADDITIONAL COSPONSORS

S. 246

At the request of Mr. BENTSEN, the Senator from Hawaii (Mr. MATSUNAGA) was added as a cosponsor of S. 246, a bill to amend the Internal Revenue Code of 1954 to encourage greater individual savings.

S. 531

At the request of Mr. BENTSEN, the Senator from Texas (Mr. TOWER) and the Senator from Arkansas (Mr. PRYOR) were added as cosponsors of S. 531, a bill to allow State-inspected meat plants to sell meat to federally-inspected meat plants which could then sell it in interstate commerce after further processing.

S. 1427

At the request of Mr. SCHMITT, the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor of S. 1427, the United States-Mexico Good Neighbor Act.

S. 1523

At the request of Mr. THURMOND, the Senator from Florida (Mr. STONE), the Senator from New Mexico (Mr. DOMENICI), and the Senator from Arkansas (Mr. PRYOR) were added as cosponsors of S. 1523, the Veteran Senior Citizen Health Care Act of 1979.

S. 1681

At the request of Mr. PRYOR, the Senator from Oregon (Mr. HATFIELD), the Senator from Vermont (Mr. LEAHY), and the Senator from Idaho (Mr. McCURE) were added as cosponsors of S. 1681, a bill to reduce paperwork in the administration of certain construction contract provisions of law relating to wage rates.

SENATE RESOLUTION 241

At the request of Mr. MCGOVERN, the Senator from Washington (Mr. MAGNUSON) was added as a cosponsor of Senate Resolution 241, calling for the earmarking of funds from the proposed windfall profits tax for railroad revitalization.

NOTICES OF HEARINGS

SELECT COMMITTEE ON SMALL BUSINESS

● Mr. NELSON. Mr. President, the Select Committee on Small Business has postponed the hearing scheduled for October 25 on the economic outlook to November 6, 1979. The hearing will be held at 9:30 a.m. in room 424 Russell Senate Office Building. If you have any questions regarding the hearing please contact the committee at 224-5175.●

COMMITTEE ON VETERANS' AFFAIRS

● Mr. CRANSTON. Mr. President, I would like to announce that the October 25 joint hearing of the House and Senate Committees on Veterans' Affairs to investigate admitting practices and treatment of veterans in Veterans' Administration hospitals and clinics previously scheduled to begin at 9:30 a.m. in room 345 of the Cannon House Office Building will begin at 8:30 a.m.●

COMMITTEE ON LABOR AND HUMAN RESOURCES

● Mr. WILLIAMS. Mr. President, I wish to announce that the Committee on Labor and Human Resources has sched-

uled a hearing on Tuesday, October 23, 1979, at 3 p.m. in room 4232 Dirksen Senate Office Building on the nomination of John N. Gentry, of Virginia, to be Under Secretary of Labor.●

SUBCOMMITTEE ON CIVIL SERVICE AND GENERAL SERVICES

● Mr. PRYOR. Mr. President, I wish to announce that the Subcommittee on Civil Service and General Services will continue hearings on the use of consultant services by the Federal Government on October 29, 1979, at 10 a.m. in room 1318 of the Dirksen Senate Office Building.

Anyone wishing additional information about the hearings may contact the subcommittee staff at 224-4551.●

SUBCOMMITTEE ON THE CONSTITUTION

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Senator from Indiana (Mr. BAYH), I wish to announce that the mark-up session scheduled on S. 506, a bill to amend title VIII of the act commonly called the Civil Rights Act of 1968 to revise the procedures for the enforcement of fair housing, for Wednesday, October 24, 1979, in room 155, Russell Senate Office Building, at 9:30 a.m., has been postponed.

AUTHORITY FOR COMMITTEE TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the sessions of the Senate today, Friday, October 19, 1979 and Monday, October 22, 1979 beginning at 2:00 p.m. to hold mark-up sessions on conservation amendments to S. 932 and other pending calendar business.

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

ADDITIONAL STATEMENTS

FEDERAL DISTRICT COURT RULES PRESIDENT CARTER CANNOT TERMINATE THE TAIWAN DEFENSE TREATY WITHOUT LEGISLATIVE APPROVAL

● Mr. GOLDWATER. Mr. President, I am pleased to announce something that I am certain most of this body has already heard, and that is that U.S. District Court Judge Oliver Gasch yesterday afternoon ruled in favor of the lawsuit which I and 24 other Members of Congress have brought against President Carter's attempted unilateral termination of the Mutual Defense Treaty with Taiwan.

Judge Gasch of the U.S. District Court of the District of Columbia held in a 31-page opinion that treaty termination is a shared power belonging jointly to the executive and legislative branches.

He ruled that President Carter cannot revoke the Taiwan defense treaty without the advice and consent of two-thirds of the Senate or the approval of a majority of both Houses of Congress. He also enjoined Secretary of State Vance from taking any action to implement the

President's notice of termination given last December 23.

Mr. President, the judge's decision is a victory for the Constitution. It means that no single person or officer in this country can take the law into his own hands.

The decision is a victory for the American people. It means their elected representatives in Congress must be consulted and participate in major decisions of foreign policy that involve changing or repealing the law of the land.

Mr. President, the decision is a courageous one. The State Department put heavy pressure on the judge by trying to argue that a decision against the President would upset the Government's entire new program of normalizing relations with the People's Republic of China.

The judge wisely saw through this outrageous tactic. I can recall attending the last proceedings in open court when a lawyer representing the President and State Department warned the judge that he should not even decide this case on the merits because of the supposed consequences to the President's foreign policy. As I recall it, the judge calmly retorted from the bench by asking: "If that is true, why does the President not come to Congress and seek early approval of the action he wants to accomplish?"

Of course, the truth is that my lawsuit will not disrupt relations with the People's Republic of China and I have no intention of interfering with the establishment of official diplomatic relations between the United States and the People's Republic of China.

Mr. President, today is the first time in this Nation's almost 200 years of constitutional history that a Federal judge has ruled directly on the power of treaty termination. It is a historic moment for the concept of rule by law. It is a historic reaffirmation of the separation of powers.

The judge recognizes that treaties are a part of the supreme law of the land, just as any other legislative enactment is; and he has ruled that the President acting alone cannot repeal such a law.

If the President wishes to terminate the Defense Treaty with Taiwan, all he has to do is ask us in the Senate or Congress for authority. But he cannot repeal a treaty by himself, any more than he can repeal the Civil Rights Act or any other law.

I honestly think the President was persuaded into doing something, that the Federal Court has now ruled is unconstitutional, by persons in the State Department who wanted to enhance their power, not to promote his policy.

Mr. President, I would think that every Senator in this body would welcome the judge's decision. He has upheld the power of this institution under the Constitution.

It will be clear to anyone who will read his decision that the judge's conclusions did not turn on his interpretation of the vote in the Senate on June 6. He did not misread the import of that vote. Rather, he based his decision squarely on the Constitution itself. And this should bring joy to the hearts of

every Senator who supports our representative system of government in which no one person can take the law into his own hands.

I hope that the President will now submit a proper request for legislative approval of his policy on its merits, rather than continue to battle the Congress over an issue of constitutional power.

Mr. President, I ask that the full text of the judge's opinion and order be printed in the RECORD.

Also, I ask that there may be printed in the RECORD a list of the other Senators and Congressmen who are parties to the lawsuit and a list of my attorneys.

The material follows:

[U.S. District Court for the District of Columbia, Civil Action No. 78-2412]

SENATOR BARRY GOLDWATER, ET AL., PLAINTIFFS,
V. JAMES EARL CARTER, ET AL., DEFENDANTS

ORDER

Upon consideration of plaintiffs' motion to alter or amend the Court's judgment in this case of June 6, 1979, the memoranda in support thereof and in opposition thereto, the arguments of counsel in open Court, the entire record herein, and for the reasons set forth in the Court's Memorandum of this same date, it is by the Court this 17th day of October, 1979:

Ordered that plaintiffs' motion to alter or amend the judgment of June 6, 1979 be, and hereby is, granted; and it is further

Ordered that the Order and accompanying Memorandum of June 6, 1979, be, and hereby is, altered and amended by this Order and accompanying Memorandum of this same date; and it is further

Ordered that defendants' motion to dismiss or, in the alternative, for summary judgment be, and hereby is, denied; and it is further

Ordered that plaintiffs' cross-motion for summary judgment be, and hereby is, granted; and it is further

Ordered that it be, and hereby is, declared as the Judgment of this Court that defendant President Carter's notice of termination of the 1954 Mutual Defense Treaty Between the United States and the Republic of China must receive the approval of two-thirds of the United States Senate or a majority of both houses of Congress for that notice to be effective under our Constitution to terminate the Mutual Defense Treaty of 1954; and it is further

Ordered that defendant Secretary of State Cyrus R. Vance and his subordinate officers be, and hereby are, enjoined from taking any action to implement the President's notice of termination unless and until that notice is approved as herein declared.

OLIVER GASCH,

Judge.

[U.S. District Court for the District of Columbia, Civil Action No. 78-2412]

SENATOR BARRY GOLDWATER, ET AL., PLAINTIFFS,
V. JAMES EARL CARTER, ET AL., DEFENDANTS

MEMORANDUM

Before the Court is plaintiffs' motion under Rule 59(e) of the Federal Rules of Civil Procedure to alter or amend the Court's judgment in this case of June 6, 1979. This suit was brought by eight members of the United States Senate, a former senator, and sixteen members of the House of Representatives seeking declaratory and injunctive relief against the notice given by defendant President Carter to the Republic of China ("ROC" or "Taiwan") to terminate the 1954 Mutual Defense Treaty Between the United States of America and the Republic of China. Plaintiffs seek to have this Court declare that the termination of the 1954 Treaty cannot be

legally accomplished, nor can notice be given of intended termination, without the advice and consent of the United States Senate or the approval of both houses of Congress. Plaintiffs contend that President Carter's unilateral notice of termination violated their legislative right to be consulted and to vote on the termination and also impaired the effectiveness of prior votes approving the 1954 Mutual Defense Treaty.

By Memorandum-Order dated June 6, 1979, the Court dismissed plaintiff's complaint without prejudice on the ground the plaintiffs lacked standing. Under the circumstances then presented, the Court believes that plaintiffs had not suffered the requisite injury in fact to support standing. The Court now concludes, for the reasons set forth in Part II A of this Memorandum, that all plaintiffs with the exception of former Senator Curtis¹ have suffered and are suffering a present judicially cognizable injury in their capacity as individual legislators. Accordingly, the Court hereby alters and amends its judgment of June 6, 1979 to hold that these plaintiffs have standing to seek a judicial declaration with respect to the constitutionality of the President's unilateral termination of the 1954 Treaty. The Court further concludes, for the reasons set forth in Part II B, that this case does not present a non-justiciable political question, and thus the issue of treaty termination should be decided on the merits.

For the reasons set forth in Part II of this Memorandum, the Court holds that the termination of the 1954 Mutual Defense Treaty Between the United States of America and the Republic of China cannot be constitutionally accomplished without the advice and consent of the United States Senate or the approval of both houses of Congress.

I.

A full discussion of the events leading up to the present diplomatic situation is contained in the Court's Memorandum-Order of June 6, 1979, and is incorporated herein by reference. The essential dispute concerns the constitutional validity of President Carter's unilateral notice of termination of the Mutual Defense Treaty, given on December 23, 1978 through the United States Deputy Secretary of State, Warren Christopher. According to the notice, the termination will be effective January 1, 1980 pursuant to the termination clause contained in Article X of the treaty.² The President has not submitted, for the purpose of obtaining legislative concurrence, the notice of termination to either the Senate or the Congress as a whole.³ Instead the President maintains, and has continued to maintain, that he possesses the unilateral authority under the Constitution to terminate the Mutual Defense Treaty with the Republic of China.

II.

Before reaching the merits of that constitutional question, however, it remains necessary to resolve the threshold issues of standing and political question, which are subsumed within the concept of justiciability. These inquiries become particularly sensitive in the context of a suit by Senators and Congressmen seeking to challenge executive action, because of the accompanying political overtones and separation of powers concerns. Although in this context, standing to sue and the political question doctrine are interrelated to a large degree, the Court, as it did in its earlier opinion, believes it appropriate to address the standing issue first.⁴

A. Standing

In moving this Court for an order to alter or amend its judgment of June 6, plaintiffs contend that the requirements for injury in fact expressed in the Court's earlier opinion have been satisfied and that they now have

Footnotes at end of article.

standing to assert their derivative constitutional rights.

It has been noted that no special standards govern congressional standing questions. As articulated by the Court of Appeals for the District of Columbia Circuit, a legislator must satisfy the same basic requirements for standing as any other litigant: (1) that he has suffered injury in fact; (2) that the interests being asserted are within the zone of interests to be protected by the statute or constitutional guarantee in question; (3) that the injury is caused by the challenged action; and (4) that the injury is capable of being redressed by a favorable decision. *Harrington v. Bush*, 553 F.2d 190, 204, 205 n.68 (D.C. Cir. 1977). At issue here is the existence of injury in fact, a constitutionally mandated requirement inherent in the Article III "case or controversy" limitation on federal judicial power. See *Association of Data Processing Service Organizations, Inc. v. Camp*, 397 U.S. 150 (1970).

The Court of Appeals, beginning with its important decision in *Kennedy v. Sampson*,⁵ has developed a comprehensive body of law setting forth an analytical framework for approaching cases involving congressional standing. The theory of standing established in *Kennedy* is one of derivative injury, based upon the right of each individual legislator to participate in the exercise of the powers of the institution.⁶ This concept of derivative institutional injury requires a plaintiff Congressman to show, first, an injury in fact to the institution of Congress, and, second, that as an individual legislator he has been injured in fact because of the harm done to the institution. *Harrington v. Bush*, 553 F.2d 190, 199 n.41 (D.C. Cir. 1977). The institutional injury alleged by plaintiffs here is that President Carter's unilateral notice of termination of the 1954 Treaty has violated the constitutional right of Congress to be consulted and to vote on that termination.⁷ Under the circumstances present at the time of the Court's June 6 decision, the Court could not discern the existence of a definite and concrete institutional injury, and thus held that the individual legislators could not claim a derivative injury to their participatory rights. In large part this was due to what the Court perceived as a substantial likelihood of resolution of the treaty termination issue through the legislative process and the Court's reluctance to interfere with a potential political solution.

The question of the availability of alternative political remedies to redress executive action is indeed another dimension underlying the congressional standing cases and the insistence on a clear showing of injury in fact.⁸ It is in this context that the prudential and functional concerns expressed by the Supreme Court in *Baker v. Carr*, 369 U.S. 186 (1962), the leading statement on the political question doctrine, interrelates with the analysis of congressional standing. Both reflect the deference to be accorded a coordinate branch of government under our system of separation of powers.⁹ Hence, courts are justifiably concerned when a suit by individual legislators seeks to vindicate derivative rights susceptible to being adequately redressed in the political arena.

The potential availability of a remedy through the legislative process, however, is not conclusive on the question of injury in fact and thus certainly not fatal to a legislator's standing claim. *Metcalf v. National Petroleum Council*, 553 F. 2d 176, 189 n. 129 (D.C. Cir. 1977); see *Reuss v. Ballez*, 584 F. 2d 461, 468 (D.C. Cir.), cert. denied, 439 U.S. 997 (1978); *Kennedy v. Sampson*, 511 F. 2d 430, 435 n. 17 (D.C. Cir. 1974). Rather, in deference to the fundamental constitutional principle of separation of powers and in order to avoid abuse of the judicial process, the

Court must require a clear showing of injury in fact. In each case where a denial of standing has been based in part on the existence of alternative political remedies, there was no impediment to the legislative process whatsoever and the powers of the plaintiff Congressmen remained rather clearly undiminished.¹⁰ In those instances, there was a genuine risk that granting standing could have the effect of interfering with or circumventing the legislative process, and thus provide judicial redress for Congressmen who had simply failed to take advantage of, or to succeed in persuading their colleagues to take advantage of, an expedient opportunity for legislative action. The Court is convinced that this suit is distinguishable, given the present legislative posture and the nature of the derivative injury claimed.

At the time of the Court's June 6 decision, at least three resolutions dealing with the treaty termination power and the notice of termination given with respect to the 1954 Mutual Defense Treaty were then pending before, and apparently being actively considered by, the United States Senate.¹¹ The Court was especially concerned that a premature judicial declaration might circumvent legislative action directed at either approving or rejecting the President's notice of termination. Believing that the resolution of the ultimate issue of treaty termination authority in this case should in the first instance be in the legislative forum, the Court stated that its judicial powers should be exercised only after the legislative branch had been given the opportunity of acting.¹² At that time there was no indication whether the Senate or the Congress as a whole intended to assert a right to participate in the treaty termination process, nor whether the action likely to be taken would be such that a judicial declaration would interfere with it.

The legislative branch has now had further opportunity to act. On June 6, 1979, within hours after the Court's initial ruling in this case, the United States Senate voted 59 to 35 to adopt an amendment proposed by Senator Harry F. Byrd, containing language identical to original Senate Resolution 15,¹³ as a substitute for the substitute amendment¹⁴ proposed by the Senate Foreign Relations Committee. 125 Cong. Rec., pp. 13695-13696 (June 6, 1979). The language adopted by the Senate vote reads as follows: "That it is the sense of the Senate that approval of the United States Senate is required to terminate any mutual defense treaty between the United States and another nation." (125 Cong. Rec., p. 13672)

Subsequent to that vote, additional amendments were proposed by Senator Church, Chairman of the Foreign Relations Committee, and by Senator Goldwater, a plaintiff in this action.¹⁵ Neither amendment came up for a vote, and Senate Resolution 15 as amended by Senator Harry F. Byrd's language has been returned to the Senate calendar without further action. The vote in favor of the Byrd amendment does not constitute final action by the Senate,¹⁶ although it stands as the last expression of Senate position on its constitutional role in the treaty termination process. By that vote, the Senate rejected a Committee substitute that would have expressly approved of the action taken by the President in terminating this treaty.¹⁷ No further steps have been taken by the Senate with respect to treaty termination powers.

The action taken by the Senate has admittedly not been decisive. It does, however, evidence at least some congressional determination to participate in the process whereby a mutual defense treaty is terminated, and clearly falls short of approving the President's termination effort.¹⁸ At the same time, as was true in *Kennedy v. Sampson* Congress has given no indication that it disapproves of the individual suits, and there appears to be no action presently planned with

which a judicial declaration would interfere.¹⁹ It must be emphasized, moreover, that when President Carter gave notice to terminate the Mutual Defense Treaty without submitting it for congressional approval, effective legislative participation was delayed and became more difficult in light of that action.²⁰ Indeed, it can be argued that the theoretical ability of Congress to pursue an alternative political remedy through affirmative legislative action in these circumstances is not necessarily relevant to an analysis of injury in fact to a protected constitutional right, since the Constitution already limits the power of a coordinate branch to act in a particular area.²¹ Without adopting the latter position, it certainly can be said that, by the President's unilateral action, the matter of the treaty termination became less amenable to congressional control than the matters involved in other cases presenting the availability of legislative solutions.²²

It is in this vein that plaintiffs' efforts at pursuing an alternative political remedy, and the danger of the Court's preempting that remedy, must be viewed. Though any such assessment is certainly problematic in the context of relative congressional inaction, in this instance the Court is convinced that there is no apparent risk of circumventing or evading the legislative process by a decision on the merits. The Court therefore concludes that plaintiffs have suffered and are suffering injury in fact to their legislative right to be consulted and to vote on the termination of the 1954 Mutual Defense Treaty. Defendants do not challenge, and indeed there can be no serious dispute, that plaintiffs meet the remaining three requirements of standing relating to zone of interests, causation, and redressability.²³ Thus, plaintiffs satisfy the criteria for standing to sue in their capacity as individual legislators. Hence, unless plaintiffs have presented a nonjusticiable political question, the Court may decide the case on the merits.

B. Political question doctrine

Defendants contend that even if plaintiffs have standing, they are not entitled to a judgment on the merits because this case presents a nonjusticiable political question. The political question doctrine reflects the view that under our governmental system of separation of powers some issues are not to be resolved by the judiciary but by one of the political branches of the government. Consequently, if a true political question comes before the courts for adjudication, it should be dismissed on nonjusticiable.

Political questions traditionally have been defined as those issues that have been committed by the text of the Constitution, either explicitly or by reasonable inference, to the autonomous control of a coordinate branch.²⁴ The textual commitment test is indeed an important aspect of the political question doctrine,²⁵ although other prudential and functional concerns also characterize this flexible restraint on judicial power. In *Baker v. Carr*, 369 U.S. 186 (1962), the Supreme Court stated that on the surface of any case held to involve a political question was at least one of the following formulations:

"a textually demonstrable constitutional commitment of the issue to a coordinate political department; or a lack of judicially discoverable and manageable standards for resolving it; or the impossibility of deciding without an initial policy determination of a kind clearly for nonjudicial discretion; or the impossibility of a court's undertaking independent resolution without expressing lack of the respect due coordinate branches of government; or an unusual need for unquestioning adherence to a political decision already made; or the potentiality of embarrassment from multifarious pronouncements by various departments on one question."

Footnotes at end of article.

Id. at 217. Defendants contend that several of these formulations, including a textually demonstrable constitutional commitment to the Executive, are inextricable from the case at bar.

Cases involving the foreign relations of the United States are commonly cited as examples of judicial abstention because the issues presented were political questions.²⁰ For example, courts have considered themselves bound by the Executive's determination regarding which political group represents the government of a foreign state,²¹ which nation has sovereignty over disputed territory,²² and whether certain aliens should be deported.²³ But as the Supreme Court noted in *Baker v. Carr*, "it is error to suppose that every case or controversy which touches foreign relations lies beyond judicial cognizance."²⁴

Certainly, it is clear that the conduct of the foreign relations of the United States is committed by the Constitution to the executive and legislative branches of the government and "the propriety of what may be done in the exercise of this political power is not subject to judicial inquiry or decision."²⁵ This is the basis of the Supreme Court decisions in the foreign relations cases traditionally viewed as raising political questions. In none of these cases did the Court refuse to consider whether the President's action had exceeded his constitutional authority. Instead it concluded that the President's decision was within his authority and therefore binding on the courts.²⁶ In the area of foreign relations, as in any other area, a court generally should not dismiss a case as a political question if the Constitution does not entrust resolution of the issue to a coordinate political branch or if the challenged governmental action is *ultra vires*. See *Powell v. McCormack*, 395 U.S. 486, 519, 548-49 (1969); *United States v. American Telephone & Telegraph Co.*, 567 F. 2d 121, 125-28 (D.C. Cir. 1977). Unless the case raises other concerns of a prudential or functional nature, a judicial resolution under those circumstances requires no more than an interpretation of the Constitution—a responsibility that beyond question lies with the courts.²⁷

Defendants urge that the executive power over foreign affairs²⁸ represents such a constitutional commitment and that the President's action in giving notice of termination in accordance with the terms of the Mutual Defense Treaty is within this authority. The Constitution carefully delineates the roles played by the executive and legislative branches in treaty formation, stating that the President "shall have Power, by and with the Advice and Consent of the Senate, to make Treaties . . ." The Constitution is silent, however, on the question of treaty termination. Although defendants argue that the President's recognized constitutional responsibility for the conduct of foreign affairs and the implementation of treaties includes the power to terminate treaties, they acknowledge, as they must, that there is no express constitutional commitment of this power. Their argument that such a commitment can be implied²⁹ is unsatisfactory, for it is just as possible to imply the requirement of a legislative role in the termination process. Thus, the "textual commitment" formulation of the political question doctrine does not bar judicial resolution of plaintiffs' claim.

Defendants also contend that this case presents a political question principally because of the "unusual need for unquestioning adherence to a political decision already made," the "potentiality of embarrassment from multifarious pronouncements by various departments on one issue," and the "impossibility of deciding without an initial

policy determination of a kind clearly for nonjudicial discretion."³⁰ The Court finds that an interpretation of the Constitution with respect to the allocation of power between the political branches in the treaty termination process presents none of these prudential and functional concerns. Nor are any of the other formulations of a political question "inextricable from the case at bar."³¹ In this case, the Court is not attempting to evaluate the wisdom of the underlying political decision or to substitute its judgment for that of a political department, but simply to determine whether the treaty termination was effectuated by constitutionally permissible means.

Many times in our history, courts have heard and resolved disputes concerning the allocation of power between the legislative and executive branches without raising the bar of the political question doctrine.³² Rather than presenting a nonjusticiable political question, the procedure required by our Constitution to terminate the Mutual Defense Treaty must be decided on the merits. The Court is confronted with a dispute consisting of a clash of authority between the two political branches in a posture suitable for judicial resolution.

The prime question confronting the Court in this case is what governmental action is required by the Constitution to terminate the 1954 Mutual Defense Treaty with Taiwan. Because that treaty contains a termination clause stating that notice of termination may be given by either party, the narrower issue becomes whether the President of the United States is a "party" for purposes of this clause and thus able to take unilateral action with respect to the notice of termination.

Unlike its careful allocation of the power to enter into treaties, the Constitution contains no specific reference to the manner in which treaties are to be terminated. Nor is there any definitive evidence of the intentions of the Framers. No court has ever addressed the precise issue here presented of the President's authority to effect termination of a validly binding treaty, let alone a mutual defense treaty, without legislative participation.³³ A wide range of legal opinion has been presented by scholars and commentators, who are unable to agree concerning which branch of the federal government has authority to represent the United States in treaty terminations.³⁴

Since the first treaty to which the United States was a party was terminated in 1798 by an act of Congress,³⁵ a variety of means have been used to terminate treaties: by statute directing the President to deliver notice of termination; by the President acting pursuant to a joint resolution of Congress or otherwise acting with the concurrence of both houses of Congress; by the President acting with senatorial consent; and by the President acting alone.³⁶ The final method of termination is of particular relevance here, but the precedents involving unilateral executive action³⁷ are of only marginal utility. None of these examples involves a mutual defense treaty, nor any treaty whose national and international significance approaches that of the 1954 Mutual Defense Treaty.³⁸ Virtually all of them, moreover, can be readily distinguished on the basis of some triggering factor not present here.³⁹

The great majority of the historical precedents involve some form of mutual action, whereby the President's notice of termination receives the affirmative approval of the Senate or the entire Congress.⁴⁰ Taken as a whole, the historical precedents support rather than detract from the position that the power to terminate treaties is a power shared by the political branches of this government.

A.

Defendants' argument that the President has authority to terminate unilaterally the

Mutual Defense Treaty is premised on the executive power over foreign affairs. This authority derives from the enumerated Article II powers, including those that authorize the President to make treaties with the advice and consent of the Senate⁴¹ and to receive representatives of foreign nations.⁴²

Because the President has been termed "the sole organ of the federal government in the field of international relations,"⁴³ defendants argue that construing the Constitution to require that the Senate or the Congress also has a right to participate in treaty termination would be inconsistent with the President's constitutional authority over foreign affairs. They further urge that the Senate's role of advising and consulting in the making of treaties is not an independent source of legislative power, but only a limitation upon the treaty-making power of the President. Such limitations, they conclude, must be strictly construed and not extended by implication. See *Myers v. United States*, 272 U.S. 52, 164 (1926).

An attempt to justify a unilateral presidential power to terminate treaties by analogy to the Supreme Court's treatment of the removal power in *Myers* is unpersuasive. The power to remove executive personnel cannot be compared with the power to terminate an important international treaty. The removal power is restricted in its exercise to "purely executive officers" charged with a duty unrelated to the legislative or judicial power.⁴⁴ It concerns the President's administrative control over his subordinates and flows from the President's obligations to see that the laws are faithfully executed.⁴⁵ By contrast, treaty termination impacts upon the substantial role of Congress in foreign affairs—especially in the context of a mutual defense pact involving the potential exercise of congressional war powers—and is a contradiction rather than a corollary of the Executive's enforcement obligation. The same separation of powers principles that dictate presidential independence and control within the executive establishment preclude the President from exerting an overriding influence in the sphere of constitutional powers that is shared with the legislative branch. A power to terminate treaties that are made "by and with the advice and consent of the Senate"⁴⁶ simply does not fall within the limited scope of the *Myers* rationale.

Nor, for reasons more fully set forth below, can the President's status as the nation's spokesman and representative in foreign affairs serve as the basis for exclusive executive power over the entire process of treaty termination. While the President may be the sole organ of communication with foreign governments, he is clearly not the sole maker of foreign policy. In short, the conduct of foreign relations is not a plenary executive power.⁴⁷

Defendants also suggest that the recognition power of the President⁴⁸ is directly implicated in the present situation because termination of the 1954 Mutual Defense Treaty was generally viewed as a prerequisite to normalization of relations between the United States and the People's Republic of China.⁴⁹ As a result, defendants urge that the President's notice of termination is supported by his exclusive "[p]ower to remove . . . obstacles to . . . recognition," a power that has been acknowledged by the Supreme Court. *United States v. Pink*, 315 U.S. 203, 229 (1942); *United States v. Belmont*, 301 U.S. 324 (1934).

The *Pink* and *Belmont* cases both involved the propriety of the Litvinov Assignment, an international executive agreement providing that Soviet claims to Russian assets in the United States would be assigned to the United States government and used to settle American claims resulting from Soviet nationalization decrees. Settlement of these claims had become a condition precedent to

Footnotes at end of article.

the establishment of diplomatic relations with the Soviet government. The Supreme Court held that this agreement was valid and superseded New York state laws and policy against confiscation of private property.

Defendants rely on the following statement of Justice Douglas, writing for the Court in *Pink*: "Power to remove such obstacles to full recognition as settlement of claims of our nationals . . . certainly is a modest implied power of the President who is the 'sole organ of the federal government in the field of international relations.' . . . Unless such a power exists, the power of recognition might be thwarted or seriously diluted." 315 U.S. at 229-30 (citations omitted) (emphasis added).

Defendants' argument lacks merit. The power to terminate a Mutual Defense Treaty cannot similarly be described as a "modest implied power of the President." A holding that the recognition power incidentally confers the power to make an executive agreement settling property claims and that such agreement has supremacy over conflicting state law does not justify an incidental power to terminate treaties without congressional approval. The argument that any executive action becomes constitutional if it is ancillary to an act of recognition is without merit. If limitations imposed by other constitutional provisions exist, the recognition power cannot be used as a "bootstrap" to support the President's unilateral action in terminating the Mutual Defense Treaty with Taiwan.

B.

The termination of a treaty is not a single act entrusted by the Constitution to one or the other of our political branches. Like treaty formation, treaty termination is comprised of a series of acts that seek to maintain a constitutional balance. Initially, a policy determination must be made concerning whether the treaty should be terminated and the appropriate negotiations to effect termination undertaken. Such actions are clearly within the competence of the executive branch. Similarly, the communication of the message terminating a treaty, as here by delivery of formal notice to the other party pursuant to the terms of the agreement, is committed to the President as the sole representative of our country in foreign affairs.⁷⁷

But these purely executive functions are not the only elements involved in treaty termination. Termination of a treaty also involves a repeal of the "law of the land" established by the agreement. It is in this area that congressional participation is required under the present circumstances. The mere fact that the President has the authority to make an initial policy determination regarding the exercise of an option to terminate, and to notify the foreign state of termination, does not vest him with the unilateral power to complete the termination process and thereby effect the abrogation of the treaty. As two scholars have recently noted, "[i]t is inherently inconceivable that . . . a constitutional policy requiring joint action for external agreement and internal legislation could allow that agreement and law to be terminated by the president alone, against the intentions of the legislature."⁷⁸

This conclusion is dictated by several constitutional factors: the status of treaties as the supreme law of the land, together with the obligation of the President to faithfully execute those laws; the implications to be derived from the constitutionally delineated role of the Senate in treaty formation; and the fundamental doctrine of separation of powers. It is further bolstered by the historical experience represented by constitutional interpretation and practice.

Article VI of the Constitution provides: "This Constitution, and the Laws of the

United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land . . ."

U.S. Const. art. VI, cl. 2. Defendants argue, however, that the 1954 Mutual Defense Treaty is not a "law of the land" for supremacy clause purposes. They assert that only those treaties that are self-executing, and thus become effective as domestic law at the time the agreement goes into effect, constitute the supreme law of the land.⁷⁹ Careful consideration of the provisions of the Mutual Defense Treaty establishes that a number of its provisions are self-executing⁸⁰ and that still others have been implemented⁸¹ by subsequent legislation.⁸² In light of the terms and conditions of the Treaty, as well as the acts subsequently taken by the Congress and the President which have fixed and defined the nation's responsibilities under it, it is now far too late to assert that this Treaty fails to have the status of the supreme law of the land under Article VI. Moreover, none of the factors that would impair that status are involved here.⁸³

Article II, section three of the Constitution requires that the President "shall take care that the Laws be faithfully executed." This constitutional responsibility clearly extends to all laws of the land, including in this instance the Mutual Defense Treaty. The President cannot faithfully execute that treaty by abrogating it any more than he can faithfully execute by failing to administer. He alone cannot effect the repeal of a law of the land which was formed by joint action of the executive and legislative branches, whether that law be a statute or a treaty. The limits upon his authority are in no way altered by the inclusion of a termination provision in Article X of the Mutual Defense Treaty, allowing either party to terminate upon one year notice. The President's powers of administering the Treaty do not include the power to terminate in accordance with the provisions of Article X. The "party" to which the termination provision refers is the United States, not the President alone, and such termination can only be effectuated in accordance with United States constitutional processes.

The requirements imposed by the Supremacy Clause and the President's responsibility to faithfully execute the laws are further supported by the doctrine of separation of powers and its corollary concept of checks and balances, which lies at the heart of our constitutional system. In the treaty formation process, the Constitution expressly limits the Executive's role by requiring the advice and consent of two-thirds of the Senate.⁸⁴ This constitutional requirement reflects the concern of the Founding Fathers that neither political branch possess unchecked power.⁸⁵

A judicial determination that the President enjoys unilateral authority to terminate treaties would raise the same fears and present the same possibility of abuse. It would be incompatible with our system of checks and balances if the executive power in the area of foreign affairs were construed to encompass a unilateral power to terminate treaties. It is undisputed that the President is without power to amend the terms of a treaty. Any such amendment must be submitted to the Senate for its advice and consent.⁸⁶ If the lesser power to amend treaties is denied the President, a fortiori, the greater power to annul should also be denied. In the present situation the President may very well be carrying out the wishes of the American people but because the legislative branch has not participated in the treaty termination process, there is no way to ascertain this fact. As Justice Frankfurter stated in *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 529, 594 (1952): "The accretion of dan-

gerous power does not come in a day. It does come, however slowly, from the generative force of unchecked disregard of the restrictions that fence in even the most disinterested assertion of authority."

The predominate United States' practice in terminating treaties, including those containing notice provisions, has involved mutual action by the executive and legislative branches.⁸⁷ In most instances, the President's notice of termination has received the affirmative approval of either the Senate or the entire Congress. Although no one constitutional interpretation has been accepted, nor has a definitive procedure emerged, the weight of historical precedent clearly supports the view that some form of congressional concurrence is required. Support can be found for requiring either of two alternatives: (1) the approval of a majority of both houses of Congress,⁸⁷ or (2) the consent of two-thirds of the Senate.⁸⁸ The latter is of course the most analogous to the treaty-making power,⁸⁹ while the former is based primarily on congressional authority to repeal a law of the land.⁹⁰

When faced with an apparent gap in the Constitutional allocation of powers, the Court must refer to the fundamental design of the entire document and determine how its purposes would be best served in the gap area. The Court believes that either of these two alternative procedures for congressional participation is a constitutionally sound means of terminating treaties. The important point is that treaty termination generally is a shared power, which cannot be exercised by the President acting alone. Neither the executive nor legislative branch has exclusive power to terminate treaties. At least under the circumstances of this case—involving a significant mutual defense treaty with a faithful ally, who has not violated the terms of the agreement, and the validity of which has not otherwise been destroyed—any decision of the United States to terminate that treaty must be made with the advice and consent of the Senate or the approval of both houses of Congress. That decision cannot be made by the President alone.

In view of the foregoing, it is the declaration of this Court that the President's notice of termination must receive the approval of two-thirds of the United States Senate or a majority of both houses of Congress for it to be effective under our Constitution to terminate the Mutual Defense Treaty of 1954.⁹¹ It is further ordered that the Secretary of State and his subordinate officers are hereby enjoined from taking any action to implement the President's notice of termination unless and until that notice is so approved.

OLIVER GASCH,
Judge.

Date: October 17, 1979.

FOOTNOTES

¹ The Court continues to reject the particular standing claims of plaintiffs Thurmond and Curtis that are grounded on the allegation that the President's action has impaired the effectiveness of their prior votes approving the 1954 Treaty. An interest in ensuring enforcement or the proper administration of laws for which a legislator has voted is insufficient to confer standing. See *Harrington v. Bush*, 553 F. 2d 190, 213-14 (D.C. Cir. 1977); *Harrington v. Schlesinger*, 528 F. 2d 455, 459 (4th Cir. 1975). All plaintiffs other than former Senator Curtis also claim an injury to their legislative right to be consulted and to vote on treaty termination, and it is this injury that the Court now finds sufficient to support standing.

² Article X of the treaty contains a termination clause which states that the treaty "shall remain in force indefinitely," but continues: "Either party may terminate it one year after notice has been given to the other party."

⁵ Had this been done under Senate Rules VII and XXVIII the President's message would have been given priority. Deferential attention in the Senate where both the Majority leader and the chairman of the Senate Foreign Relations Committee support the President's position would be expected.

⁶ See *Reuss v. Balles*, 584 F. 2d 461, 465 n. 14 (D.C. Cir.), cert. denied, 439 U.S. 997 (1978); *Harrington v. Bush*, 553 F. 2d 190, 194 n. 6 (D.C. Cir. 1977).

⁷ 511 F.2d 430 (D.C. Cir. 1974). In *Kennedy*, the Court held that the plaintiff Senator had standing to seek a declaratory judgment that a bill for which he had voted had become law despite a presidential pocket veto. The Senator's vote in favor of the bill and his constitutional right to participate in a vote to override the veto had been nullified by the executive action.

⁸ *Id.* at 435-36.

⁹ In *Kennedy v. Sampson*, the nullification of a specific constitutionally prescribed vote was sufficient to constitute injury in fact. *Id.* at 436. See *Harrington v. Bush*, 553 F.2d 190, 211 (D.C. Cir. 1977). The impairment of other rights of Congress conferred by the Constitution may also serve as a basis for standing under the participatory rights analysis of *Kennedy*. See Note, *Congressional Access to the Federal Courts*, 90 Harv. L. Rev. 1632, 1641 (1977). The right to participate in the treaty termination process would constitute a right.

¹⁰ See *Reuss v. Balles*, 584 F.2d 461, 468 (D.C. Cir.), cert. denied, 439 U.S. 997 (1978); *Harrington v. Bush*, 553 F.2d 190, 215 (D.C. Cir. 1977); *Metcalfe v. National Petroleum Council*, 553 F.2d 176, 189 & n. 129 (D.C. Cir. 1977); *Harrington v. Schlesinger*, 528 F.2d 455, 459 (4th Cir. 1975); *Public Citizen v. Sampson*, 379 F. Supp. 662 (D.D.C. 1974), aff'd mem., 515 F.2d 1018 (D.C. Cir. 1975).

¹¹ See *Reuss v. Balles*, 584 F. 2d 461, 465 n. 14 (D.C. Cir.), cert. denied, 439 U.S. 997 (1978); *Harrington v. Bush*, 553 F.2d 190, 215 (D.C. Cir. 1977); Note, *Congressional Access to the Federal Courts*, 90 Harv. L. Rev. 1632, 1643-52 (1977).

¹² Thus in *Public Citizen v. Sampson*, 379 F. Supp. 662 (D.D.C. 1974), aff'd mem., 515 F.2d 1018 (D.C. Cir. 1975), a group of 17 Congressmen challenged a General Services Administration regulation authorizing agencies to grant exclusive rights to patents developed under federal research contracts. The Court found no injury in fact and denied standing because promulgation of the regulation could not deprive Congress of its "uncontested right and power" to dispose of government property by proposing legislation regulating the contractual authority of GSA. The powers of the plaintiff Congressmen in that case were not diminished in any respect.

Comparable factual situations were posed in *Metcalfe v. National Petroleum Council*, 553 F.2d 176 (D.C. Cir. 1977), and *Harrington v. Bush*, 553 F.2d 190 (D.C. Cir. 1977). In *Metcalfe*, the plaintiff Senator alleged that the NPC and its subgroups were unlawfully functioning as advisory committees in violation of the Federal Advisory Committee Act and the Federal Energy Administration Act. Standing was denied partly on the basis that plaintiff's power to act in his role as legislator and Subcommittee chairman to acquire accurate, unbiased information was completely intact, 553 F.2d at 189. In *Harrington*, a Congressman sued for a declaration that certain CIA activities were in excess of the agency's statutory authority, and an injunction prohibiting the CIA from using the funding and reporting provisions of the CIA Act of 1949 in connection with those illegal activities. The Court again denied standing, noting that the legislative process regarding the power to prescribe CIA activities remained unimpeded, and that plaintiff to a large extent was attempting to get more information concerning CIA funding than the

Congress wished him to have. 553 F.2d at 199 n.41 201 n.50, 214-15.

Finally, in *Reuss v. Balles*, 584 F.2d 461 (D.C. Cir.), cert. denied, 439 U.S. 997 (1978), the Court of Appeals again appeared to base its denial of standing in part on the existence of an alternative political remedy. In that case a Congressman sought declaratory and injunctive relief alleging that 12 U.S.C. § 263(a) provided for an unconstitutional composition of the Federal Open Market Committee of the Federal Reserve System in violation of the Appointments Clause of the Constitution. In rejecting plaintiff's theory of legislator standing, the Court noted that the Congressman could simply introduce a bill requiring all FOMC members to be presidential appointees, and thus that "no supposed impairment of his legislative functions [was] due, in any part, to the actions or omissions of the named defendants." 584 F.2d at 468. See also *Harrington v. Schlesinger*, 528 F.2d 455, 459 (4th Cir. 1975) (holding that plaintiff Congressman lacked standing to challenge military expenditures as violative of statutes limiting United States involvement in Southeast Asia because of the available legislative solution of tightening the statutory restrictions).

¹³ Memorandum Opinion of June 6, 1979, at 9 n.13. Additionally there was a commitment by the Senate leadership that Resolution 15 would be considered not later than June 8th. 125 Cong. Rec., pp. 4306-4314 (March 8, 1979).

¹⁴ Memorandum Opinion of June 6, 1979, at 11.

¹⁵ Senate Resolution 15 was introduced by Senator Harry F. Byrd on January 18, 1979. 125 Cong. Rec. 475.

¹⁶ The Senate Foreign Relations Committee, on May 1, reported Resolution 15 with an amendment to strike all after the resolving clause and insert substitute language providing several grounds for unilateral Presidential terminations of treaties. 125 Cong. Rec. S5018. It was this substitute Committee amendment that was displaced by the Byrd amendment on June 6.

¹⁷ The Church amendment would add the following language:

The provisions of this Resolution shall not apply with respect to any treaty the notice of termination of which was transmitted prior to the date of adoption of this Resolution.

125 Cong. Rec. 13718 (June 6, 1979). The Goldwater amendment would add the following language:

(1) The provisions of this resolution shall not be construed to approve or disapprove of the proposed termination of the Mutual Defense Treaty with the Republic of China, such proposed termination not having been submitted to the Senate or the Congress for approval prior to the date of adoption of this resolution.

(2) Nor shall anything in this resolution reduce or prejudice any of the Constitutional powers of the Senate.

125 Cong. Rec. 15209-15210 (June 18, 1979).

¹⁸ See Declaration of Murray Zweben, Parliamentarian of the Senate, dated June 29, 1979, submitted in support of Defendants' Opposition to Plaintiffs' Motion to Alter or Amend the Judgment of June 6, 1979.

¹⁹ One of the grounds for unilateral Presidential treaty termination provided in the Committee substitute was "where . . . provisions of the treaty itself, give rise to a right of termination or suspension on the part of the United States. . . ." 125 Cong. Rec. S7014 (June 6, 1979). Article X of the 1954 Mutual Defense Treaty contains a termination clause giving either party the right to terminate one year after notice. See note 2, *supra*.

²⁰ The Court continues to reject defendants' suggestion that the enactment of the Taiwan Relations Act, Pub. L. No. 96-8, 93 Stat. 14 (April 10, 1979), can be interpreted as legislative ratification of the notice of ter-

mination. See Memorandum Opinion of June 6, 1979, at 9 n. 14.

²¹ See Note, *Congressional Access to the Federal Courts*, 90 Harv. L. Rev. 1632, 1650-51. See also *Pressler v. Simon*, 428 F. Supp. 302, 304 (D.D.C. 1976) (three judge court), aff'd mem. sub nom. *Pressler v. Blumenthal*, 434 U.S. 1028 (1978).

²² In each of the four instances where Presidents have initiated the termination process and then requested authority from Congress to terminate treaties, Congress has responded promptly to authorize completion of the termination process. President Taft received legislative ratification and approval to terminate a commercial treaty with Russia three days after his request came to the Senate. 37 Stat. 627. President Wilson on May 17, 1920 sought the "advice and consent" of the Senate to withdraw from the International Sanitary Convention. On May 26, 1921 two-thirds of the Senate present resolved to advise and consent to the denunciation of the convention. 61 Cong. Rec. 1793-1794. President Polk sought authority to terminate the Convention on Boundaries with Great Britain concerning the Oregon Territory. By joint resolution such action was authorized by Congress in less than five months. 9 Stat. 109-110. President Pierce requested authority to give notice to Denmark of the termination of a commercial treaty. Within four months the Senate unanimously gave the requested authority. S. Res. of March 3, 1855, 33d Cong., 2d Sess.; 9 Sen. Executive Journal 431.

The Court assumes that a request by the President in the instant case would have been met with similar deferential attention. See note 3 *supra*. The record discloses that, prior to President Carter's delivery of the notice of termination, Senator Goldwater and Senate Minority Leader Baker sought to have the President call a special session of Congress to allow for legislative participation. See Plaintiffs' Supplementary Memorandum on the Privileged Status in Congress of Presidential Messages, Exhibits 2-5.

²³ See Note, *Congressional Access to the Federal Courts*, 90 Harv. L. Rev. 1632, 1642 (1977).

²⁴ See note 10, *supra*.

²⁵ Clearly, the denial of plaintiffs' participatory role in the treaty termination process is "within the zone of interests to be protected or regulated by the . . . constitutional guarantee in question." *Ass'n of Data Processing Serv. Organization, Inc. v. Camp*, 397 U.S. 150, 153 (1970). In addition, it is the President's purported termination of the Treaty, without submitting the notice of termination for congressional approval, from which the denial of plaintiffs' role can be fairly traced. See *Simon v. Eastern Ky. Welfare Rights Organ.*, 426 U.S. 26, 41-42 (1976). Finally, a judicial decision declaring the constitutional requirements for terminating the Treaty can afford plaintiffs the precise relief requested, and thus the injury is one "likely to be redressed by a favorable decision." *Id.* at 38. The critical requirement to be satisfied by the congressional plaintiffs here is that they have suffered injury in fact. Any difficulty in demonstrating causation in this case could only derive from the same issue of alternative political remedies already resolved under the injury in fact inquiry. See *Harrington v. Bush*, 553 F.2d 190 (D.C. Cir. 1977).

²⁶ Wechsler, *Toward Neutral Principles of Constitutional Law*, 73 Harv. L. Rev. 1, 7-9 (1959).

²⁷ See, e.g., *Powell v. McCormack*, 395 U.S. 486, 518-21, 548-49 (1969).

²⁸ See L. Henkin, *Foreign Affairs and the Constitution* 210-16 (1972).

²⁹ *Guaranty Trust Co. v. U.S.*, 304 U.S. 126, 137-38 (1938); *Williams v. Suffolk Ins. Co.*, 38 U.S. (13 Pet.) 415, 420 (1839).

³⁰ *Foster & Elam v. Wilson*, 27 U.S. (2 Pet.) 253, 307 (1829).

³¹ *Harrisades v. Shaughnessy*, 342 U.S. 580, 588-89 (1952).

³⁰ 369 U.S. 186, 211 (1962).

³¹ *Id.* at 211 n. 31, quoting *Oetjen v. Central Leather Co.*, 246 U.S. 297, 302 (1918). See also *Chicago & S. Air Lines, Inc. v. Waterman S.S. Corp.*, 333 U.S. 103, 111 (1948).

³² Henkin, *Is There a Political Question Doctrine?*, 85 Yale L. J. 597, 612 (1976).

³³ See *United States v. Nixon*, 418 U.S. 683, 703-05 (1974); *Powell v. McCormack*, 395 U.S. 486, 548-49 (1969); *Marbury v. Madison*, 5 U.S. (1 Cranch) 137 (1803).

³⁴ The President's powers over the conduct of foreign relations derive from a number of Constitutional provisions. U.S. Const., art. II, § 2 ("The President shall be Commander in Chief of the Army and Navy. . . ."; *id.* ("He shall have Power, by and with the Advice and Consent of the Senate, to make Treaties. . . ."); *id.*, art. II § 3 ("[H]e shall receive Ambassadors and other public ministers; he shall take Care that the Laws be faithfully executed. . . .").

³⁵ U.S. Const., art. II, § 2.

³⁶ See *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579 (1952).

³⁷ See *Baker v. Carr*, 369 U.S. 186, 217 (1962).

³⁸ *Id.* The Court finds distinguishable those decisions that held actions challenging the legality of military operations in Southeast Asia to be nonjusticiable. Because of various pieces of congressional legislation in support of such operations and the changing nature of the hostilities, those cases primarily involved the difficulty posed by the "lack of judicially discoverable and manageable standards." *Id.* Thus, the courts were not competent to resolve disputes over the specific form of legislative action required to constitute congressional approval, whether unilateral action by the President escalating the activities had exceeded the scope of congressional authorizations, or whether, if unauthorized, the President was nevertheless acting in good faith to terminate involvement in the war. See, e.g., *Mitchell v. Laird*, 488 F. 2d 611, 614-16 (D.C. Cir. 1973); *Holtzman v. Schlesinger*, 484 F. 2d 1307 (2d Cir. 1973), cert. denied, 416 U.S. 936 (1974); *Da Costa v. Laird*, 471 F. 2d 1146 (2d Cir. 1973). Simply determining what the constitutionally required allocation of power between the two political branches is with respect to treaty termination, and that some mutual participation is required, involves no such problems.

³⁹ See, e.g., *Buckley v. Valeo*, 424 U.S. 1 (1976); *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579 (1952); *Myers v. United States*, 272 U.S. 52 (1926); *United States v. American Tel. & Tel. Co.*, 567 F. 2d 121, 125-26 (D.C. Cir. 1977); *Senate Select Comm. on Presidential Campaign Activities v. Nixon*, 498 F. 2d 725 (D.C. Cir. 1974).

⁴⁰ In *Van Der Wyde v. Ocean Transport Co.*, 297 U.S. 114 (1935), the Supreme Court upheld the constitutionality of the President's delivery of a notice of termination of treaty provisions that were in conflict with the Seamen's Act of 1915, where such termination was specifically "requested and directed" by Congress in the Act. The Court found it unnecessary to pass on the question of "the authority of the Executive in the absence of Congressional action, or of action by the treaty-making power, to denounce a treaty of the United States. . . ." *Id.* at 117.

The Court has also recognized the President's power to determine compliance and the continuing validity of a treaty. See, e.g., *Clark v. Allen*, 331 U.S. 503, 508-14 (1947); *Charlton v. Kelly*, 229 U.S. 447, 474-76 (1913); *Terlinder v. Ames*, 184 U.S. 270, 285-88 (1902). That power, however, is sharply distinguishable from a power to act affirmatively to terminate a validly binding treaty—as here, in accordance with a treaty provision granting the United States the option to terminate. See note 46 *infra* and accompanying text.

⁴¹ See, e.g., L. Henkin, *Foreign Affairs and the Constitution* 167-71 (1972); Scheffer, *The Law of Treaty Termination as Applied to United States De-Recognition of the Republic of China*, 18 Harv. Int'l. L. J. 931 (1978); Nelson, *The Termination of Treaties and Executive Agreements by the United States: Theory and Practice*, 42 Minn. L. Rev. 879 (1958); Riesenfeld, *The Power of Congress and the President in International Relations: Three Recent Supreme Court Decisions*, 25 Calif. L. Rev. 643, 658-664 (1937); M. Reisman & M. McDougal, *Who Can Terminate Mutual Defense Treaties?*, *The National Law Journal*, May 21, 1979, at 19. See generally *Resolution Concerning Mutual Defense Treaties: Hearings on S. Res. 15 Before the Committee on Foreign Relations*, 96th Cong., 1st Sess. (1979).

⁴² The first treaties terminated by the United States were the treaties of 1778 between the United States and France, terminated by the Act of July 7, 1798, 1 Stat. 578. The validity of that congressional action was upheld in *Hooper v. United States*, 22 Ct. Cl. 408, 425 (1887).

⁴³ See generally *Resolution Concerning Mutual Defense Treaties: Hearings on S. Res. 15 Before the Committee on Foreign Relations*, 96th Cong., 1st Sess. 157 (1979) ("History of Treaty Terminations by the United States," an appendix to a memorandum prepared by the Department of State Legal Advisor) [hereinafter cited as State Dept. Memorandum]; Emerson, *The Legislative Role in Treaty Abrogation*, 5 J. Legis. 46, 52-64 (1978); Scheffer, *supra* note 41, at 979-85, 993-95 (1978).

⁴⁴ Of the more than fifty treaty terminations in our nation's history, defendants point to thirteen instances in which the President acted to terminate a treaty and his action was unaccompanied by specific senatorial or congressional approval. See Supplementary Memorandum in Support of Defendants' Opposition to Plaintiffs' Motion to Alter or Amend; State Dept. Memorandum, *supra* note 43. Not all of the cited examples constitute precedent for presidential termination, since in two cases the notice of termination was subsequently withdrawn by the President. See 1965 notice of termination of the Warsaw Convention, 49 Stat. 3000, T.S. No. 876; 1933 notice of termination of the Extradition Treaty with Greece, 47 Stat. 2185, T.S. No. 855. For a critical analysis of these precedents for unilateral presidential termination, see Scheffer, *supra* note 41, at 979-86.

⁴⁵ Most of the terminations by the President alone involved commercial situations where the need for the treaty, or the efficacy of it, was no longer apparent.

⁴⁶ Unilateral executive action in terminating a treaty would presumably be permissible, as both parties recognize, when the treaty is superseded by an inconsistent law or treaty; when the treaty becomes impossible to perform or is otherwise rendered inoperative; when the treaty is violated or denounced by the other party; or when there has been a fundamental change in circumstances affecting the treaty. In such cases, the President may determine that the continuing validity of the treaty has been destroyed, either because under principles of international law the United States could justifiably withdraw from the treaty or because the treaty is in conflict with more recent legislation. Scheffer, *supra* note 41, at 987-88; see, e.g., *Clark v. Allen*, 331 U.S. 503 (1947); *Van Der Wyde v. Ocean Transport Co.*, 297 U.S. 114 (1935); *Charlton v. Kelly*, 229 U.S. 447 (1913); *Terlinder v. Ames*, 184 U.S. 270 (1902).

Many of the instances cited by defendants in which the President has acted alone involve one or more of the above factors. In others, if the treaty was not actually superseded by inconsistent legislation, there was

at the very least a substantial participation by Congress in establishing the policy that led to the termination, the result of which amounted to an implied authorization. E.g., 1933 termination of the Multilateral Convention for the Abolition of Import and Export Prohibitions and Restrictions of 1927, 46 Stat. 2461, T.S. No. 811. In those few remaining instances in which the presidential termination cannot otherwise be justified, the treaty had already become generally ineffectual or the matter involved was relatively insignificant. E.g., 1944 Termination of the Inter-American Convention for Trademark and Commercial Protection of 1929, 46 Stat. 2907, T.S. No. 833; 1927 termination of the Convention with Mexico on the Prevention of Smuggling, 44 Stat. 2358, T.S. No. 178.

⁴⁷ See notes 66-70 *infra* and accompanying text. See generally authorities cited at note 43 *supra*.

⁴⁸ U.S. Const. art. II, § 2.

⁴⁹ *Id.* § 3.

⁵⁰ *United States v. Curtiss-Wright Export Corp.*, 299 U.S. 304, 320 (1936).

⁵¹ *Humphrey's Executor v. United States*, 295 U.S. 602, 631-32 (1935); see *Weiner v. United States*, 357 U.S. 349 (1958).

⁵² *Myers v. United States*, 272 U.S. 52, 235, 163-64 (1926).

⁵³ U.S. Const. art. II, § 2.

⁵⁴ As Justice Jackson, in referring to Article II, § 1 of the Constitution, stated in his concurring opinion in *Youngstown Steel & Tube Co. v. Sawyer*, 343 U.S. 529, 641 (1952): "I cannot accept that this clause is a grant in bulk for all conceivable executive power but regard it as an allocation to the presidential office of the generic powers thereafter stated."

⁵⁵ The President's power to recognize a government as the representative of a foreign state—in this case recognizing the People's Republic of China as the sole government of China—is not challenged. See, e.g., *United States v. Pink*, 315 U.S. 203, 229; *Guaranty Trust Co. v. United States*, 304 U.S. 126, 137-38 (1937). The recognition power flows from his express authority under U.S. Const. art. II, § 3, to "receive Ambassadors and other public ministers."

⁵⁶ See, e.g., Declaration of Warren Christopher, Deputy Secretary of State, in support of Defendants' Motion to Dismiss or, in the Alternative, for Summary Judgment, ¶¶ 4, 7. Steps toward normalization were taken with the exchange of ambassadors on March 1, 1979.

⁵⁷ See Restatement (Second) of the Foreign Relations Law of the United States § 163(a) (1) (1965).

⁵⁸ M. Reisman & M. McDougal, *supra* note 41, at 19, col. 4.

⁵⁹ The distinction between self-executing and non self-executing treaties was first expressed by Chief Justice Marshall in *Foster v. Neilson*, 27 U.S. (2 Pet.) 253 (1829): "Our Constitution declares a treaty to be the law of the land. It is, consequently, to be regarded in courts of justice as equivalent to an act of the legislature, wherever it operates of itself, without the aid of any legislative provision. But when the terms of the stipulation import a contract—when either of the parties engages to perform a particular act, the treaty addresses itself to the political, not the judicial department; and the legislature must execute the contract, before it can become a rule for the court." *Id.* at 314. See generally L. Henkin, *Foreign Affairs and the Constitution*, 156-61 (1972); Restatement (Second) of the Foreign Relations Law of the United States § 141 (1965).

⁶⁰ The Treaty's key provision—Article V, which declares that each party would act to meet the common danger of an armed attack in the West Pacific area "in accordance with its constitutional processes"—is self-executing. Under the "constitutional processes" of the United States, the

President has authority to take certain action, short of a declaration of war by Congress, to alleviate the threat of armed attack. Thus the provision does not require the aid of implementing legislation in order to be operative. The mere fact that a congressional power exists does not mean that the power is exclusive so as to preclude the making of a self-executing treaty within the area of that power. Restatement (Second) of the Foreign Relations Law of the United States § 141 comment f (1965).

⁶¹For instances, Article VII, which provides for the location of United States forces in and about Taiwan, is not self-executing at least to the extent that it requires appropriations by Congress, but such appropriations have been made. This non self-executing provision has thus been legislatively implemented.

⁶²See note 46 *supra* and accompanying text. The termination here is based solely upon the invocation of the termination provision in Article X of the Mutual Defense Treaty, rather than upon a determination that the Treaty is no longer validly binding.

⁶³Article II, § 2 provides: "[The President] shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur . . ."

⁶⁴Alexander Hamilton, in discussing the treaty-making power, stated: "The history of human conduct does not warrant that exalted opinion of human virtue which would make it wise in a nation to commit interests of so delicate and momentous a kind as those which concern its intercourse with the rest of the world to the sole disposal of a magistrate, created and circumstanced, as would be a president of the United States." Federalist No. 75, pp. 505-06 (J. Cooke ed. 1961).

⁶⁵See *The Amiable Isabella*, 19 U.S. (6 Wheat.) 1, 75 (1821); Restatement (Second) of the Foreign Relations Law of the United States § 163(2) (1965).

⁶⁶At the Court's request counsel supplied information as to the number of treaties terminated and whether the terminations were effected by joint action or unilaterally. Different totals were submitted. Further study of these terminations indicates that in most of them there was some congressional action which was consistent with the position of the Executive.

⁶⁷The passage of a joint resolution specifically authorizing or directing the President to give notice of termination has been a relatively common method employed by Congress in exercising its role in the treaty termination process. Two examples involving express presidential requests for such authority are particularly instructive. The termination of the 1827 Convention with Great Britain for the Joint Occupation of the Oregon Territory—the first termination pursuant to a notice provision in a treaty—was effected in 1846 following the enactment of a joint resolution authorizing President Polk to give the notice of termination. H.J. Res. of April 27, 1846, 9 Stat. 109. The 1832 Treaty of Commerce and Navigation with Russia terminated when President Taft's delivery of the notice of termination—again pursuant to treaty provision—was subsequently approved by joint resolution, H.J. Res. of December 21, 1911, 37 Stat. 627, following the President's message to the Senate of his intent to terminate "with a view to its ratification and approval." 48 Cong. Res. 454 (1911). In other instances, joint resolutions directing or authorizing the termination of treaties pursuant to notice provisions have been passed without any prior presidential initiative. J. Res. of Feb. 26, 1883, 22 Stat. 641 (Amity Treaty of 1871 with Great Britain); J. Res. of June 17, 1871, 18 Stat. 287 (Treaty of Commerce and Navigation of 1858 with Belgium); J. Res. of

Jan. 8, 1865, 13 Stat. 566 (Reciprocity Treaty as to Fisheries, Commerce, and Navigation of 1854 with Great Britain). In addition Congress has enacted statutes which conflict with earlier treaties and which specifically request the President to terminate inconsistent treaties. Fishery and Conservation Management Act of 1976, Pub. L. No. 94-265, Title II, § 202(b), 90 Stat. 340; Seamen's Act of 1915, Pub. L. No. 63-302, § 16, 38 Stat. 1184. See also Trade Agreements Extension Act of 1951, Pub. L. No. 82-50, § 5, 65 Stat. 72.

⁶⁸At least two treaties have been terminated pursuant to Senate approval without any participation by the House of Representatives. Pursuant to notice of termination delivered by President Buchanan, the 1826 Convention of Friendship, Commerce, and Navigation with Denmark was terminated following a unanimous Senate resolution. S. Res. of March 3, 1855, 33d Cong., 2d Sess. In connection with that termination, the Senate Foreign Relations Committee issued a report in April, 1856, which concluded that the treaty-making power—the Senate and the President acting together—could terminate a treaty without participation by the House of Representatives. S. Rep. No. 97, 34th Cong., 1st Sess. (1856). A second instance was the termination of the International Sanitary Convention of 1903 following a two-thirds vote of approval by the Senate as requested by President Wilson. S. Res. of May 26, 1921, 61 Cong. Rec. 1793.

⁶⁹Several commentators have argued the constitutional soundness of terminating treaties in accordance with the same power that concludes those treaties. *E.g.*, Scheffer, *supra* note 41, at 1002-03; Riesenfeld, *supra* note 41 at 660-61. There is also some eminent dictum to support that approach: in *Techt v. Hughes*, 229 N.Y. 222, 243, 128 N.E. 185, 192, cert. denied, 254 U.S. 43 (1920) Judge Cardozo stated: "[The] President and Senate may denounce the treaty, and thus terminate its life."

⁷⁰The Supreme Court's decision in *Van Der Wyde v. Ocean Transport Co.*, 297 U.S. 114 (1935), would appear to be the strongest judicial authority for participation by the entire Congress in the treaty termination process. See note 40 *supra*. Requiring such participation is supported by the fact that a treaty, like a statute, constitutes the supreme law of the land whose repeal is the proper subject of congressional authority. In that regard, it is undisputed that a subsequent act of Congress which is clearly inconsistent with a treaty supersedes that treaty as domestic law to the extent of the conflict. *Chae Chan Ping v. United States*, 130 U.S. 581, 599-601 (1889); *Whitney v. Robertson*, 124 U.S. 190, 194 (1888); *Head Money Cases*, 112 U.S. 580, 597-99 (1884); *Diggs v. Shultz*, 470 F.2d 461, 466 (D.C. Cir. 1972). See also *Reid v. Covert*, 354 U.S. 1, 18 (1957).

⁷¹As previously indicated, nothing contained in the Taiwan Relations Act, Pub. L. No. 96-8, 93 Stat. 14, can be construed as legislative approval of or acquiescence in the President's notice of termination. See note 18 *supra*.

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HANDLING THE CUBAN CRISIS/ PREVENTING OTHERS

● Mr. McGOVERN. Mr. President, in spite of assurances by the President that the administration is taking steps to protect our interests in the Caribbean, many Americans remain confused and concerned about the presence of Soviet troops in Cuba. The unfortunate linkage of the troops' presence with the SALT II treaty has clouded the issue, and if the calls for confrontation with the Soviets had been heeded, it would have been, in President Carter's words, "destructive to the national interest and to the security of the United States."

There are lessons to be learned from this "crisis," which one British newspaper called "a self-inflicted technical knockout." Don Oberdorfer of the Washington Post has written an excellent account of the handling of the Cuban troop situation which I recommend to my colleagues.

In his attempt to reassure the American people, President Carter presented a list of five responses to the Soviet troop presence—four of which are of a military nature. The fifth dealt with increasing foreign aid to countries in the Caribbean region in order to promote stability in the area. In my opinion, this is the best way to insure our own national interest and to prevent other Cubas. A Minneapolis Tribune editorial on aid to the Caribbean specifically cites Nicaragua and makes an excellent case for increased aid to that country, and I commend the editorial to my colleagues. I ask that the editorial and Mr. Oberdorfer's article be printed in the RECORD.

The material is as follows:

[From the Minneapolis Tribune, Oct. 5, 1979]
CARTER'S "POINT FIVE": AID TO THE CARIBBEAN
"Fifth, we will increase our economic assistance to alleviate the unmet economic and human needs in the Caribbean . . ."

Though last in President Carter's list of responses in the Soviet-Cuban affair, that promise may be the most important. It could also be the most difficult to fulfill.

Aid dollars planted carefully can grow into political and economic benefits for the United States as well as for recipient countries. But the administration and Congress must be sure that any new aid reaches the right people. Too often in the Caribbean and Central America, the wrong people have reaped the harvest.

Nicaragua is a vivid example. Past aid programs may have given marginal benefits to the needy in that small, poor country, but

economic control rested with President Anastasio Somoza until he was deposed three months ago. By then he had a billion-dollar fortune. And when Somoza and his clique left Nicaragua, they took with them every possible portable asset, thus impoverishing further a country already battered by internal warfare.

In a Wall Street Journal article this week, two American development specialists argue for \$1.3 billion in international aid to Nicaragua during the next three years, half to come from the United States. On grounds of need, a case can also be made for increased assistance elsewhere in the area: to island countries like Jamaica, to Central American countries like Guatemala. Because the list could be longer, its limits are evident: Alone or in concert with others, the United States cannot fill all the "unmet economic and human needs" that Carter mentioned in his fifth response.

Budget limits impose one restraint. The foreign-aid appropriations bill for the coming year is facing its customary trials in Congress; the House this month lopped more than \$1 billion off the administration request, and the Senate is moving toward nearly as great a cut. Prospects for an unexpected aid increase in the Caribbean may therefore be slim, especially when a specific request has yet to be made.

On Thursday, U.S. aid officials had not heard from the White House what increases for what countries the president had in mind during his Monday night speech. Moreover, aid flows have already risen sharply: to Caribbean islands alone, from \$32 million five years ago to \$125 million in the fiscal year just ended, with a \$155-million request for the year ahead.

The proper use of aid dollars should impose at least as great a restraint as budget limits. For example, the military government of El Salvador last year gave the appearance of improving human rights. Though the changes were superficial, the Carter administration stepped up the aid flow. But repression increased, as did revolutionary violence in response. So more aid to El Salvador would be foolish in its current circumstances, which resemble those of Somoza-era Nicaragua. Several other countries are in similar situations.

Because of these restraints, aid must be granted more selectively than Carter's general promise suggests. His emphasis on security in the Caribbean and on Cuba's potential for Soviet-assisted troublemaking should lead to Nicaragua as the logical starting point for increased economic assistance.

Some U.S. policy-makers worry that Nicaragua might become "another Cuba"—a Communist regime linked to the Soviet Union. The United States could assure that result by alienating Nicaragua's new leaders, leaving much of the reconstruction effort to Cuba. The United States could probably assure the same unhappy outcome by conditioning a more generous aid program on the establishment of a non-socialist Nicaraguan government. Or the United States could make Carter's "Point Five" a turning point for American policy. Aid to Nicaragua should be generous. It should be provided quickly. It should carry no ideological strings. Otherwise, Americans may one day be worrying about how to prevent "another Nicaragua."

[From the Washington Post, Oct. 16, 1979]
CUBAN CRISIS MISHANDLED, INSIDERS AND OUTSIDERS AGREE

(By Don Oberdorfer)

As Sen. Richard Stone (D-Fla.) arrived at the ornate Senate Caucus Room for a Foreign Relations Committee hearing at 10 a.m. last July 17 a senatorial aide pulled him aside to impart a fascinating tip.

"I've been picking up reports on a recent

buildup of Soviet combat troops in Cuba, perhaps as much as a brigade," said the aide, whom Stone will not identify.

In response to the expected question, the aide announced, as Stone recalled it, that the information did not come from a classified official paper, and therefore "you don't have a classification problem" about sounding a public alarm.

In the course of the hearing, supposedly addressed to the strategic arms limitation treaty (SALT II) on nuclear weapons, Stone pointedly inquired of the witnesses, retired members of the Joint Chiefs of Staff, about the impact of the hypothetical Soviet introduction of "as much as a brigade of combat troops in Cuba."

The press corps perked up at this new element in the dull SALT story. Off the record and off camera, Stone also had a private exchange that morning with John Carbaugh, a staff aide to anti-SALT Sen. Jesse A. Helms (R-N.C.).

Carbaugh had heard reports of his own about a Soviet combat force in Cuba. Within a few hours, Carbaugh passed his tip along to ABC Television, which began an independent investigation.

These small transactions in mid-July ballooned into a large-scale national and international controversy late in August, leading to a diplomatic confrontation with the Soviets in September and President Carter's televised address about Soviet troops in Cuba on Oct. 1.

Whatever the view of the importance or unimportance of the Soviet "brigade," whether insiders or outsiders to the Carter administration, whether Carter friend or Carter foe, nearly all those familiar with the details of this latest Cuban crisis agree that it was badly mishandled.

Accidents, miscalculations and, much more appalling to old hands, the seeming lack of any sophisticated calculation, contributed to the result, which was described by a British newspaper as "a self-inflicted technical knockout."

Among the other contributing elements: An administration still divided at the top on Soviet policy after 2½ years in office, even as the pending SALT II generates a national debate about the nature and intentions of the Russians.

The present Washington fishbowl in which official secrets quickly leak or are leaked by contending factions, forcing premature announcements and decisions.

Members of Congress and congressional aides who possess the knowledge, power, maneuver skills and, increasingly, the inclination to do their own thing in U.S. diplomatic and military affairs.

The inherent ambiguity of the intelligence and misleading character of the term, "Soviet combat brigade," which created a widespread and erroneous impression that something fundamentally new and threatening had been found.

The results of all this—to create vast public concern and confusion, to endanger the strategic arms treaty, to jeopardize U.S.-Soviet relations—did not emerge overnight. They developed step by step since Stone brought the issue to light on July 17.

Soviet troops in Cuba and U.S. intelligence awareness of them go back many years, but a July 12 report by the highly secret National Security Agency marked the beginning of a new and troublesome phase.

The NSA report suggested that a Soviet brigade organization, separate from known military advisers or training elements, had been present in Cuba for several years.

Although there was no firm conclusion and no reference to the word "combat," the report touched off alarm bells in high places and led to a new increase in U.S. surveillance of Cuba.

Only five days later Stone had his tip. After attracting the interest of the media at the

morning hearing on July 17, the Florida senator took his inquiry to a closed-door Foreign Relations Committee hearing with top Pentagon and intelligence officials which, by coincidence, had been scheduled for that afternoon.

Defense Secretary Harold Brown and the chiefs of U.S. intelligence agencies gave "an equivocal answer but not a flat denial," according to Stone, and then told a secret impromptu hearing of the NSA findings up to that point. Stone made it clear he would take his suspicions, but not the details of the briefing, to television cameras waiting for him outside.

The committee leadership, concerned about the potentially explosive controversy, asked for and obtained a public statement drafted by Brown and the intelligence chiefs on the spot to put the matter in perspective.

The statement issued in the names of Chairman Frank Church (D-Idaho) and the senior Republican, Sen. Jacob Javits (N.Y.), said there was "no evidence of any substantial increase" in Soviet military presence in Cuba over several years. It also said "our intelligence does not warrant the conclusion" that any "significant" Soviet forces, other than the long-known military advisory group, was present in Cuba.

The statement gave no hint of the intense internal study and debate on the issue, which only two days later, on July 19, produced a secret CIA finding that a brigade headquarters or structure, at least, was in Cuba separate from an advisory group.

The basis for this finding was simple and persuasive: Soviet officers and men had been overheard repeatedly to refer to a brigade headquarters, or "brigada." There was no agreement in this compromise finding, negotiated by CIA Director Stansfield Turner, on the organization, personnel strength or mission of the shadowy entity.

Turner was briefing Secretary of State Cyrus R. Vance on the finding late on July 19 when the two men were confronted by ABC television's inquiries.

Diplomatic correspondent Ted Koppel was informed that a "command structure" adequate for a brigade had been confirmed, but the charge of a brigade itself was rejected.

The next day Koppel broadcast a report attributed to undisclosed congressional sources that "a brigade of Soviet troops, possibly as many as 6,000 combat-ready men, has been moved into Cuba within recent weeks." He noted the administration denials.

Despite the new developments in intelligence and confirmation of the "command structure," the administration continued to use the cautiously worded denials of the July 17 Church-Javits statement, notably in a letter from Vance to Stone dated July 27.

When the letter became known it caused a furor among intelligence professionals. Some of them considered it "a lie" and determined to make sure that the true situation would reach the public.

Another step into the thicket came nearly a month later, after U.S. intelligence had obtained clear satellite photographs of Soviet troops acting as a unit, complete with tents, tanks and artillery, on field maneuvers at a prearranged time and place a few miles west of Havana's Jose Marti International Airport.

Based on the new evidence, the CIA's National Foreign Assessment Center issued a coordinated intelligence finding Aug. 22 that the previously identified structure was a "Soviet combat brigade." Beyond the important conclusion, the choice of words was crucial in what was to come.

The word, combat, had not been used in the findings before, but there is no indication that its threatening connotations and political implications were appreciated, or even examined, at the time.

Intelligence officials later explained that the "Soviet combat brigade" was so described

to distinguish it from a training outfit. Once the words had been repeated in internal documents, with wide circulation and even public statements, "we can't back off," an inquiring official was told.

In fact, there is no sign that the Soviet force in Cuba had ever engaged in combat, and no indication that its mission is to be prepared to do so. There is no airlift or sea-lift attached to the unit to permit speedy "combat" deployment. There is no plausible "enemy" for the small force to do "combat" against.

According to those who have examined the evidence closely, it is more accurate to say that the Soviet force appears to have some role other than training and advising Cubans. (It also may have that role from time to time.) Even today, U.S. intelligence has not concluded what the real mission or missions are. Engaging in combat is not considered to be among the most likely possibilities.

The words, "Soviet brigade" or "Soviet nonadvisory brigade" or even "Soviet infantry brigade" would have been much more accurate, and much less alarming. But it was left to the sophisticated minds of the "wise men," the former high officials summoned to the White House on the eve of Carter's Oct. 1 address, to spot the semantic significance of the "Soviet combat brigade" and challenge it frontally. By then the damage had been done.

The coordinated intelligence finding of Aug. 22 presented the government with a hot potato at an awkward moment, with most top officials out of town or on vacation. The first inclination was to delay.

President Carter was informed of the finding Aug. 23 as he sailed down the Mississippi aboard a paddlewheel boat. Back in Washington, an interagency meeting of second-level officials at the White House concluded that the brigade reflected a long evolution rather than a sudden change in Cuba, and that it did not have a "short time fuse."

They hoped that major action could be delayed until after Labor Day, when Congress and the main administration figures would be back.

A telephone call from the Washington bureau of Aviation Week, a noted vehicle for leaks from the Pentagon and defense contractors, changed all that. On Thursday morning, Aug. 30, the magazine asked the State and Defense department press spokesmen about reports of Soviet combat troops in Cuba, and told the officials that a story on the matter was going to press that night.

The Aviation Week query touched off a near panic among high officials, but in fact it was a bluff. The magazine's information was considered neither solid enough nor important enough by its own editors to warrant publication in the issue that went to press that day. Lacking confirmation from the government, Aviation Week printed nothing about the Soviet brigade in its post-Labor Day issue.

Government officials, who assumed that Aviation Week was printing a complete version, decided to inform senior members of Congress immediately and to prepare an official announcement. This led to emergency calls late on Aug. 30 to eight ranking members of Congress, who were scattered throughout the world on the eve of Labor Day.

The decision by one of them, Frank Church, to make the news public in stark fashion set the terms of public dialogue. After informing Vance that he was going to make a statement—but not what he intended to say—Church summoned reporters to his living room in Boise and announced government confirmation of a Soviet brigade of ground combat troops in Cuba. Church demanded their "immediate withdrawal," and later said SALT II could not be ratified unless this were done.

In an effort to step back from Church's call for Soviet withdrawal, a negotiating objective considered impractical under the circumstances, Vance and the State Department fell back on the vague statement that, for the United States, "the status quo is unacceptable."

This was approved at a White House meeting Sept. 4 and put forward by Vance the next day in a press conference and by the president on Sept. 7.

No attempt was made to explain to the public until late in the affair that an unacceptable status quo could be altered by U.S. compensatory actions or that some situations which are unacceptable, in diplomatic language, persist nevertheless.

A powerful senator picked up the problem with the official language right away. When Vance completed a private briefing the day of his news conference, this close friend of the administration expressed surprise, in a tone of disapproval, of the "status quo" language.

It implies you are going to be able to do something about the Soviet brigade, the senator told Vance, thus setting up a public perception of failure if this does not happen.

The issue dominated the American press, was a major and growing impediment to the ratification of SALT II, and had been the subject of Church's announcement, a State Department announcement, Vance's news conference and a public announcement by Carter. Yet negotiations still had not begun with the Soviets. Vance was increasingly desperate for the return of Soviet Ambassador Anatoly F. Dobrynin.

The Soviet official was still in Moscow, where his father was dying in a hospital and his mother gravely ill in the same institution.

Despite the poignant personal considerations, Vance felt Dobrynin's presence essential to the chances, such as they were, for a diplomatic settlement. Messages were dispatched through the Soviet embassy in Washington and the U.S. embassy in Moscow, and finally an appeal was made by Vance direct to Soviet Foreign Minister Andrei A. Gromyko.

Gromyko telephoned Dobrynin to ask him—but not order him—to return to accommodate Vance. The envoy was on the next plane, which took off shortly before the second of his parents died.

The Soviet position, which became clear on Dobrynin's return, had been foreshadowed by a message delivered by Deputy Ambassador Vasev several hours after Vance's news conference. The Soviets insisted that their force was a "training center" that had been in Cuba since 1962 and had not changed since in either the number of its personnel nor its function.

The Soviets were at the same time angered, puzzled and suspicious. They could not understand why the issue had suddenly emerged, and took the position that they had done nothing to cause this "manufactured" crisis.

Dobrynin, like his superiors in Moscow, proved unsympathetic. Either U.S. intelligence was so bad it did not spot the Soviet force in 17 years, or it was so slipshod that it failed to inform those at the top of the U.S. government—in either case no affair of the Kremlin, he said.

He asked two questions: Is the force a threat to the United States? Is it a violation of the previous U.S.-Soviet understandings about Soviet activities in Cuba? In both cases the U.S. answer was no.

In these circumstances the Soviets were willing to supply information about their Cuban force and later, in what they called a unilateral gesture to Washington, to supply certain "clarifications" about the role of their troops.

But they were unwilling to take any action to change the existing physical situation of

the Soviet force on the ground, as suggested by the United States. And they have not agreed to do so in the future, though neither is this foreclosed.

In the midst of Vance's attempt to convince the Soviets to make at least face-saving concessions, an "or else" note crept into public utterances and private briefings at the White House. This generated confusion, which still persists, about retaliatory measures against Moscow for failure to remove or dissolve the brigade.

Presidential assistant Zbigniew Brzezinski, who hinted at retaliatory action on several occasions, took as his text a sentence in the presidential statement of Sept. 7: "We do have the right to insist that the Soviet Union respect our interests and our concerns if the Soviet Union expects us to respect their sensibilities and their concerns."

Brzezinski spoke Sept. 21 and on other occasions of "the principle of reciprocity" and of unspecified "consequences" for U.S.-Soviet relations if negotiations fail to settle the issue.

On Sept. 23 columnist James Reston of The New York Times, whose access to top officials is legendary, described a set of potential consequences apparently reflecting option papers under consideration.

These included "countermeasures along the borders of the Soviet Union," a stepup in U.S. propaganda and economic appeals to communist countries in Eastern Europe and even the Ukrainian minority within the Soviet Union, and an increase in U.S. "economic, technological and, particularly, military aid to Peking," Moscow's arch rival.

A battle raged within the U.S. government about countermeasures to be taken. Who won and to what extent is in doubt.

The U.S. compensatory measures announced in Carter's Oct. 1 address were limited to symbolic or nonmilitary displays in the Caribbean region, and increases in worldwide U.S. alertness or deployments which had previously been scheduled. The speech was devoid of anti-Soviet retaliatory measures.

State Department officials have told reporters that anti-Soviet options were not approved by Carter. These officials deny the existence of a "hidden agenda" of authorized retaliatory actions.

Hints from the White House run the other way. Some reporters have been told that the leaked announcement of Brown's coming trip to China flowed from U.S. displeasure about the Soviet brigade, and that the substance of Brown's dealings in Peking were likely to be affected. There is talk of three or four "associated measures" deliberately chosen but not announced at the time of the presidential speech. How much of this is substance and how much is smoke is still unclear.

It is easy to say, in hindsight, how the issue of Soviet troops in Cuba could have been more effectively handled under other circumstances.

If the administration had been either silent or more candid in the early stages. If the intelligence had been more definitive, and the description of the findings more precise. If there had been time and the means for quiet negotiations with the Soviets before the issue became public. If congressional leaders had been quietly supportive rather than outspoken. If some public rhetoric had not supported hopes for an unattainable diplomatic settlement, and other rhetoric had not fed expectations, in the midst of the negotiation, of hardline anti-Soviet action. If the whole thing had not developed while the top rank of official Washington, and the Soviet ambassador, were out of town.

What is impossible to say is whether any or all of this would have changed the final result in which the Soviet force, whatever it is, remains in Cuba and the U.S. government and public remain concerned and unsatisfied.

One certainty, in the opinion of veteran observers, is that the Carter administration's Cuban crisis was mismanaged. Worse than that, they fear that it was not managed at all.

THE PENALTY FOR THRIFT

● Mr. COHEN, Mr. President, this summer I introduced the Small Savers Incentive Act of 1979 to encourage more Americans to pursue a sensible savings program. Currently, our tax laws discourage average Americans from increasing their savings.

My bill would exempt from taxation the first \$150 of interest earned on a savings account at a bank, savings and loan association, or credit union. For a husband and wife filing a joint return, the exemption would be \$300. My bill would provide tax relief and motivation to a working family that is trying to preserve its income from destruction by inflation.

During the past weeks, two articles have appeared in the Wall Street Journal illustrating the need to promote savings and the benefits that accrue to both the individual and the national economy. The first, "Europe's Savings Rate, Far Outstripping United States, Aids Economic Growth," written by June Kronholz, appeared Friday, October 5, 1979. The second, "Slumps Usually Help Savings Institutions—But Not This Time," appeared Wednesday, October 17, 1979. It was written by Richard F. Janssen.

I commend both articles as current reading for my colleagues.

It is interesting to note that in Western Europe and in Japan, government incentives are behind the people's saving psychology. Here in the United States there are many government policies that stimulate the opposite psychology of spending and incurring debt.

As reported in the October 5 article, a high savings rate "has what one economist calls 'a virtuous effect' on a country's economic performance." In Germany, for example, businessmen turn to their banks to raise funds rather than offering stock on the market. The explanation, according to the article, is that "with high deposits, the banks have plenty of money available to lend for plant investment and expansion."

Admittedly, American savers are confronted by an inflation crisis that erodes their deposits. As Mr. Janssen points out in the October 17 article:

Many people are hit so hard by inflation that they find themselves unable to save at all.

Savers are, in fact, penalized, not only by Government's failure to control inflation, but also by low ceilings on interest rates currently paid by savings institutions and regressive taxation on earned interest. Fair reforms are required to help savers fight inflation and to improve the ability of both commercial and thrift institutions to serve their customers.

Over the last 30 years, private personal savings have accounted for 65 percent of net saving in the country, always an important component of the Nation's capital stock. Moderate assistance to savers now will help Congress

evaluate what future steps might be taken to curb inflation through emulating the European "saving psychology."

I ask that certain articles in support of my position be printed in the RECORD.

The articles follow:

[From the Wall Street Journal, Oct. 5, 1979]
EUROPE'S SAVINGS RATE, FAR OUTSTRIPPING U.S., AIDS ECONOMIC GROWTH

(By June Kronholz)

FRANKFURT.—The late-summer sales are offering what, to Germans, are terrific bargains: canvas sandals for \$30, large-size cotton dresses for \$100, major appliances for perhaps double U.S. prices, and the usual array of last winter's heavy-duty underwear for \$8.70 a set.

Despite such temptations, Renate Schumacher, a 24-year-old telephone operator, expects to stick to the budget she devised four years ago. From her take-home pay of about \$740 a month, she regularly banks \$284 and "whatever is left" after paying for rent, food and upkeep on her automobile.

Old stories of depression, deprivation and hyper-inflation are passed along like family recipes here, and they have turned West Germany into a nation of super-savers. This year Germans will spend more and borrow more than ever before, but they also will save more—the equivalent of about \$60 billion. In all, they will squirrel away about 14% of their disposable incomes, more than double what Americans will put away.

VIRTUOUS HABIT

The importance of that high savings rate is that it has what one economist calls "a virtuous effect" on a country's economic performance. Instead of turning to stock offerings to raise money, German companies traditionally turn to their banks—an easier and more reliable way to raise funds. With deposits high, the banks have plenty of money available to lend for plant investment and expansion.

All this is a prime factor in the German economy's success story—and a comment on the comparatively slack economic performance of the U.S. The funds made available by saving have helped push productivity ahead at a faster rate in Germany since the 1960s than in any other Western nation. And even though productivity shows signs of slowing lately, it still is expected to rise five times faster this year than in the U.S.

Savings rates—the percentage of income that people put into bank accounts, bonds, securities, insurance and mortgages—have been growing steadily in most of Western Europe in recent years. The French are expected to save even more than the Germans—about 17% of their incomes this year, according to the Organization for Economic Cooperation and Development. In Italy, where the Consumer Price Index is rising faster than in any other major European country, savings will total about a quarter of disposable income, the OECD says.

There is some government encouragement behind these figures. Frenchmen get generous tax breaks on their savings-account interest, and the German government stimulates savings by offering a cash bonus to savers of up to about \$100 in each year.

THE INVOLUNTARY FACTOR

Much of the growth in European savings is due to payroll-savings plans and other contractual savings programs. Britons, for instance, saved more than 14% of their disposable income last year, double the rate of the 1960s. But London's National Institute for Economic and Social Research estimates that about half of their current savings are involuntary—payroll-paid life-insurance and pension programs, for example.

Deepening fears of inflation seem, oddly, to encourage savings in Europe. Previous inflations spurred people to spend their money

before it lost further buying power. "The logical thing to do is to borrow everything you can," says Roger Bookhouse, an economist for Bankers Trust Co. in London.

But, beginning in the 1970s, European consumers have been doing just the opposite. "They feel the need for a larger cushion," says F. T. Blackaby, deputy director of London's National Institute. "They fear the future."

In 1974, these economic fears, fueled by Germany's highest inflation rate (7%) since World War II, prompted Germans to bank so much of their money that the government, worried that the economy would stagnate, passed a series of measures to encourage spending. It was no use producing more if no one was buying. (The economy recovered anyway, and savings rates dropped back.)

This year, while other Europeans warily anticipate a recession inspired by high oil prices, Germany has no such concerns, inflation and unemployment are only about 4% each, and the real gross national product will grow by 4% this year, double the American rate, according to the Deutsche Bundesbank, Germany's equivalent of the U.S. Federal Reserve.

THEY SPEND, TOO

As enamored as ever with new cars and eager to travel because current foreign-exchange rates are in their favor, Germans will increase their consumer spending by 7% this year over 1978, the Paris-based OECD predicts. Dresdner Bank, Germany's second largest says that consumer loans, which weren't even offered by German banks until 1959, now average about \$1,000 for every German and will jump about 20% this year.

Still, Germans are expected to keep saving, because—well, because they always have. "It's something Germans got with their mother's milk," says Herbert Wolf, chief economist for Commerzbank, a major bank.

A poll that Commerzbank conducted among its depositors concluded that Germans don't save to buy anything in particular. Indeed, when they buy a car, furniture or a package-tour vacation, it usually is on the installment plan, even though almost all borrowers have savings accounts too. Most Germans told Commerzbank that their savings were for emergencies or for old age, even though Germany has generous social-security and medical-care programs.

Because wages are rising twice as fast as prices in Germany—and because inflation isn't eating away at purchasing power—Germans can afford to save more than most people. Germany's commercial banks almost ignored private savers, leaving them to the savings banks, until they recognized the growth in disposable income 20 years ago. The commercial banks then quickly began opening 1,000 bank offices a year to help handle savings accounts.

Now, Dresdner estimates that 95% of Germans have savings accounts, and that bank savings alone average \$3,900 a person. To handle all those depositors, Germany has 44,000 bank offices—one for every 1,400 people—and traveling tellers regularly visit elementary schools to open accounts for children as young as six.

Whatever motives Germans may have for saving, interest rates don't seem to be the primary one. A few years ago, a research firm discovered that two-thirds of Germany's depositors didn't know how much interest they were being paid.

Now, Germans are becoming more aware of interest rates, the major banks say. But passbook accounts still are the most popular way to save, even though they pay only 3.5% interest now and were paying a mere 2.5% a year ago. Other forms of bank saving, including certificates of deposit, pay higher interest rates, but aren't as popular.

Despite that low return, Gunnar Kockerois, who is studying for a doctorate in economics at the University of Frankfurt, says he reg-

ularly puts 40% of his income as a teaching assistant into a passbook account. With a certain doomsday logic, Mr. Kockerois says he saves "because of my own anxieties and what might come," and he saves in a passbook account because "I want to be able to get to my money."

The German preference for a safe, handy investment helps explain the indifference to investing in company stock. Last year, Germans put the current equivalent of \$31 billion into banks, but only \$1 billion into stock, the Bundesbank says. The Frankfurt stock exchange, one of eight in the country, lists only 229 companies.

Other investments are similarly unpopular; bond holdings far outnumber stock holdings, but the Bundesbank says their sales have been falling for two years.

Not everyone learned the same lessons from Germany's bad economic times, of course. Although there are 15 bank offices within a short walk of her job, Kerstin Franke says she saves only about 3% of her income as a travel agent—and even that will be put into a piece of real estate as soon as she can manage it. "After the last war, the people who saved found their money was worth nothing," she reasons.

Nonetheless, economists don't expect many young people to scuttle their bank accounts as Miss Franke plans to do. The savings rate will grow slightly again this year, predicts Mr. Wolf, the Commerzbank economist. "Americans sleep well with debts," he explains. "But Germans sleep well only when they have money in the bank."

[From the Wall Street Journal, Oct. 17, 1979]
SLUMPS USUALLY HELP SAVINGS INSTITUTIONS—BUT NOT THIS TIME

(By Richard F. Janssen)

To the nation's thrift institutions, a recession usually looks a lot like the cavalry galloping to the rescue.

As consumers stop anticipating more inflation and as job security becomes more tenuous, saving looks smarter than spending. As market interest rates shrivel, passbook accounts—the instrument that the thrift institutions like best for financing their mortgage-lending activities because it costs them less than other money—again become attractive to savers.

That scene may yet be acted out, industry sources hope. But so far, the current slowdown is doing nothing to help the besieged mutual savings banks and savings and loan associations. The two main reasons:

Inflation remains high. Running at an annual rate of about 13% so far in 1979, it has outpaced passbook rates (a maximum of 5.5%) by so much for so long that savers are increasingly turning to alternatives bearing higher yields—yields that are rising even higher following the Federal Reserve Board's latest actions tightening the reins on credit. Many people are hit so hard by inflation that they find themselves unable to save at all.

Washington, discovering "the small saver," has put through one increase in passbook-rate ceilings and is intent on putting through more of them. That sounds as though it would help the thrift institutions by attracting more savers, but there are two catches. First, the rate ceilings shaping up won't be nearly high enough to protect the small saver from inflation, hence won't attract many new depositors. Second, these new ceilings will be paid to old depositors, too, of course, and will be high enough to strain the many thrift institutions that are stuck with older, low-yield mortgages.

THE "GREATEST UNEASINESS"

Such mortgages are especially prevalent among thrifts in the northeast, and these institutions are feeling the "greatest uneasiness" these days, says Anita Miller, a member of the Federal Home Loan Bank Board. She notes that they are also burdened with

low usury ceilings on new mortgages, branching restrictions and their region's low economic growth.

William Popejoy, president of First Charter Financial Corp., a big California S&L holding company, worries that unless there is an early decline in interest rates paid by other competitors for the saver's dollar, such as money-market funds, there will be "collapses and bankruptcies" among Northeast thrifts, with unpredictable ripple effects elsewhere.

Some commercial bankers have suggested removal of all passbook-rate ceilings so that banks could better compete for the saver's dollar with other suitors. So has President Carter. That might be fine for commercial banks, whose business-lending rates are mostly pegged to fluctuations in the prime rate, but the thrifts don't have that much flexibility.

CHOICE OF EVILS

If ceilings were removed and the thrifts paid depositors drastically higher interest rates, their costs would immediately skyrocket. If they didn't pay such rates, they would lose deposits to banks that were paying them.

Most close observers therefore believe that the government won't remove the rate ceilings. It is more likely, they reason, that the ceilings will be raised gradually, bringing chronically higher home-mortgage costs and constricted housing starts without placating individual savers. "We are in a real predicament, with no easy answer to our problems," says Donald C. Sims, president of Union County Savings Bank in New Jersey.

The growing gap between the inflation rate and the passbook rate could further erode grass-roots faith in savings, observers say. It could even produce "a crisis of confidence in our banking system," says Jonathan E. Gray, a securities analyst with Sanford C. Bernstein & Co.

Savers' increasing ire is evident. Some are lobbying. Some are making angry phone calls to newspapers. It isn't only that "anyone who saves money is being penalized," says an anonymous caller to The Wall Street Journal newsroom; it's also that savings banks, by losing deposits, "could become illiquid to the point where some of them might fold."

HAVES AND HAVE-NOTS

Some analysts worry that class-consciousness is being stirred by the contrast between low rates on passbook accounts, for which the banks and S&Ls typically don't set any minimum balances, and the 11 percent or more they're allowed to pay those who have \$10,000 to set aside for at least six months in certificates. "People realize," says an aide at a West Coast thrift institution, "that they're being divided clearly into a nation of haves and have-nots."

Federal agencies approved an increase of one-quarter of a percentage point in passbook rates effective last July 1. S&Ls and savings banks now can pay 5½ percent and commercial banks can pay 5¼ percent. The increase was far from enough to stop savings from being "grievously eroded by inflation," a Treasury aide concedes, but he cites "the safety and soundness of our financial system" as the obstacle to doing more.

This fairness vs. failures dilemma makes things difficult for President Carter's aides. In following up the President's seemingly bold call last May to eliminate the "increasingly unfair" ceilings, these aides and the Federal Reserve Board have generally given support to a Senate bill that wouldn't require any change until 1982. After that, the ceilings would be nudged up by only one-quarter of a point each Jan. 1 and July 1 and wouldn't disappear entirely until 1990.

Increasingly, the bigger commercial banks are chafing at the lowest-common-denominator approach of the regulators, an ap-

proach that requires them to hold their interest rates down to what the weakest links can afford to pay. The U.S. financial system is "still an industry dominated by 'mom and pop' stores," says A. W. Clausen, president of huge Bank of America; he complains that federal rules aimed at preserving thousands of small thrift institutions are preventing "true economies of scale."

The situation poses some awkward problems for the big banks. Their top officers are crusading for elimination of the Fed's Regulation Q passbook ceilings, which apply directly to all other U.S. banks and thrifts. At the same time, "our retail marketing side is trying to convince the public to keep their savings coming," says Kay Williams, marketing vice president of the Bank of America division covering domestic retail banking. The marketing effort isn't having much success, though; the bank reported that its domestic consumer savings deposits at mid-year had dropped nearly 5 percent from a year before, to \$8.7 billion.

The big banks' double-edged campaigns are taking on some unusually abrasive aspects. To enlist public support for abolishing ceilings, Citibank has put up lobby posters blaming Regulation Q for preventing banks from keeping customers abreast of inflation. Because Citibank uses the slogan "The Citi Never Sleeps" (to promote its 24-hour electronic-teller machines), the customarily staid Manufacturers Hanover Trust Co. couldn't resist taking out full-page newspaper ads crowing, "We Caught the Citi Napping." The message: While Manufacturers Hanover has made full use of the two increases in the past six years in passbook ceilings, "Citibank still pays only 4½ percent interest" on passbooks.

That's true, a Citibank spokesman says, but he adds that the passbook is merely "there if people want it" and that "we haven't been pushing the product." Instead, Citibank has been promoting other savings accounts that pay the 5¼ percent limit and are related to use of the bank's plastic cards for electronic deposits and withdrawals.

Such public skirmishing among the giant banks only adds to the anxiety of thrift executives. Without the constraint of Regulation Q ceilings, the commercial banks could wage "bitter, sustained rate wars" against the thrifts, warns Louis H. Nevins, an official of the National Association of Mutual Savings Banks.

That, thrift-industry pessimists say, could bring near-extinction of the specialized consumer-savings, mortgage-lending institutions.

TURNING TO ALTERNATIVES

Meanwhile, many S&Ls are becoming more like big banks. Less able to rely on the rank-and-file savers, they are turning more to larger-scale sources of capital. As of August, S&Ls' regular savings accounts had dwindled to about \$123 billion from almost \$142 billion a year before; the funds they raised by selling certificates of deposit of \$100,000 and more, which are exempt from interest ceilings, had grown to almost \$21 billion from below \$13 billion; S&L deposits in the form of six-month \$10,000 certificates, whose rates are linked to those on Treasury bills, zoomed to \$94 billion by the end of August from \$15 billion a year earlier.

The Federal Home Loan Bank Board has proposed letting S&Ls reach out even farther afield by tapping the Eurodollar pool of some 700 billion U.S. dollars on deposit outside the U.S. Large-scale borrowings from abroad are usually possible at interest costs a little lower than at home, and the pool is brimming with surplus funds of the oil cartel.

But the interest rates that the thrifts have to pay on all the larger-scale borrowings are more than double what they pay on passbooks, so they are struggling to keep the cheap money coming in. They are seeking,

for one thing, to focus public attention more on the underlying problem of inflation.

To talk of raising passbook rates is "spitting in the wind," scoffs Robert Chil, spokesman for the California Savings and Loan League. Because of inflation, he says, most people with earnings up around \$20,000 a year "barely can meet their bills, much less save any money."

TAX INCENTIVE SOUGHT

The consumer pollster Albert E. Sindlinger agrees. "More than two-thirds of all U.S. households aren't in a position to add to their savings," he reports. And even if they were, he asks, "what sense would it make to save and get only 5.5% interest when the inflation rate is more than twice that?"

The thrifts are also pressing Congress to enact some sort of tax incentive for savings, such as an exemption of a portion of savings-account interest from the federal income tax. As things now stand, analysts note, the tax typically trims a 5.5% interest rate to below 4%, so that when inflation is running at 13%, the small saver's account loses purchasing power at an annual pace of about 9%.

"I don't know anyone out there who can pay the kind of rate it would take to justify savings in this kind of inflation," says Mr. Sims of Union County Savings Bank.

The stock-brokerage houses and other sponsors of money-market funds are coming close, however—too close for the comfort of the traditional thrift institutions. These funds put money into Treasury bills and other high-yield, short-term instruments and pass along most of the interest to the investors. They usually pay about twice the passbook rate, and sometimes on amounts as low as \$1,000.

The growth of such alternatives is raising doubt that individuals will come flocking back with passbook money even if inflation cools. Still, the conventional savings account isn't disappearing. Large and small savers' institutions alike report that new accounts keep coming along. Customers apparently open them for convenience, to help establish a good credit rating, and out of habit. But people keep smaller amounts in their savings accounts these days while putting any larger sums they have into higher-yield varieties.

Some economists say that the U.S. faces a broader problem of inadequate savings in any form. After averaging 3.7% of after-tax income in the 1950s and 1960s, personal savings outside of pension funds dropped to less than 1% in 1977 and 1978, Morgan Guaranty Trust Co. says. The bank contends that only if savers get a real, or after-inflation, return, will there be enough savings for the nation "to extricate itself from the morass of high inflation."

Once they get such a return, the argument goes, they will start saving more and spending less, thus damping inflation's fires. ●

ALASKAN MARINE PILOTS

● Mr. GRAVEL, Mr. President, I call to the attention of my colleagues an article by Randy Bayliss which appeared in the September 1979 Alaska magazine, entitled "Pilots: The Mariner's Mariners."

This is an interesting article on the Alaskan marine pilots who guide the tankers through the narrows of Prince William Sound to eventually dock in Valdez. This is yet another phase of the TAPS terminal operations that I feel will be of interest to my colleagues. I ask that it be printed in the RECORD.

The article is as follows:

PILOTS: THE MARINER'S MARINERS

(By Randy Bayliss)

En route to Valdez, after a 2,000-mile trans-Pacific crossing, the empty oil tanker has

traversed three-quarters of Prince William Sound when she slows from 15 knots to 4 knots just abeam of Bligh Island. The master pivots her stern smartly into the seas. On the windward side, the waves furiously rebound off the hull. The leeward seas have been flattened, calm except for the whirlpools of turbulence which testify to the power of the maneuver. In this lee, a striking black-and-white steel 65-foot Norwegian trawler approaches, matches speed and nudges alongside just long enough for a lone figure to leap from her deck to a ladder hung over the side. After a 30-foot—three-story—climb up the ladder to the deck and the five-story stairway to the bridge, this man takes control of the tanker, navigates the Valdez Narrows and directs two or three large tugs in her docking at the loading berth. These most difficult tasks are reserved for the most capable of mariners—the pilots.

In April 1977, I was an observer aboard the tanker *ARCO Fairbanks*, with 35 to 40 veteran tanker captains undergoing terrain familiarization in Valdez Arm before the start-up of pipeline operations. There was a combined 1,200 years of seagoing experience aboard. In that distinguished crowd, two men easily stood apart. There was no mistake that they were the pilots and even a casual bystander knew instantly they were in control. No-nonsense, intent, but not forced, they'd emerge from one of the black curtain-surrounded radar consoles, stalk to the bridge windows, glare at an invisible trackline on the water and quietly direct the helmsman: "Come right a degree to 221." Onlookers knew to stand aside and the background noise seemed to hush just before the pilots infrequently spoke.

Although shipmasters and pilots are both professional mariners and similarly licensed, the difference lies in specialization. As a ship approaches the landfall, the master gets nervous; when the ship approaches open water, the pilot gets nervous.

Gone are the romantic days when first sighting of tall masts on the horizon emptied the harbor taverns and triggered a race of pilot cutters. (The fastest pilot won the fee, and, hopefully, the fastest was the best.) Today's pilots get contracts, attend maritime academies, train in simulators, operate anticollision computers, and undergo countless tests and certifications. Pilots are articulate, authoritative and rarely hesitate to express an opinion. While ordinary tourists view the landscape, pilots subconsciously take bearings, estimate distances and calculate velocity and drift. If you look deeply into their eyes, you can almost see radar images.

Two groups of pilots operate in Alaska. The Southwest Alaska Pilots Association dispatches out of Homer, halfway between Anchorage and Kodiak. They split their work between Valdez, nearby Cook Inlet, and the Seward/Kodiak areas and with Nome, ice-bound for eight months a year, their northernmost port. The Southeast pilots are based in Ketchikan, the southernmost "Gateway to Alaska." They pilot considerable seasonal cruise ship traffic through the foggy, spruce-on-rock fjords of the Panhandle. Alaskan pilots handle the largest ships to enter any United States port—the five 265,000-deadweight-ton oil supertankers loading at the Valdez trans-Alaska pipeline terminal. Other ships requiring pilots include container vessels, chemical and gas bulk carriers, and log ships. Pilots work 304 days a year, either on call or piloting.

Boarding a tanker at sea can be hazardous to your health. It's easy enough for the tanker to smooth out some 6- or 8-foot wind waves in relatively protected Valdez Arm, but out near Hinchinbrook Entrance is another matter. Swells of 15 to 20 feet may come from one direction—or more) and wind chop of 6 to 8 feet comes from another direction. The pilot times his leap at the crest of a swell. If the crest of the next swell is higher, he risks getting crushed against the

tanker if the pilot boat doesn't get away. Or the pilot boat could be slammed against the ladder on the downward cycle of the swell and the ladder could be ripped loose. Or the ladder could become fouled on the pilot boat as it pulls away. . . . Fortunately, most tanker masters are licensed to take their ships into protected waters inside Prince William Sound.

A pilot memorizes the local terrain. I was sipping coffee with an off-duty pilot in the mess when he glanced over the partly open porthole, sighted a cloud-shrouded craggy peak and casually announced that we were abeam of Middle Rock. I jumped up and peered out the porthole: we were directly abeam, and not 10 feet either side of Middle Rock. It was no accident.

A pilot handles a different ship each day and each ship has its idiosyncracies. And the docking maneuvers are supersensitive. If a large tanker meets the berth moving faster than a third of a mile an hour, it'll damage the structure. At slow speeds, the tanker's rudder is not too effective and very few tankers have bow thrusters or twin screws for slow-speed maneuvering. An unloaded tanker rides high in the water with a great deal of steel buffeted by the wind. (The Cook Inlet pilots who guide ships between Homer and Nikiski have to deal with large ice floes and 8-knot tidal currents, and usually with no tugs docking.) Turnaround time at the Valdez oil pipeline terminal averages about 24 hours. The pilot reboards and directs the careful departure of the loaded tanker. Tugs pull the tanker away from the dock, the pilot using a hand-held VHF radio to command 7,500-horsepower tugs at each end of the tanker, one-fifth of a mile apart. The tugs pull the tanker a short distance from the berth, then one tug escorts the tanker to Middle Rock in Valdez Narrows 10 miles away. Outbound speed is held down to 6 knots for safety reasons so it takes about three hours to pass through the narrows.

The luxurious 65-foot pilot boat *Bering*, previously a yacht owned by a wealthy aerospace family, not only shuttles pilots to and from tankers, but also serves as a palatial residence for pilots during their two-week tour of duty in Valdez. Their mooring at Rocky Point is secluded and access is restricted by submerged rocks, so there's a degree of privacy. But depending on the workload, visitors usually get royal treatment, and on the *Bering*, royal means royal. The anchorage is circled by magnificent Sitka spruce and while moored, the pilots commonly sight deer, eagles, puffins, otters and dozens of other forms of life. Off-duty pilots can cross-country ski and set crab pots in the winter and pick berries, catch salmon or beachcomb in the summer. If you can take the chilly rain, it's paradise.

I was chagrined to learn that even pilots have weaknesses. One calm summer evening, a pilot friend and I floated just yards outside the Valdez small-boat harbor in my 18-foot catboat, sails slatting annoyingly back and forth. We were complaining about government regulations, a popular sport with pilots. Fifty, then 30 yards astern, a female killer whale surfaced twice. I was fumbling hopefully for my camera when my intrepid pilot bolted to his feet and shrieked, "Start the engine!" Startled, I asked why. "We'll be killed," he replied. I assured him that killer whales only do that sort of thing by mistake and told him he'd seen too many silly movies. To reassure him, I rapped twice on the hull with my knuckle to make enough noise to let the killer whale know where we were. My friend accentuated my efforts by nearly stomping a hole in the deck with his boots. The bewildered killer whale didn't surface again for half a mile. Away went my camera.

Even the most capable mariners have a more serene perspective on killer whales when they are 80 feet above the water on a tanker bridge. ●

PAY ADVICE COUNCIL SHOULD MOVE TO END TAXFLATION

● Mr. DOLE. Mr. President, yesterday the Carter administration set into operation its new Pay Advisory Committee, comprised of representatives of business and labor. The theme of yesterday's inaugural meeting was that labor should desist from pushing for wage increases to catch up with prices and that business, likewise, should resist pressure for such wage increases. Alfred Kahn, the President's chief anti-inflation spokesman, said that wage increases in excess of productivity gains merely contribute to the inflationary spiral.

Mr. Kahn's statement is not wrong, but the administration seems to be looking at the wage question through the wrong end of a telescope. Moral suasion to restrain wage demands can never be as effective as changing the policies that encourage high wage demands. For example, take the familiar analogy to the football stadium where one spectator stands up to get a better view of the game. Because that spectator blocks the view of others, more people stand up until the entire stadium is standing. Everyone is on their feet, but no one has a better view than before. They are just maintaining their position, as workers try to do vis-a-vis inflation.

The administration's strategy is like telling the man in the last row to sit down in order to break up the trend. While it is possible that the man's example might spread, there is no guarantee that it will. The correct answer is to get the guy who started it all to sit down so that others need not try to see around him. Where inflation is concerned, that man in the front row is the Government, which encourages the financing of wage and price increases through the financing of a burgeoning Federal deficit.

Fortunately the administration is showing signs of focusing on the real problems, and we will have to wait to see whether they can adhere to fiscal and monetary restraint. The Pay Advisory Committee may be best understood as a sort of psychological backup to the real anti-inflation process. But the administration, if it is serious about wage restraint, ought to consider eliminating a major disincentive to such restraint.

It is simply this: Inflation pushes peo-

ple into higher tax brackets, raising their real tax liability, and thus puts them farther behind than the inflation figures alone would suggest. This phenomenon is taxflation, and it is a major reason why people feel compelled to push for higher wages to maintain their standard of living. There is no excuse for allowing such an incentive for high wage demands to continue in times of high inflation.

Mr. President, the Senator from Kansas has introduced the Tax Equalization Act, S. 12, which would end taxflation. The Tax Equalization Act would require adjustment of the tax brackets, zero bracket amount, and personal exemption to compensate for the effects of inflation. Taxflation would cease to add to the financial difficulties of our citizens, and they could better afford to moderate their pressure for higher wages. Let the administration endorse the Tax Equalization Act, which would make the task of the Pay Advisory Council that much easier. It is in the interest of both business and labor.●

ENERGY NEEDS OF "WARM WEATHER" STATES

● Mr. STONE. Mr. President, I believe that it is essential that any energy assistance program take into account the needs of "warm weather" States. I ask that a copy of my letter to the chairman of the Senate Committee on Labor and Human Resources, expressing my concerns with regard to this program, be printed in the RECORD.

The letter is as follows:

U.S. SENATE,
Washington, D.C., September 28, 1979.
Senator HARRISON A. WILLIAMS,
Chairman, Senate Committee on Labor and Human Resources.

DEAR MR. CHAIRMAN: For the last three days your committee has held hearings on the development of a new program to help low-income households meet the sharply rising costs of home energy. I commend your leadership in this area and strongly support such a program.

The citizens of my state, and in particular our large senior citizen population, have been severely impacted by rising energy costs. Sixty-six percent of all "low-income" households in Florida are headed by a person receiving Social Security Income. As the testimony before your committee has confirmed, low-income elderly families will be forced to spend between one-fourth and one-half of

their income to meet their home energy costs. In fact, Florida has a large number of households in every age group which will be forced to choose between the basic necessities of life, without an energy assistance program.

I am very aware of the importance of meeting the heating needs of the low-income citizens of our country where the choice is often "to heat or eat". However, it is important to point out that while air conditioning is often viewed as a luxury, it is a necessity for thousands of citizens who reside in Florida and other southern states. Our elderly in particular suffer disease and death as a result of exposure to heat. Therefore, I believe that it is essential that any energy assistance program reflect energy needs beyond just home heating.

It is especially important that any agency assistance program take into account the needs of "warm weather" states because Florida's utility rates are among the highest in the country. This is so in large part because of Florida's historic dependence on imported residual fuel oil to generate electricity.

In summary, I respectfully submit that in developing any energy assistance program, criteria for assistance should be based on: (1) ability to pay for necessary energy; (2) need to protect health and well-being; and (3) actual cost increases of energy. These criteria will insure that all citizens who need assistance to meet their basic energy needs will be provided with the necessary assistance regardless of their geographic location.
Warm personal regards.

Most cordially,
RICHARD (DICK) STONE.●

S. 1241—THE STATE-BY-STATE ALLOCATION

● Mr. DOMENICI. Mr. President, Senators MOYNIHAN, DURENBERGER, JAVITS, and I hold a great interest in moving forward on a more effective water resources development program. Our proposal is S. 1241. We are pleased with the interest it has stimulated. Unfortunately, there has been a good deal of misinformation floating about regarding the effect of S. 1241 and the way money under this bill is allocated among the States.

I recently asked that the Library of Congress compile a table showing the breakdown of S. 1241 by States. It must be recognized that there would, of course, be additional funds in the water program as a result of regional projects under S. 1241.

I ask that these tables be printed in the RECORD.

The tables are as follows:

S. 1241 ALLOCATIONS

	Popula- tion (thous- ands)	Area (square miles)	Popula- tion (percent of whole)	Area (percent of whole)	Compos- ite (col 3 and 4 divide 2)	Allocation (dollars)		Popula- tion (thous- ands)	Area (square miles)	Popula- tion (percent of whole)	Area (percent of whole)	Compos- ite (col 3 and 4 divide 2)	Allocation (dollars)
	(1)	(2)	(3)	(4)	(5)	(6)		(1)	(2)	(3)	(4)	(5)	(6)
Alabama.....	3,742	51,609	0.017550	0.017203	0.017377	60,380,140	Louisiana.....	3,966	48,523	.018601	.016174	.017388	66,422,160
Alaska.....						100,000,000	Maine.....	1,091	33,215	.005117	.011072	.008095	30,922,900
Arizona.....	2,354	113,909	.011040	.037970	.024505	93,609,100	Maryland.....	4,143	10,577	.019431	.003526	.011479	43,849,780
Arkansas.....	2,186	53,104	.010253	.017701	.013977	53,392,140	Massachusetts.....	5,774	8,257	.027021	.002752	.014887	56,868,340
California.....	22,294	158,693	.104561	.052898	.078730	300,748,600	Michigan.....	9,189	58,215	.043097	.019405	.031251	119,378,820
Colorado.....	2,670	104,247	.025223	.034749	.023636	90,289,520	Minnesota.....	4,008	84,068	.018798	.028023	.023411	89,430,020
Connecticut.....	3,099	5,009	.014535	.001670	.008103	30,953,460	Mississippi.....	2,404	47,716	.012275	.015905	.013590	51,913,800
Delaware.....						13,333,333	Missouri.....	4,860	69,686	.022794	.023229	.023012	87,905,840
District of Columbia.....						13,333,333	Montana.....	785	147,138	.003682	.049046	.026364	100,710,480
Florida.....	8,594	58,560	.040307	.019520	.029914	114,271,480	Nebraska.....	1,565	77,227	.007340	.025742	.016541	63,186,620
Georgia.....	5,084	58,876	.023844	.019625	.021735	83,027,700	Nevada.....	660	110,540	.003095	.036847	.019971	76,289,220
Hawaii.....						13,333,333	New Hampshire.....						13,333,333
Idaho.....	878	83,557	.004118	.027852	.015985	61,062,700	New Jersey.....	7,327	7,836	.034364	.002612	.018488	70,624,160
Illinois.....	11,243	56,400	.052731	.018800	.035766	136,626,120	New Mexico.....	1,212	121,666	.005684	.040555	.023120	88,318,400
Indiana.....	5,374	36,291	.025205	.012097	.018651	71,246,820	New York.....	17,748	49,576	.083240	.016525	.049883	190,553,060
Iowa.....	2,896	56,290	.013583	.018763	.016173	61,780,860	North Carolina.....	5,577	52,586	.026157	.017529	.021843	83,440,260
Kansas.....	2,348	82,264	.011012	.027421	.019217	73,408,940	North Dakota.....	652	70,665	.003058	.023555	.013307	50,832,740
Kentucky.....	3,498	40,395	.016406	.013465	.014936	57,055,520	Ohio.....	10,749	41,222	.050414	.013741	.032078	122,537,960

S. 1241 ALLOCATIONS—Continued

	Popula- tion (thou- sands)	Area (square miles)	Popula- tion (percent of whole)	Area (percent of whole)	Compos- ite (col 3 and 4 divide 2)	Allocation (dollars)		Popula- tion (thou- sands)	Area (square miles)	Popula- tion (percent of whole)	Area (percent of whole)	Compos- ite (col 3 and 4 divide 2)	Allocation (dollars)
	(1)	(2)	(3)	(4)	(5)	(6)		(1)	(2)	(3)	(4)	(5)	(6)
Oklahoma.....	2,880	69,919	.013507	.023306	.018407	70,314,740	Vermont.....						13,333,333
Oregon.....	2,444	96,981	.011463	.032327	.021895	83,638,900	Virginia.....	5,148	40,817	.024145	.013606	.018876	72,106,320
Pennsylvania.....	11,750	45,333	.055109	.015111	.035110	134,120,200	Washington.....	3,774	68,192	.017700	.022731	.020216	77,225,120
Rhode Island.....						13,333,333	West Virginia.....	1,860	24,181	.008724	.008060	.008392	32,057,440
South Carolina.....	2,918	31,055	.013686	.010352	.012019	45,912,580	Wisconsin.....	4,679	56,154	.021945	.018718	.020332	77,668,240
South Dakota.....	690	77,047	.003236	.025682	.014459	55,233,380	Wyoming.....	424	97,914	.001989	.032638	.017314	66,139,480
Tennessee.....	4,357	42,244	.020435	.014081	.017258	65,925,560	Total.....	213,215	3,000,009	.999942	1.000001	0.999983	3,999,938,878
Texas.....	13,014	267,338	.016037	.089122	.075075	286,786,500							
Utah.....	1,307	84,916	.006130	.028305	.017218	65,772,760							

PRESENT ALLOCATIONS

	Corps of Engineers ¹	Bureau of Reclamation ²	Soil Conserva- tion Service ³	Total State allocation		Corps of Engineers ¹	Bureau of Reclamation ²	Soil Conserva- tion Service ³	Total State allocation
Alabama.....	178,200		3,291	181,491	Nebraska.....	100	10,110	2,617	12,827
Alaska.....	37,998		0	37,998	Nevada.....	0	46,377	0	46,377
Arizona.....	7,622	107,652	4,692	119,966	New Hampshire.....	0		10	10
Arkansas.....	22,050		5,751	27,801	New Jersey.....	4,650		2,335	6,985
California.....	96,820	135,049	7,765	239,634	New Mexico.....	5,645	3,215	1,021	9,881
Colorado.....	3,400	72,045	2,014	77,459	New York.....	11,570		1,912	13,482
Connecticut.....	18,000		235	18,235	North Carolina.....	37,200		4,085	41,285
Delaware.....	0		891	891	North Dakota.....	847	3,261	1,265	5,373
District of Columbia.....	3,500		0	3,500	Ohio.....	14,800		3,021	17,821
Florida.....	46,480		330	46,810	Oklahoma.....	39,438	0	12,372	51,810
Georgia.....	55,279		958	56,237	Oregon.....	155,628	4,698	2,321	162,647
Hawaii.....	12,205		1,349	13,554	Pennsylvania.....	43,648		3,068	46,716
Idaho.....	5,400	1,742	97	7,239	Rhode Island.....	0		5	5
Illinois.....	34,565		7,564	42,129	Rhode Island.....	0		5	5
Indiana.....	7,000		661	7,661	South Carolina.....	14,423		1,424	15,847
Iowa.....	27,328		4,829	32,157	South Dakota.....	0	200	963	1,163
Kansas.....	35,600	1,078	7,429	44,107	Tennessee.....	0		3,254	3,254
Kentucky.....	62,033		3,697	65,730	Texas.....	77,767	30,681	18,601	127,049
Louisiana.....	81,758		607	82,365	Utah.....	0	54,715	845	55,560
Maine.....	0		325	325	Vermont.....	0		150	150
Maryland.....	26,000		641	26,641	Virginia.....	19,834		1,885	21,719
Massachusetts.....	4,350		1,113	5,463	Washington.....	57,258	43,185	1,005	101,448
Michigan.....	3,384		637	4,021	West Virginia.....	27,200		4,992	32,192
Minnesota.....	15,959		1,313	17,272	Wisconsin.....	500		2,046	2,546
Mississippi.....	2,500		9,387	11,887	Wyoming.....	0	4,979	1,168	6,147
Missouri.....	69,200		1,252	70,452	Total.....	1,397,494	525,261	138,052	2,060,807
Montana.....	30,355	6,274	859	37,488					

¹ Taken from "Civil Works Appropriations, U.S. Army Corps of Engineers, Fiscal Year 1979," November 1978.

² As transmitted by Baretta Minardi (343-6995) of Bureau of Reclamation, June 6, 1979.
³ As transmitted by Jim Spitz (447-4533) of Soil Conservation Service. ●

CHARLIE SMITH—AGE 137

● Mr. CHILES. Mr. President, on October 5, Charlie Smith died at the age of 137. According to the Social Security Administration, he was the oldest living American. I mention his death because he lived in Florida, and because as a Senator from Florida and chairman of the Special Committee on Aging, I take pride in the example Mr. Smith set for all of us as we grow older. Of himself, Mr. Smith said, "Getting older makes me feel like a winner." This is indicative of the zeal with which he pursued life.

At the age of 115, Mr. Smith retired from his job as a fruit picker because he could no longer keep up with men one-fifth his age. Feeling confident about his health on his 135th birthday, he said, "I feel good and I look good. The cake is good and so am I." Mr. Smith, a former slave and Texas cowboy, was a living example of the contributions that can be made by older people. His positive attitude was contagious and his enthusiasm for life undaunted until the end.●

THOMAS ALVA EDISON

● Mr. LEVIN. Mr. President, October 21, marks the 100th anniversary of the invention of the incandescent electric light. This device that we take for granted together with a host of other innovations is the brainchild of the Wizard of Menlo Park, Thomas Alva Edison. This gifted man combined the

imagination of the theoretician with the technique of a manufacturing engineer so that his inventions enhanced the life of the populace instead of merely affording amusement to a few. His influence on the industrial geniuses who ushered in the automotive age is manifested by the preservation of his laboratory at Greenfield Village in Dearborn, Mich.

The lives of all Americans and most of human kind have been brightened by the legacy of this gifted man and I rise today to memorialize our debt to him in the pages of the CONGRESSIONAL RECORD.●

PROPOSED ARMS SALES

● Mr. CHURCH. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of \$25 million or, in the case of major defense equipment as defined in the act, those in excess of \$7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask to have printed in the RECORD the eight notifications I have just received.

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

DEFENSE SECURITY ASSISTANCE AGENCY,

Washington, D.C., October 16, 1979.

HON. FRANK CHURCH,
Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80-01, concerning the Department of the Navy's proposed Letter of Offer to Spain for defense articles and services estimated to cost \$400.0 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA.

[Transmittal No. 80-01]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

- (i) Prospective Purchaser: Spain.
- (ii) Total Estimated Value: Major Defense Equipment,* \$0.0 million; other, \$400.0 million; total, \$400.0 million.
- (iii) Description of Articles or Services Offered: Equipment and support for three Perry-class guided missile frigates to be built by the Spanish including shipboard hardware, logistic support and equipment, and technical assistance in computer programming and combat system development.
- (iv) Military Department: Navy (LDE).

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: October 16, 1979.

DEFENSE SECURITY

ASSISTANCE AGENCY,

Washington, D.C., October 16, 1979.

HON. FRANK CHURCH,
*Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80-02, concerning the Department of the Navy's proposed Letter of Offer to Spain for defense articles and services estimated to cost \$150.0 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA.

[Transmittal No. 80-02]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Spain.
(ii) Total Estimated Value: Major Defense Equipment,* \$0.0 million; other, \$150.0 million; total, \$150.0 million.

(iii) Description of Articles or Services Offered:

Equipment and support for one anti-submarine warfare aircraft carrier to be built by the Spanish to include shipboard hardware, logistic support and equipment, and technical assistance in computer programming and combat system development.

(iv) Military Department: Navy (LDF).
(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: October 16, 1979.

DEFENSE SECURITY

ASSISTANCE AGENCY,

Washington, D.C., October 16, 1979.

HON. FRANK CHURCH,
*Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80-03, concerning the Department of the Navy's proposed Letter of Offer to Spain for defense articles and services estimated to cost \$50.0 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA.

[Transmittal No. 80-03]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Spain.
(ii) Total Estimated Value: Major Defense Equipment,* \$0.0 million; other, \$50.0 million; total, \$50.0 million.

(iii) Description of Articles or Services Offered: Construction of a Combat Systems Test Center for the purpose of developing, testing, and integrating the combat systems computer programs of the anti-submarine aircraft carrier and the guided missile frigates being built by Spain.

(iv) Military Department: Navy (LDG).
(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(vi) Date Report Delivered to Congress: October 16, 1979.

DEFENSE SECURITY,

ASSISTANCE AGENCY,

Washington, D.C., October 16, 1979.

HON. FRANK CHURCH,
*Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80-04, concerning the Department of the Army's proposed Letter of Offer to Thailand for defense articles and services estimated to cost \$14.7 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA.

[Transmittal No. 80-04]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Thailand.
(ii) Total Estimated Value: Major Defense Equipment,* \$13.1 million; other, \$1.6 million; total, \$14.7 million.

(iii) Description of Articles or Services Offered: Thirty four (34) M198 155mm towed howitzers, twenty four (24) M101A1 105mm towed howitzers, supporting equipment, spare parts, and quality assurance team.

(iv) Military Department: Army (UPD).
(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: October 16, 1979.

DEFENSE SECURITY

ASSISTANCE AGENCY,

Washington, D.C., October 16, 1979.

HON. FRANK CHURCH,
*Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80-05, concerning the Department of the Air Force's proposed Letter of Offer to Oman for defense articles and services estimated to cost \$15.3 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA.

[Transmittal No. 80-05]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36 (b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Oman.
(ii) Total Estimated Value: Major Defense Equipment,* \$7.0 million; other, 8.3 million; total, \$15.3 million.

(iii) Description of Articles or Services Offered: Two hundred and fifty (250) AIM-9P SIDEWINDER air-to-air missiles.

(iv) Military Department: Air Force (YAA).

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: October 16, 1979.

DEFENSE SECURITY

ASSISTANCE AGENCY,

Washington, D.C., October 16, 1979.

HON. FRANK CHURCH,
*Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the

Arms Export Control Act, we are forwarding herewith Transmittal No. 80-06, concerning the Department of the Army's proposed Letter of Offer to Israel for defense articles and services estimated to cost \$19.0 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, U.S.A.

[Transmittal No. 80-06]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Israel.
(ii) Total Estimated Value: Major Defense Equipment,* \$15.4 million; other 3.6 million; total, \$19.0 million.

(iii) Description of Articles or Services Offered: Twenty-five (25) M88A1 tracked recovery vehicles.

(iv) Military Department: Army (XIL).
(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: Oct. 16, 1979.

DEFENSE SECURITY

ASSISTANCE AGENCY,

Washington, D.C., October 16, 1979.

HON. FRANK CHURCH,
*Chairman, Committee on Foreign Relations,
U.S. Senate,
Washington, D.C.*

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80-07, concerning the Department of the Army's proposed Letter of Offer to Israel for defense articles and services estimated to cost \$41.0 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, U.S.A.

[Transmittal No. 80-07]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Israel.
(ii) Total Estimated Value: Major Defense Equipment,* \$0.0 million; other, 41.0 million; total, \$41.0 million.

(iii) Description of Articles or Services Offered: Three hundred (300) M60A3 tank fire control systems, associated test equipment, and spare parts.

(iv) Military Department: Army (XHZ).
(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: Oct. 16, 1979.

DEFENSE SECURITY

ASSISTANCE AGENCY,

Washington, D.C., October 16, 1979.

HON. FRANK CHURCH,
*Chairman, Committee on Foreign Relations,
U.S. Senate,
Washington, D.C.*

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80-09, concerning the Department of the Army's proposed Letter of Offer to NATO for defense articles and services estimated to cost \$17.0 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA.

[Transmittal No. 80-09]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

- (i) Prospective Purchaser: NATO.
- (ii) Total Estimated Value: Major Defense Equipment*, \$16.0 million; other, 1.0 million; total, \$17.0 million.
- (iii) Description of Articles or Services Offered: One hundred and seventy four (174) Improved Hawk air defense missiles.
- (iv) Military Department: Army (URM).
- (v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.
- (vi) Date Report Delivered to Congress: October 16, 1979. ●

JUSTICE SYSTEM IMPROVEMENT ACT OF 1979

Mr. KENNEDY. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 241.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 241) to restructure the Federal Law Enforcement Assistance Administration, to assist State and local governments in improving the quality of their justice systems, and for other purposes.

(The amendment of the House is printed in the RECORD of October 12, 1979, beginning at p. 28142.)

Mr. KENNEDY. Mr. President, I move that the Senate disagree to the amendment of the House, and that the Senate request a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer appointed Mr. KENNEDY, Mr. BIDEN, Mr. DeCONCINI, Mr. BAUCUS, Mr. HEFLIN, Mr. THURMOND, Mr. LAXALT, Mr. DOLE, and Mr. COCHRAN conferees on the part of the Senate.

HIGHER EDUCATION ACT AMENDMENTS

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 5386.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 5386) to amend the Higher Education Act of 1965 to provide that any reduction in the amount appropriated for fiscal year 1980 pursuant to section 101(a) of such Act from the amount so appropriated for fiscal year 1979 shall be borne equally by all States.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

There being no objection, the Senate proceeded to consider the bill.

UP AMENDMENT NO. 659

(Purpose: To assure that funds not be withheld from a State student incentive grant program because of a failure to meet the requirements of section 415C(b) (4) of the Higher Education Act of 1965)

Mr. BENTSEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Texas (Mr. BENTSEN) proposes an unprinted amendment numbered 659.

Mr. BENTSEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of the bill, add the following new section:

Sec. 2. No fiscal year 1979 funds may be withheld from a State under subpart 3 of part A of title IV of the Higher Education Act of 1965 because of a failure of a State to meet the requirement of section 415C (b) (4) of that Act based upon the provisions of a State statute enacted prior to October 1, 1978.

Mr. BENTSEN. Mr. President, today I have the opportunity to submit a non-controversial amendment to assure that \$4.1 million of Federal funding will not be withheld from the Texas State student incentive grant program. This money has been promised to approximately 10,000 Texas students to make it possible for them to meet tuition costs; however, for two unacceptable reasons their education is being held in the balance.

First, in exercising its right to maintain quality education throughout the State, Texas employs an accreditation process for institutions of higher education. The national law, however, mandates that Federal grants must be distributed to all institutions of higher education unless they are in violation of the State constitution. The net effect is that the national law infringes on the State law to the extent that Texas would have to distribute its grant money to all institutions, whether they are accredited or not. Due to this mismatching of Federal and State guidelines, the funds have been withheld to prevent underqualified schools from being subsidized through the State student incentive grant program.

Members of the House agree that this bureaucratic inconsistency should not be allowed to cause students financial hardships or tie the hands of the State from encouraging quality higher education. The House-passed higher education reauthorization bill will permanently correct this situation.

The second reason making immediate action necessary is simply a problem in timing. Mr. President, if by February 1, 1980, enabling legislation is not passed, funds for Texas students to meet this year's educational costs will be forfeited back to the Federal bureaucracy.

Even though the situation will be corrected by the provision in the House-passed reauthorization bill, that legislation will not become law in time to benefit students this year.

We cannot let an inconsistency between national and State bureaucracy that will be corrected in future years and unfortunate timing in the legislative process block funds from 10,000 students this year. My amendment is designed only to free funds that have already been granted and are in a state of limbo

because of the time delay for the reauthorization bill to pass.

I want to emphasize that the scope of this amendment is very narrow. It will not have any effect in future years nor will it do anything but correct this localized problem in Texas.

Mr. President, I ask that this noncontroversial amendment be accepted.

Mr. President, I ask that this amendment be accepted in order that some 10,000 students in Texas will have the benefit of the program that other States will also be receiving.

The PRESIDING OFFICER. Is there objection to the amendment?

The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. BENTSEN. I thank the distinguished majority leader for his assistance.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read the third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (H.R. 5386), as amended, was passed.

The PRESIDING OFFICER. Is there further morning business?

The Senator from West Virginia.

ORDER FOR RECESS UNTIL TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 12 noon tomorrow.

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

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to Public Law 84-689, appoints the Senator from West Virginia (Mr. RANDOLPH) and the Senator from Utah (Mr. HATCH) to attend the North Atlantic Assembly, to be held in Ottawa, Canada, October 22-27, 1979.

AUTHORITY FOR CERTAIN ACTIONS TO OCCUR PRIOR TO 5 P.M. TODAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Senators may have until 5 p.m. today to submit statements for the RECORD and to introduce bills, resolutions, petitions, memorials, and that committees may have until 5 p.m. today also to file reports.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

AUTHORITY FOR THE BUDGET COMMITTEE TO FILE REPORT BY MIDNIGHT TONIGHT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Budget

Committee have until midnight to file its report.

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, I expect rollcall votes tomorrow. It is expected that the conference report on the D.C. appropriations bill, H.R. 4580, will be called up tomorrow.

There will likely be a rollcall vote on the matter in relation thereto. It is also expected that the conference report on the Defense Department authorization bill, S. 428, will be called up tomorrow

and there will probably be a rollcall vote or votes in relation thereto.

Other matters may be cleared for action that, in the meantime, may be called up.

RECESS UNTIL TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until tomorrow.

The motion was agreed to and, at 2:21 p.m., the Senate recessed until tomorrow, Friday, October 19, 1979, at 12 noon.

HOUSE OF REPRESENTATIVES—Thursday, October 18, 1979

The House met at 10 a.m.

The Reverend Charles A. Rogers, Centenary United Methodist Church, Fort Ashby, W. Va., offered the following prayer:

O God, we thank You for the return of the wondrous day that brings with it the opportunities and the challenges which face each of us. Let not the unworthiness of Your servant stand between You and the Members of this body as we join in prayer.

Grant Thy blessings upon those who promote human welfare. Let Your favor rest upon those who seek to heal divisions which set men in hostile camps. Guide and strengthen them as they seek to bring classes and individuals to mutual understanding.

Direct and bless those who speak where many listen and write what many read. Teach them, that they may teach us; inspire them that they may inspire us, grant that, thinking little of fame or profit, they may do their part to make the mind of the people wise, their hearts sound, their will righteous.

We pray especially for those who make up this honorable delegation, give them good health for the physical strains of their office, good judgment for the decisions they must make, wisdom beyond their own, and clear understanding for the problems of this hour.

May Your will be done, for the good of all the land and the peace of all the people. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S.

975) entitled "An act to authorize appropriations for fiscal year 1980 for intelligence activities of the U.S. Government, the Intelligence Community Staff, the Central Intelligence Agency Retirement and Disability System, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1030) entitled "An act to authorize the President to create an emergency program to conserve energy, and for other purposes."

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate, to a bill of the House of the following title:

H.R. 1825. An act to protect archaeological resources on public lands and Indian lands, and for other purposes.

The message also announced that the Senate had passed a bill and concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 1871. An act to extend the existing anti-trust exemption for oil companies that participate in the agreement on an international energy program; and

S. Con. Res. 44. Concurrent resolution correcting the enrollment of S. 1030.

The message also announced that the Vice President, pursuant to Public Law 84-689, appointed Mr. BIDEN (chairman), Mr. JACKSON, Mr. MORGAN, Mr. DURKIN, Mr. JAVITS, Mr. STEVENS, Mr. COHEN, and Mr. McCLURE to attend the North Atlantic Assembly to be held in Ottawa, Canada, October 22 to 27, 1979.

REV. CHARLES ROGERS

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

Mr. STAGGERS. Mr. Speaker, the prayer was delivered by Rev. Charles Rogers, pastor of the Centenary United Methodist Church. He is a native of West Virginia. He was educated at West Virginia University and the New England

College in Henniker, N.H. He has held pastorates in New Hampshire and at several places in West Virginia. He is a man who believes and teaches God as the infinite architect of the universe and the compassionate ruler of destiny. He is a good man, a great man, and he is a man of God in every sense of the word. We are proud to have him as pastor of our church, and may the Lord which dwelleth in heaven watch over him, his good wife and their family, keep them safe and guide and guard them and lead them along life's pathway.

CAROLYNN CONYER WOSOBA

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

Mr. HUBBARD. Mr. Speaker, it was my pleasure this morning to hear the presentation of Carolynn Conyer Wosoba at an oversight hearing on identification of low-income children in school food programs.

The hearing was before the Subcommittee on Elementary, Secondary and Vocational Education.

Carolynn Wosoba, the talented 35-year-old superintendent of Anchorage Independent School District in Jefferson County, Ky., is one of two women school superintendents among Kentucky's 181 school districts.

The Kentucky Association of School Administrators honored Carolynn Wosoba in 1978 by voting her as "Superintendent of the Year" in Kentucky.

Carolynn is a native of Crittenden County in my congressional district and her parents are two favorite constituents of mine, Mr. and Mrs. Lal Conyer of Marion, Ky.

Carolynn Wosoba received her bachelor of science and master of arts degrees at Murray State University, in my district, and is now working on her doctorate in school administration at Indiana University.

I am very happy that Superintendent Carolynn Wosoba could testify today before Chairman CARL PERKINS and the aforesaid subcommittee.

□ This symbol represents the time of day during the House Proceedings, e.g., □ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

**PITTSBURGH PIRATES—WORLD
SERIES CHAMPIONS**

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

Mr. MOORHEAD of Pennsylvania. I know, Mr. Speaker, that the House is curious to know what I, as a Member of Congress from the city of Pittsburgh, might want to discuss with the House today, but I will give a hint by holding up a copy of the sports page of the Washington Post.

But frankly, Mr. Speaker, I want to commend two great athletic teams, the Baltimore Orioles, who are almost the world champions of baseball, and, of course, my own Pittsburgh Pirates, who have become the world champions. Led by their leader and captain, Willie Stargell, who was voted the most valuable player of the series, the Pirates came back from a 3-to-1 deficit, only the fourth time in World Series history that a team has done this, to win in the seventh game of the World Series.

These Pittsburgh Pirates, who have scrapped and scraped all year long, really deserve the devoted attention of the Pittsburgh area fans who helped them along with moral encouragement throughout the season.

The "family," as the team likes to call itself, provided a year of thrills and excitement all season and right through the final game of the 1979 World Series.

I want to take this moment to commend each and every Pirate, the team ownership and managers and, most certainly, the loyal fans of the Pittsburgh area for a sports year that will not soon be forgotten.

Mr. PASHAYAN. Mr. Speaker, will the gentleman yield?

Mr. MOORHEAD of Pennsylvania. I yield to the gentleman from California.

Mr. PASHAYAN. I thank the gentleman for yielding.

Mr. Speaker, I would like to associate myself with the remarks of the gentleman and to underscore the fact that the humility that Willie Stargell expressed in the great achievement I think is appreciated by all Americans, the fact that he was not bragging about it, he was not boastful about it, he was very humble. That, I think, underscores what a great athlete and what a great person he is.

Mr. MOORHEAD of Pennsylvania. And a real gentleman, I would say.

Mr. PASHAYAN. I agree.

Mr. RUDD. Mr. Speaker, will the gentleman yield?

Mr. MOORHEAD of Pennsylvania. I yield to the gentleman from Arizona.

Mr. RUDD. I thank the gentleman for yielding.

Mr. Speaker, I think this is a great tribute to the Pirates, and I would like to join my colleague also. The Pirates for many, many years have been famous. Whether they have been at the bottom of the heap in the cellar or at the top, their fans are the most supportive of any fans of any team anywhere in the Nation.

Mr. DEVINE. Mr. Speaker, will the gentleman yield?

Mr. MOORHEAD of Pennsylvania. I

yield to the gentleman from Ohio, our neighboring State.

Mr. DEVINE. I thank the gentleman for yielding.

Mr. Speaker, I would also like to associate myself with the remarks of the gentleman from Pennsylvania. The Pittsburgh Pirates happen to be owned by John W. Galbraeth and Danny Galbraeth of Columbus, Ohio, so all of us from that area are also supportive of the Pirates and I congratulate the gentleman and his team.

Mr. MOORHEAD of Pennsylvania. I thank the gentleman for his kind remarks.

IMPORTANCE OF PHYSICAL FITNESS

(Mrs. BYRON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BYRON. Mr. Speaker, first of all, I will take my hat off to the Pirates, but I do not think I need to defend the Orioles, which is not the real reason why I have taken the floor today, but I must say that I think we had one heck of a series and the Orioles will be back. But congratulations to the Pirates.

Mr. Speaker, during the last several weeks we have heard various freshmen Members of the House from this side of the aisle review some of the impressive accomplishments of the House Democratic leadership and the administration. I am sure that all objective observers will agree that the record they have reviewed is indeed commendable and I see no reason to repeat these achievements at this time.

I would like to take this opportunity to bring to the attention of my colleagues one aspect of this record that might have been overlooked. A great deal of the attention of this Congress has been directed toward solving our energy problems by becoming self-reliant as a Nation in meeting our energy needs in the future.

Part of the answer to achieving energy independence is the greater self-reliance of American citizens. More and more individuals are conserving energy through home weatherization, solar energy, wood stoves, and other measures which increase the ability of our people to provide for their own energy needs.

But there has been a remarkable growth in activities related to physical fitness which is instrumental in enabling individuals to provide for their own needs. Millions of Americans have been inspired toward engaging in activities which promote physical fitness by Democratic Presidents. President Kennedy began this movement and his contributions are still remembered through the 50-mile hikes which he sponsored, including one which will be held in my district this November 17 for the 17th time. These efforts are continued through the ongoing work of the President's Council on Physical Fitness and Sports and the outstanding example of President Carter's jogging. These activities will reduce our national health care costs and improve the quality of life for Americans for decades to come.

□ 1010

**PRESIDENT CARTER AND
DECONTROL DECISION**

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

Mr. HANCE. Mr. Speaker, I would like to take a minute this morning to make some observations concerning President Carter and the energy crisis. We all know there is no immediate answer to the energy problem. It has taken several years for this problem to be brought to our attention and there will be no easy answer to it.

Whatever the plan, however the implementation and whomever the President, there would be no simple answer, no quick solution.

President Carter was faced with a tremendous decision this past spring when the deadline came for crude oil price controls. The simplest answer politically would have been for him to do nothing and let controls continue for 2 more years. However, he chose to begin phasing out crude oil price controls, and I know he made the proper decision. It took great courage for him to make a decision such as this, and it was one which I join with him in believing was best for the country.

President Carter did not place controls on oil prices. For that we have to blame previous Congresses and the previous two Republican administrations. More than 6 years of controls have proven as self-defeating as any policy in recent history of the United States. Controls have delayed our efforts to conserve, given strength to the OPEC oil cartel, and put the dollar under tremendous strain. In making his decision to decontrol, President Carter faced tremendous pressure from many sides—and we all understand the pressures which come with a highly political issue in the midst of an upcoming national election. It would have been easy for him to bow to the politically expedient decision, but he chose the one which will prove far better for his country in the long run. The call of statesmanship and national leadership was to decontrol. President Carter answered that call and is to be commended for his judgment.

**MOVE TO UPSET DECISION ON
COURTER DECISION**

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

Mr. COURTER. Mr. Speaker, today we are going to continue with the debate on the Department of Energy. I understand that during that debate there may be a move to upset my amendment, which was passed last Friday morning by approximately three votes.

That amendment had to do with removing the burdensome allocation system that we have and removing price controls on motor fuels.

I urge my colleagues to resist any attempt, whether it be in the committee or the House to do the same.

I also would like to read for the next 30 seconds a couple of statements made by those people who know most about the allocation system.

For example, Mr. David Bardin, who is a former Administrator of the Economic Regulatory Administration of the DOE said the following:

I dare say that if Congress had mandated an identical control system for milk, that we could be having milk shortages around the country.

Mr. Alfred Kahn, administration inflation fighter, said:

The spectacle of the Department of Energy chasing gasoline and diesel fuel shortages all across the country and trying to solve them by continually modifying its allocations—and leaving new shortages in its wake * * *

I would also like to emphasize what the Washington Post said a number of days ago.

If Mr. Carter wants to help the people who are confronted with those enormous bills for oil heat, he might usefully begin immediately by decontrolling gasoline.

I hope all will oppose any move to upset the decision that the House made last Friday.

PRESIDENT HAS NO RIGHT TO TERMINATE TREATY WITHOUT CONCURRENCE OF SENATE

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

Mr. ROUSSELOT. Mr. Speaker, I think we can all be pleased that the U.S. Court has said that the President of the United States has no right to terminate a treaty without concurrence of the Senate. I am pleased that the court has spoken so decisively as it relates to our defense treaty with Taiwan.

I hope now that the President will renew our full relationship with Taiwan. I think the court has spoken decisively and that it is proper that the President of the United States abide by the Constitution, which he tells us he is so anxious to do. The President's amendments to the U.S. defense treaty with Taiwan should be submitted to the U.S. Senate immediately.

Mr. RUDD. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Arizona.

Mr. RUDD. I thank the gentleman for yielding.

I would like to commend the gentleman for bringing out this important point.

Mr. ROUSSELOT. It was a major headline. I am surprised it was missed by some of our colleagues.

Mr. RUDD. If the gentleman will continue to yield, I simply want to join my colleague in his statement today, noting that the court has correctly recognized the powers of Congress were ignored by the President in unilaterally abrogating our country's treaty with Taiwan.

Mr. ROUSSELOT. I am sure our colleagues on the other side overlooked it.

I thank my colleague from Arizona.

HEW CONTINUES TO DISCARD USABLE MATERIAL

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

Mr. LUNGREN. Mr. Speaker, as we debated on the floor the question of waste in Government, particularly at HEW, oftentimes we have been told that it is awfully difficult to find exactly where this waste occurs.

In this morning's Washington Post, it indicates that although we now have a probe going on of those people in Government who are apparently throwing away still-usable pieces of equipment, evidently the practice is continuing.

Yesterday, at a Montgomery County landfill in Rockville, a truck from HEW pulled up and unloaded equipment and told the people there to immediately crush it up by bulldozer.

As quoted in the paper, the bulldozer operator said, "They unloaded the stuff and told us we had to crush it up immediately and then bury it. Usually they only request us to cover it that fast when they bring in election files or chemicals. I tried to salvage some myself—they were good wooden swivel chairs and tables, stuff I could have used—but they said, 'No way,' that we had to get rid of the stuff right away."

It seems to me that this is something we ought to keep in mind when we deal in the expenditures billions and billions and even trillions of dollars and wonder where the money goes.

It strikes me that if HEW can do this on a regular basis, maybe there is a little bit more of that waste and fraud that we can get rid of over at HEW.

Maybe the gentleman from Illinois (Mr. MICHEL), is on the right track when he suggests that we should cut their budget and tell them to go find the fraud and waste so we can save the American people their hard-earned tax dollars.

AMERICAN PEOPLE HAVE ALREADY PASSED JUDGMENT ON ENERGY PROGRAM

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

Mr. WALKER. Mr. Speaker, once again, the House has been treated to a series of canned leadership remarks delivered by the other side. I was fascinated to hear the gentlewoman from Maryland (Mrs. BYRON) and the gentleman from Texas (Mr. HANCE) talk about this administration and this Congress having an energy program. We do not need to have them put it in a good light.

The American people have already rendered a judgment on the energy program. They have rendered a judgment that it is a complete and utter failure.

Any attempt to put it in better light will be laughed at by the American people.

And then to hear the gentlewoman from Maryland (Mrs. BYRON) fit it in with the physical fitness program of this administration fascinated me, because

it seemed to me, and I hope this was not the case, that that physical fitness program may have been characterized by the President's problem in the foot race in the gentlewoman's own district.

□ 1020

I just hope his dropping out of the running in that race was not characteristic of the entire physical fitness program. Certainly it did characterize, however, his energy efforts.

Mr. MYERS of Indiana. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. Mr. Speaker, if you have to fight rabbits every day you have to stay in good condition. The 1979 baseball season may be over, but it was interesting to notice today the designated hitters are still swinging here in the House of Representatives.

DEPARTMENT OF ENERGY AUTHORIZATION ACT FOR FISCAL YEARS 1980 AND 1981—CIVILIAN APPLICATIONS

Mr. SHARP. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3000) to authorize appropriations to the Department of Energy for civilian programs for fiscal year 1980 and fiscal year 1981, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Indiana (Mr. SHARP).

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 391, nays 3, answered "present" 1, not voting 38, as follows:

[Roll No. 579]

YEAS—391

Abdnor	Benjamin	Butler
Addabbo	Bennett	Byron
Akaka	Bereuter	Campbell
Albosta	Bethune	Carney
Alexander	Bevill	Carr
Ambro	Blaggi	Carter
Anderson,	Bingham	Cavanaugh
Calif.	Blanchard	Chappell
Anderson, Ill.	Boggs	Cheney
Andrews, N.C.	Boland	Clausen
Andrews,	Boner	Clay
N. Dak.	Bolling	Cleveland
Annunzio	Bonior	Clinger
Anthony	Bonker	Coelho
Applegate	Bouquard	Coleman
Archer	Bowen	Collins, Tex.
Ashbrook	Brademas	Conable
Aspin	Breaux	Conte
Atkinson	Brinkley	Corcoran
AuCoin	Brodhead	Corman
Badham	Brooks	Cotter
Bafalis	Broomfield	Coughlin
Bailey	Brown, Calif.	Courter
Baldus	Brown, Ohio	Crane, Daniel
Barnes	Broyhill	Crane, Philip
Bauman	Buchanan	D'Amours
Beard, R.I.	Burgener	Daniel, Dan
Beard, Tenn.	Burlison	Daniel, R. W.
Bedell	Burton, John	Danielson
Beilenson	Burton, Phillip	Dannemeyer

Daschle Johnson, Calif.
 Davis, Mich. Jones, Okla.
 Davis, S.C. Jones, Tenn.
 de la Garza Kastenmeier
 Deckard Kazen
 Derrick Kelly
 Derwinski Kemp
 Devine Kildee
 Dickinson Kindness
 Dicks Kogovsek
 Dingell Kostmayer
 Dodd Kramer
 Donnelly LaFalce
 Dornan Lagomarsino
 Dougherty Latta
 Downey Leach, Iowa
 Drinan Leath, Tex.
 Duncan, Oreg. Lederer
 Duncan, Tenn. Lee
 Early Lehman
 Eckhardt Leland
 Edgar Lent
 Edwards, Ala. Levitas
 Edwards, Calif. Lewis
 Emery Livingston
 English Loeffler
 Erdahl Long, La.
 Erlenborn Long, Md.
 Ertel Lott
 Evans, Del. Lowry
 Evans, Ind. Luken
 Fary Lundine
 Fascell Lungren
 Fazio McClory
 Fenwick McCloskey
 Ferraro McCormack
 Findley McDade
 Fish McDonald
 Fisher McHugh
 Flithian McKay
 Filippo McKinney
 Florio Madigan
 Foley Maguire
 Forsythe Markey
 Fountain Marks
 Frenzel Marlenee
 Frost Marriott
 Fuqua Martin
 Gaydos Mathis
 Gephardt Matsui
 Giatmo Mattox
 Gibbons Mavroules
 Gilman Mazzoli
 Gingrich Mica
 Ginn Michel
 Glickman Mikulski
 Goldwater Miller, Calif.
 Gonzalez Miller, Ohio
 Goodling Mineta
 Gore Minish
 Gramson Mitchell, N.Y.
 Gramm Moakley
 Grassley Moffett
 Gray Mollohan
 Green Montgomery
 Grisham Moore
 Guarini Moorhead,
 Gunder Calif.
 Guyer Moorhead, Pa.
 Hagedorn Mottl
 Hall, Ohio Murphy, III.
 Hall, Tex. Murphy, N.Y.
 Hamilton Murphy, Pa.
 Hammer Murtha
 Schmidt Myers, Ind.
 Hance Myers, Pa.
 Hanley Natcher
 Hansen Neal
 Harkin Nedzi
 Hawkins Nelson
 Hefner Nolan
 Heftel Nowak
 Hightower O'Brien
 Hillis Oakar
 Hinson Oberstar
 Holland Obey
 Hollenbeck Ottinger
 Holt Panetta
 Holtzman Pashayan
 Hopkins Patten
 Horton Patterson
 Howard Pease
 Hubbard Perkins
 Huckaby Petri
 Hughes Peyser
 Hutto Pickle
 Hyde Preyer
 Ichord Price
 Jacobs Pritchard
 Jeffords Pursell
 Jeffries Quayle
 Jenrette Quillen

NAYS—3
 Lloyd Paul Wilson, Bob

ANSWERED "PRESENT"—1
 Nichols

NOT VOTING—38

Ashley	Fowler	Pepper
Barnard	Garcla	Rodino
Chisholm	Harris	Rosenthal
Collins, III.	Harsha	Satterfield
Conyers	Heckler	Seiberling
Dellums	Ireland	Spellman
Diggs	Jenkins	Stark
Dixon	Johnson, Colo.	Treen
Edwards, Okla.	Jones, N.C.	Vander Jagt
Evans, Ga.	Leach, La.	Wilson, C. H.
Flood	Lujan	Winn
Ford, Mich.	McEwen	Wyatt
Ford, Tenn.	Mitchell, Md.	

□ 1030

So the motion was agreed to.

The result of the vote was announced as above recorded.

□ 1040

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3000, with Mr. STUBBS, Chairman pro tempore, in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Tuesday, October 16, 1979, title II was open to amendment at any point.

Are there any further amendments?

AMENDMENT OFFERED BY MR. VENTO

Mr. VENTO. Mr. Chairman, I offer an amendment.

Mr. LOEFFLER. Mr. Chairman, I reserve a point of order on this amendment.

The Clerk read as follows:

Amendment offered by Mr. VENTO: Page 40, after line 23, insert the following new subsection:

(c) Using such sums of the amount authorized to be appropriated under subsection (a) (2) (E) as may be necessary, the Secretary of Energy shall prepare and submit before December 31, 1979, a report to the Congress in which the Secretary shall examine the middle distillate situation, summarizing the relevant supply and demand data, information, and analyses on a State-by-State basis, and discussing in detail matters required to be addressed in findings made pursuant to section 12(d) (1) of the Emergency Petroleum Allocation Act of 1973 (15 U.S.C. 760(d) (1)).

Mr. LOEFFLER. Mr. Chairman, I withdraw my point of order.

Mr. VENTO. Mr. Chairman, this amendment seeks to provide a study based on the various criteria the Secretary should use and report back to Congress by December 31, 1979, of the status of the middle distillate situation. This is similar to other language that has been tentatively adopted by a conference, but I think we ought to reemphasize our support for this now because of the critical nature of middle distillate in our economy. Our interest has been heightened with regard to middle distillates based on the action of the House in the preceding week on this matter. I have discussed this with the majority and the minority. I think that they are amenable to and accept the amendment.

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

Mr. VENTO. I yield to the gentleman from Indiana.

Mr. SHARP. I thank the gentleman for yielding. I would like to indicate that the committee certainly has no objection and welcomes the amendment. We are hopeful that it will either become law through this bill or through S. 1030 which the gentleman previously amended.

Mr. VENTO. I thank the gentleman from Indiana.

Mr. Chairman, I yield back the remainder of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Minnesota (Mr. VENTO).

The amendment was agreed to.

The CHAIRMAN pro tempore. Are there further amendments to title II?

AMENDMENT OFFERED BY MR. HEFTEL

Mr. HEFTEL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HEFTEL: Page 40, after line 23, insert the following new subsection:

(c) (1) There are authorized to be appropriated to the Department of Energy for the fiscal year ending September 30, 1980, an amount not to exceed \$2,000,000 for purposes of developing a plan for the consideration, establishment, and implementation of a reserve under the Strategic Petroleum Reserve Plan in the State of Hawaii in order to provide substantial protection against the interruption or reduction of petroleum imports to such State.

(2) The Secretary of Energy shall transmit a copy of such plan to the Committee on Interstate and Foreign Commerce of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate before the earlier of March 31, 1980, or the expiration of 180 days after the date of the enactment of this Act.

Mr. HEFTEL. Mr. Chairman, the 1975 Energy Policy and Conservation Act provided for strategic storage in the non-contiguous areas, including Hawaii. The commonsense reason for it is that if you were to ship to Louisiana and then in an emergency bring it back to Hawaii, the cost of the shipping after it passed Hawaii, went to Louisiana and came back, would be greater than the cost we would have incurred in having the strategic oil storage in Hawaii in the first place. More important, the best calculation is that Hawaii, if an emergency arose, could be served by Louisiana within 63 days, and we do not have a standby supply that would last that long. So to the extent that strategic storage is necessary, Hawaii would almost have to have a reasonable amount of strategic oil stored in the State.

I would be glad to answer questions from both chairmen.

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

Mr. HEFTEL. I yield to the gentleman from Indiana.

Mr. SHARP. I thank the gentleman for yielding. The committee is happy to support the amendment. It helps to carry forward the intent of the original act establishing the strategic petroleum reserve, and the money is for the purpose of developing a plan to assure that the noncontiguous territories of the United States and the State of Hawaii will have emergency preparation made for them.

just as we hope to have that kind of preparation for the entire Nation.

Mr. HEFTEL. I thank the gentleman.

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

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

Mr. LOEFFLER. I thank the gentleman for yielding. As the gentleman knows, I am a very strong supporter of the strategic petroleum reserve system, and am somewhat disappointed, in fact greatly disappointed, that we have not moved rapidly in the development of the strategic petroleum reserve storage capacity. Currently the goal is that we should have already achieved 250 million barrels of storage in the salt domes of Louisiana and Texas; yet we are only now at a level of some 90 million-plus barrels within the storage facility. Fortunately, to date the Department of Energy has finally provided the capability for withdrawal of this very valuable crude oil. I have some questions that I would like to ask the gentleman from Hawaii (Mr. HEFTEL). In view of the fact that we only have 90 million barrels that are currently in storage and a strategic petroleum reserve system that has been mismanaged and has not moved as rapidly as it should have, I wonder if the gentleman could enlighten me as to why we should move toward storage facilities today in the State of Hawaii when in fact the refinery capacity is relatively small, and basically what Hawaii needs more than crude is the refined product itself. I wonder if we might discuss that for just a moment.

□ 1050

Mr. HEFTEL. I would be delighted. Fortunately, we do have refining capacity.

Mr. LOEFFLER. What is the per-day output of the two refineries in Hawaii?

Mr. HEFTEL. I do not have the exact barrels-per-day output, but it exceeds 60,000 barrels per day.

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

Mr. HEFTEL. I will yield to the gentleman.

Mr. SHARP. It should be pointed out that while the gentleman from Texas is focusing his attention, as it needs to be focused, on crude oil storage, that in fact the strategic petroleum reserve legislation does allow for storage of refined products.

Mr. HEFTEL. Mr. Chairman, we would have the refining capacity to protect the islands by virtue of having the strategic oil storage. As an example, if there were to be an emergency in which crude was not available, we would have to wait 63 days before Louisiana could actually bring to Hawaii the strategic storage in place.

When we point out Louisiana is not prepared to act if there were an emergency, it only heightens the need for Hawaii to protect itself because the 63 days for Hawaii would be elongated if Louisiana could not move faster than its most efficient production.

Mr. LOEFFLER. Mr. Chairman, will the gentleman yield further?

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

Mr. LOEFFLER. I would like to say to

the gentleman from Hawaii that I understand the plight and I am sympathetic to the problems of Hawaii.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

(At the request of Mr. LOEFFLER and by unanimous consent, Mr. HEFTEL was allowed to proceed for 2 additional minutes.)

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

Mr. LOEFFLER. Mr. Chairman, I believe it is in the interest of the United States, national security as well as to our own needs in the various regions we represent, that we should jointly encourage the Department of Energy to move ahead with the strategic petroleum reserve program to cut out the delay and the mismanagement, to move as expeditiously as possible in the purchase of the crude. In view of this dialog, Mr. Chairman, I will not oppose the gentleman's amendment.

Mr. HEFTEL. I thank the gentleman.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Hawaii (Mr. HEFTEL).

The amendment was agreed to.

The CHAIRMAN pro tempore. If there are no further amendments to title II, the Clerk will designate title III.

Title III reads as follows:

TITLE III—COMMERCIALIZATION AND RELATED ACTIVITIES
AUTHORIZATION

SEC. 301. There are authorized to be appropriated to the Department of Energy for the fiscal year ending September 30, 1980, not to exceed—

(1) in the case of renewable resources activities—

(A) \$5,000,000 for solar commercial planning functions;

(B) \$1,479,000 for program administration functions; and

(2) in the case of conservation activities—

(A) \$11,362,000 for buildings and community systems conservation functions;

(B) \$3,062,000 for transportation conservation functions;

(C) \$80,000,000 for State and local conservation functions under part C of title III of the Energy Policy and Conservation Act, as amended by the Energy Conservation and Production Act; and

(D) \$6,783,000 for State and local conservation functions not provided for under subparagraph (C).

AMENDMENT OFFERED BY MR. OTTINGER

Mr. OTTINGER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. OTTINGER: Page 41, after line 24, insert the following new section:

AUTHORIZATION FOR CERTAIN CONSERVATION FUNCTIONS

SEC. 302. (a) There are authorized to be appropriated to the Department of Energy for the fiscal year ending September 30, 1980, not to exceed \$30,000,000 for purposes of carrying out the program described in subsection (b).

(b) (1) The Secretary of Energy shall establish and shall implement not later than January 1, 1980, a program under which the Secretary will enter into one or more contracts to—

(A) conduct a continuing national public awareness campaign to inform the public of methods of conserving energy, including the savings to the public (and the Nation) from such conservation; and

(B) conduct a continuing national evaluation program to determine the effectiveness of the campaign conducted under subparagraph (A).

(2) Such program shall be designed to achieve over the duration of the program—

(1) a reduction in domestic energy consumption of at least 5 percent; and

(2) an aggregate savings to the public of at least \$17,500,000,000.

(3) Not later than January 1, 1980, and not less frequently than every 3 months thereafter during the duration of the program, the Secretary shall prepare and transmit to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on the program, and the activities thereunder, established under this section, including the results of the evaluation under paragraph (1) (B) and such other information and recommendations as the Secretary may deem appropriate.

(4) To the extent provided in any appropriation Act, funds authorized to be appropriated under this section shall remain available for obligation or expenditure until September 30, 1981.

Mr. OTTINGER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. OTTINGER. Mr. Chairman, the majority on the committee has acceded to the suggestions of the minority with respect to an advertising program for conservation, to do this on a national testmarket basis and for a much more modest sum than was originally proposed. This amendment calls for a \$30 million national test program in that respect. I believe we have reached agreement on it.

Mr. Chairman, I would ask support of the committee.

Mr. LOEFFLER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, at the outset of the consideration of title II of this bill, I offered an amendment which would have in essence provided for reduction from \$95 million to \$30 million for the test-marketing system with respect to advertising on conservation. The chairman of the subcommittee, the distinguished gentleman from Michigan (Mr. DINGELL), has assured us earlier during consideration of H.R. 3000 that the advertising will not be of a political nature and that he will vigorously pursue any activities that are directed in that way.

Mr. Chairman, for that reason I have no opposition and I join the gentleman from New York in support of the amendment.

Mr. DINGELL. Will the gentleman yield?

Mr. LOEFFLER. I yield to the gentleman from Michigan.

Mr. DINGELL. I commend the gentleman for his most statesmanlike comment. I also support the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New York (Mr. OTTINGER).

The amendment was agreed to.

The CHAIRMAN pro tempore. Are there further amendments to title III?

If not, the Clerk will designate title IV.
Title IV reads as follows:

TITLE IV—POWER MARKETING, FEDERAL LEASING AND OTHER ACTIVITIES

SEC. 401. (a) Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for expenses for the following power marketing programs:

(1) Alaska Power Administration, including expenses for engineering and economic investigation to promote the development and utilization of the water, power, and related resources of Alaska, and for energy conservation and renewable energy programs, \$2,910,000;

(2) Southeastern Power Administration, and energy conservation and renewable energy programs, \$2,400,000;

(3) Southwestern Power Administration, and energy conservation and renewable energy programs, \$33,180,000;

(4) Western Area Power Administration, for construction, rehabilitation, operation, and maintenance of electric power transmission facilities, and power marketing activities, and for energy conservation and renewable energy programs, \$128,150,000, including purchase, maintenance and operation of one fixed-wing aircraft and an additional 100 full-time permanent positions in fiscal year 1980, of which \$107,400,000 shall be derived from the Department of Interior reclamation fund;

(5) Western Area Power Administration, for the Emergency Fund established pursuant to the Act of June 26, 1948 (43 U.S.C. 502), to assure continuous operations during unusual or emergency conditions, \$200,000, all of which shall be derived from the reclamation fund; and

(6) Western Area Power Administration, for continued work on the transmission system of the Upper Colorado River Storage Project, authorized by section 1(1) of the Act of April 11, 1956 (Public Law 485 of the Eighty-fourth Congress; 70 Stat. 105), and legislation supplementary thereto, including the Act of August 10, 1972 (Public Law 92-370), \$5,152,000.

(b) The Bonneville Power Administration is hereby authorized to make expenditures from the Bonneville Power Administration Fund to purchase, promote, and encourage energy conservation and the utilization of renewable energy sources. Such Administration may expend for such purposes amounts derived from bonds, notes, and other evidences of indebtedness. Such bonds, notes, and evidences of indebtedness issued under section 13 of the Federal Columbia Transmission System Act may be expended without regard to the provisions therein respecting construction, acquisition, and replacement of the transmission system.

SEC. 402. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for expenses for the following Federal leasing and fuel data gathering and analysis programs:

(1) Federal leasing expenses, \$3,368,000; and

(2) Fuel Data Gathering and Analysis expenses, \$3,000,000.

AMENDMENT OFFERED BY MR. CLINGER

Mr. CLINGER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CLINGER: Page 41, after line 24, insert a new title IV as follows and renumber the following titles accordingly.

TITLE IV

TAX CREDIT STUDY

SEC. 401. (a) There is authorized to be appropriated to the Department of Energy for the fiscal year ending September 30, 1980,

not to exceed \$38,500 to conduct the study under subsection (b).

(b) The Secretary of Energy shall conduct a study to assess the various proposals for Federal tax credits for residential coal-heating equipment, as contained in legislation introduced in the Congress during the 96th session. The study shall include an estimate of the costs to the United States of the various tax credit proposals and an evaluation of the possible savings in consumption of heating oil and natural gas that would result from the proposals. Not later than one year after the date of the enactment of this Act, the Secretary of Energy shall submit to the Congress a report of the results of the study.

Mr. DINGELL. Mr. Chairman, I reserve a point of order on the amendment.

Mr. CLINGER. Mr. Chairman, I am sure that many of my colleagues can recall when the coal furnace was one of the most popular sources of home heating throughout the United States. Instead of modern refineries, processing plants, supertankers, and pipelines, the average American family depended primarily on coal for its home heating needs. Gradually, however, coal was replaced with what were then cheap and convenient substitutes. Ironically, heating oil and electricity are no longer inexpensive nor are they easily available.

Today, I hear my colleagues debate exotic and futuristic forms of energy, from breeder reactors to passive solar collectors. However, there is significant controversy between those who oppose and those who defend each alternative. Perhaps it is time Congress reexamined some tried and true methods.

I believe all Americans want to contribute to the solution of the energy problem. They are tired of waiting in gas lines in the summer and hearing forecasts of inadequate supplies of heating oil in the winter. In dramatic ways, consumers are changing spending habits with the purchase of smaller cars, storm windows, and added insulation, all in an effort to fight rising costs and stretch short supplies.

American ingenuity is also at work in the trend toward alternative sources of heat, like stoves, furnaces, and boilers using wood, peat, and coal. Under the National Energy Act, the Department of Energy can recommend to the Internal Revenue Service additional items of equipment for conservation and renewable energy tax credits.

In a recent study, last year the Department of Energy conducted an "assessment of proposed Federal tax credits for residential wood-burning equipment". I am sure this study helped the committee on Ways and Means which recently held hearings on a residential tax credit for wood- and peat-burning stoves.

My amendment would simply call for a similar study to determine if coal-heating equipment would be worthy of a tax credit. The cost of the study would be about the same as the study for wood-burning stoves, about \$38,000.

In my area of the country, there is an industry undergoing a rebirth—the manufacture of coal stokers. Stokers are home heating devices that automatically feed small-grade coal about the size of peas or rice into furnaces. It is my under-

standing that coal-burning devices for the heating of hot water are also being produced.

Through the study called for in my amendment, members of Congress would have the information we need to make educated decisions on the costs to the Treasury versus the benefits of oil and gas savings.

The President supports the increased use of plentiful coal supplies, and a preparatory study of this nature certainly conforms with the administration's policy.

□ 1100

POINT OF ORDER

The CHAIRMAN pro tempore. Does the gentleman from Michigan (Mr. DINGELL) insist on his point of order?

Mr. DINGELL. Mr. Chairman, I do.

The CHAIRMAN pro tempore. The gentleman will state his point of order.

Mr. DINGELL. Mr. Chairman, I make a point of order that the amendment is not germane.

Mr. Chairman, the legislation before us, H.R. 4839, is a 1-year authorization bill for the Department of Energy. It is an authorization bill which relates to the energy activities of the Department of Energy, as opposed to taxable matters and taxes.

The amendment is not germane for several reasons. The first is that it relates to matters other than energy, in that it directs a study with regard to tax credits. Nowhere in the proposal before us, Mr. Chairman, do we find anything relating to tax credits in the legislation.

Now, without denegrating the able author of the proposal, and I am sure the gentleman is very sincere in this matter, there is another defect yet also in the amendment now pending.

I would point out that the Secretary of Energy, according to the language of the amendment in paragraph (b) is directed to conduct a study to assess various proposals for Federal tax credits for residential coal heating equipment as contained in the legislation in the Congress. I now quote: "During the 96th session."

Now, I assume that refers to the 96th Congress. The 96th Congress will be for this fiscal year, plus portions of the succeeding fiscal year.

I would observe that if the study includes matters which were introduced during the 96th Congress. It will include matters which were introduced after the conclusion of the fiscal year in which we find ourselves and after the conclusion of the period covered by the authorization proposal.

The amendment further in its last three lines says as follows:

Not later than one year after the date of the enactment of this Act, . . .

That mandates actions by the Secretary of Energy 1 year after the date of enactment of this statute, which would be whatever date it might be, but it would be 1 year after at least probably the conclusion of the fiscal year in question. Again I recall to the Chair the fact that the proposal before us is a 1-year authorization bill and that this mandates

actions by the Secretary well after the conclusion of the period covered in the 1-year authorization bill which is before the committee.

For that reason, I believe that the amendment is nongermane. I would urge that position on the Chair.

The CHAIRMAN pro tempore. Does the gentleman from Pennsylvania (Mr. CLINGER) desire to be heard on the point of order?

Mr. CLINGER. I do, Mr. Chairman.

The CHAIRMAN pro tempore. The Chair will hear the gentleman.

Mr. CLINGER. Mr. Chairman, just in response and in defense of the amendment, I would point out that the amendment is really addressing the question of what savings can be made in oil and gas in this country if encouragement is given to the use of coal burning stoves. In no sense is it attempting to interfere with or to countervene anything that the Committee on Ways and Means would have to do. It does not in any way dictate to them. It just provides for a study to determine the feasibility for encouragement of coal burning stoves and primarily the emphasis in the study would be to determine how much can we save, how much can we be expected to save in the way of oil and gas as a result of this kind of encouragement; but the study in no way mandates going any further than that, just to determine the feasibility of such a plan.

Mr. DINGELL. Mr. Chairman, just one further observation with regard to this matter.

I think there is merit in the amendment. It has not been reviewed by the committee. We will have conservation legislation coming forward shortly and I would be happy to discuss with the gentleman the possibility of the inclusion of a proposal of this sort in that legislation at the appropriate time.

The CHAIRMAN pro tempore. Does the gentleman from California (Mr. PASHAYAN) desire to be heard on the point of order?

Mr. PASHAYAN. Yes, Mr. Chairman. I oppose the point of order.

The CHAIRMAN pro tempore. The Chair will hear the gentleman on the point of order.

Mr. PASHAYAN. Mr. Chairman, I rise to oppose the point of order. I cannot agree with my distinguished colleague that this matter is not germane. Surely a study to be conducted within a year, although the year does extend beyond the period of time of the authorization, goes to the very heart of what the Department of Energy ought to be doing. That the gentleman rests his case on the fact that this is not germane or the fact that the study is not germane to the bill, I do not think stands up, because if the Department of Energy does not do this kind of thing, surely then what are we expected to do? If anything, the Department of Energy, if it has the resources to do anything at all, certainly ought to have the resources to conduct exactly this kind of study.

I think this is most germane to the issue at hand.

The CHAIRMAN pro tempore. Does

the gentleman from Texas (Mr. KAZEN) desire to be heard on the point of order?

Mr. KAZEN. Yes, I do, Mr. Chairman.

The CHAIRMAN pro tempore. The Chair will hear the gentleman.

Mr. KAZEN. Mr. Chairman, I would also urge upon the Chair the fact that this proposal is very vague and indefinite, in that the study shall be based on all legislation which may be introduced in the 96th Congress, which is an impossibility for the Secretary to undertake, since all of the proposals in the 96th Congress have not yet been introduced and there is no limit to when they can be introduced before the end of the 96th Congress and the impossibility of meeting this 1-year deadline is within the ambiguity of this amendment.

Therefore, for that reason, Mr. Chairman, I urge that the point of order be sustained.

The CHAIRMAN pro tempore. Does the gentleman from California desire to be heard further on the point of order?

Mr. PASHAYAN. Yes, Mr. Chairman.

The CHAIRMAN pro tempore. The Chair will hear the gentleman.

Mr. PASHAYAN. Mr. Chairman, I would like to ask a question of my good friend, the gentleman from Texas. I do not see the word "all" here. I am not so sure that it is meant to be read in the legislation.

The CHAIRMAN pro tempore. The Chair will advise the gentleman, this is not the time for debate. It is a time to address the Chair on the point of order.

Mr. PASHAYAN. Well, Mr. Chairman, I am going to the point of order. The point of order the gentleman was making was that it was nongermane because it pertains to prospective legislation.

The gentleman said that the bill contained the word "all" legislation. I am addressing the gentleman's point by saying the bill does not use the word "all." It says "legislation introduced" and that might very well have only retrospective application.

The CHAIRMAN pro tempore (Mr. STUBBS). The Chair is prepared to rule. The amendment offered by the gentleman from Pennsylvania directs the Secretary of Energy with funds separately authorized by the amendment for fiscal year 1980 to conduct a study to assess legislative proposals introduced in the 96th Congress which provides Federal tax credits for residential coal heating equipment in order to evaluate the costs of those proposals and possible savings in the consumption of heating oil and natural gas that would result therefrom.

The Secretary shall report his findings not later than 1 year after enactment.

The possibility that the study might not be completed within the fiscal year 1980 does not seem to the Chair to be crucial in this case, since the study is only to be funded by fiscal year 1980 funds and since other activities of the Department of Energy funded by the bill for fiscal year 1980 are ongoing in nature and could also involve continued participation beyond September 30, 1980.

A more central question is the issue of the tax study. While ordinarily revenue matters are within the jurisdiction of the Committee on Ways and Means and would not be germane to a bill reported by another committee, in the present

case the Department of Energy is mandated by its organic statute (Public Law 95-91) to annually study and recommend changes in all laws and regulations needed to encourage more conservation of energy.

The Chair would also observe that title III, which the committee has already dealt with, does address the issue of energy conservation programs in the Department.

As a new title, the amendment imposes upon the Secretary of Energy for fiscal year 1980 a more specific responsibility to study energy conservation consequences of certain tax proposals than those currently required by law, but nevertheless a responsibility within the ambit of the Secretary's existing authority and confined to the fiscal year covered by the titles of the bill read to this point.

□ 1110

The Chair would further observe that the observation made by the gentleman from Texas (Mr. KAZEN) are addressed to the merits and the substance of the amendment rather than to its germaneness.

The Chair, therefore, overrules the point of order.

AMENDMENT OFFERED BY MR. DINGELL AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. CLINGER

Mr. DINGELL. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. DINGELL as a substitute for the amendment offered by Mr. CLINGER: Page 41, after line 24, insert a new title IV as follows and renumber the following titles accordingly:

TITLE IV

TAX CREDIT STUDY

SEC. 401. (a) There is authorized to be appropriated to the Department of Energy for the fiscal year ending September 30, 1980, not to exceed \$38,500 to conduct the study under subsection (b).

(b) The Secretary of Energy shall conduct a study to assess the feasibility of Federal tax credits for residential coal-heating equipment. The study shall include an estimate of the costs to the United States of various tax credit proposals and an evaluation of the possible savings in consumption of heating oil and natural gas that would result from the proposals. The Secretary of Energy shall submit to the Congress a report of the results of the study within fiscal year 1980.

Mr. DINGELL. Mr. Chairman, I think this substitute does everything that the author of the original amendment wanted to have done. It meets the objections which I had stressed of a procedural character, and it also meets our objections along substantive lines.

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

Mr. DINGELL. I yield to the gentleman from Pennsylvania.

Mr. CLINGER. Mr. Chairman, I thank the gentleman for yielding.

This substitute is perfectly acceptable to me certainly. I feel it accomplishes what I intended to accomplish, and that is to obtain a study this year.

Mr. DINGELL. Mr. Chairman, I thank the gentleman.

As I had indicated, I am sympathetic with the purposes of the gentleman. I

simply wanted to offer language to meet the objections I had mentioned.

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

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

Mr. LOEFFLER. Mr. Chairman, I thank the distinguished chairman of the subcommittee as well for his courtesy.

We on this side support the substitute language.

I also wish to commend the gentleman from Pennsylvania (Mr. CLINGER) for offering his amendment. I believe it is a good amendment and a step in the right direction.

This amendment deals with the question of conservation, and this is a minimal study to assess the feasibility of coal-heating techniques. It encourages conservation.

Again, Mr. Chairman, I commend the gentleman from Pennsylvania (Mr. CLINGER), and I thank the gentleman from Michigan (Mr. DINGELL) for offering his substitute.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Michigan (Mr. DINGELL) as a substitute for the amendment offered by the gentleman from Pennsylvania (Mr. CLINGER).

The amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. CLINGER), as amended.

The amendment, as amended, was agreed to.

The CHAIRMAN pro tempore. The Chair will inquire, are there further amendments to title IV?

PARLIAMENTARY INQUIRY

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

The CHAIRMAN pro tempore. The gentleman will state his parliamentary inquiry.

Mr. KAZEN. Mr. Chairman, I will ask, is the Chair calling for amendments to this title IV which has just now been presented?

The CHAIRMAN pro tempore. The Chair is calling for amendments to title IV as it appears in the bill.

Mr. KAZEN. I thank the Chair, and Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, the purpose of section 401 of H.R. 3000 is to authorize appropriations for fiscal year 1980 for four of the five Federal power marketing administrations: The Alaska Power Administration, the Southeastern Power Administration, the Southwestern Power Administration, and the Western Area Power Administration.

Section 401, as originally contained in H.R. 3000, authorized the following sums for use in fiscal year 1980: \$2,660,000 for the Alaska Power Administration, \$1,400,000 for the Southeastern Power Administration, \$32,180,000 for the Southwestern Power Administration, and \$128,152,000 for the Western Area Power Administration. This is a total of \$164,392,000.

Mr. Chairman, the Committee on Interior and Insular Affairs to which sec-

tion 401 was exclusively referred, perceived certain deficiencies in the budgets of these administrations which could be rectified by the authorization of additional funds. Consequently, the committee added \$7,600,000 of additional appropriations to section 401 which brought the total appropriations authorization for the Federal power marketing administrations for fiscal year 1980 up to \$171,991,000. This figure is now contained in the section 401 presently before the committee.

Specifically, the Committee on Interior and Insular Affairs added \$250,000 for Alaska, \$1,000,000 for Southeastern, \$1,000,000 for Southwestern, and \$2,000,000 for Western Area all to be used by these power administrations to carry out energy conservation and renewable energy programs. In addition, the committee provided \$2,500,000 to the Western Area Power Administration so that it could correct its severe personnel shortage by the hiring of 100 additional personnel. Also, \$850,000 was added for Western Area to allow it to purchase one fixed-wing aircraft so that it will be able to patrol its vast service area.

Mr. Chairman, the Committee on Interior and Insular Affairs also modified section 401 to authorize the Bonneville Power Administration to utilize its existing bonding authority for energy conservation and renewable energy programs. Bonneville was placed on a "self-financed" basis in 1974 with enactment of the Federal Columbia River System Transmission Act. That act allows the Bonneville Power Administration to use its revenues to carry out its activities and may issue bonds, subject to a limit of \$1¼ billion, to the U.S. Treasury to help finance such activities. However, that act did not authorize the Bonneville Power Administration to issue bonds to carry out energy conservation and renewable energy programs. The change adopted by the Committee on Interior and Insular Affairs and embodied in section 401 of H.R. 3000 allows the Bonneville Power Administration to use this existing bonding authority for energy conservation and renewable energy programs. It does not authorize any additional bonding authority.

Mr. Chairman, I strongly support the provisions of section 401 and urge my colleagues to do so also.

Mr. LUJAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I concur with the remarks of the gentleman from Texas, the very able chairman of our subcommittee, and will only add a few remarks for the record on the authorizations for the Western Area Power Administration (WAPA).

As the gentleman pointed out, our committee added \$1,250,000 to the WAPA authorization for the purpose of hiring staff personnel, and we added \$850,000 for the purpose of buying a fixed-wing aircraft. Neither of these added authorities was tacked on as a light gesture or a whim. Our committee has done more than most committees in cutting Federal spending this year, and it was only after we had heard very convincing testimony that we agreed to add this \$2.5 million for WAPA.

Relative to the additional personnel, we agreed to the increase because WAPA is a new agency, just getting started, and its mission is a very large mission, marketing Federal power throughout the Rocky Mountain States, the Southwest and several of the Plains States. It received some personnel from the Bureau of Reclamation when it replaced the Bureau in this function. But it did not receive all of the personnel which the Bureau had utilized for this purpose. Thus the Western Area Power Administration has functioned for a year or more under almost impossible circumstances and only by heroic efforts on the part of its people. They need these staff people badly. And they need the aircraft we authorized so as to service the far-flung area they administer, because it is often impossible to obtain commercial flights into some of the smaller communities that they serve.

So it was only after the closest and most careful deliberation that we added the increased authorizations. They are justified and they are needed.

For these reasons we were very disappointed when the other body chose to delete these funds from the appropriations bill that was passed earlier this year. Deleting the funds did not delete the need, and it will cost the Government much more in the long run than if the funding had been left intact. I am stressing this point now, in anticipation of WAPA's coming back for a supplemental appropriation based on this authorizing act, and I want the record to show that our committee fully believes that such supplemental appropriations are justified and necessary.

Mr. Chairman, I support the committee's amendments to title IV of H.R. 3000, and urge the acceptance of this title by the Committee of the Whole.

□ 1120

The CHAIRMAN pro tempore. Are there further amendments to title IV? If not, the Clerk will designate title V.

Title V reads as follows:

TITLE V—NUCLEAR ASSESSMENT, SPENT FUEL DISPOSITION OPERATIONS, AND DECONTAMINATION AND DECOMMISSIONING

AUTHORIZATION

SEC. 501. There are authorized to be appropriated to the Department of Energy for the fiscal year ending September 30, 1980, not to exceed—

- (1) \$71,693,000 for uranium resource assessment operating expenses;
- (2) \$2,500,000 for uranium resource assessment construction for purposes of project 80-GPP-1, general plant projects, Grand Junction, Colorado;
- (3) \$3,110,000 for uranium resource assessment, acquisition and fabrication of capital equipment not related to construction;
- (4) \$13,300,000 for spent fuel disposition functions; and
- (5) \$28,000,000 for decontamination and decommissioning functions.

INTERIM STORAGE OF SPENT NUCLEAR FUEL

SEC. 502. (a) There is authorized to be appropriated to the Department of the fiscal year ending September 30, 1980, not to exceed \$5,000,000 for the purposes of subsections (b), (c), (d), (e), and (f) of this section.

(b) (1) For the purpose of providing for the interim storage of spent fuel withdrawn from the core of any nuclear reactor licensed by

the Nuclear Regulatory Commission and, where appropriate and consistent with applicable law, foreign nuclear reactors, the Secretary of Energy, in accordance with the provisions of this section, shall conduct a study regarding such storage. Such study shall include—

(A) a determination of the extent to which away-from-reactor interim storage capacity for spent fuel is required by January 1, 1985, because of a lack of adequate existing or planned capacity at existing reactor sites and at future reactor sites within the United States;

(B) an evaluation of the time it will take to establish interim storage capacity at away-from-reactor facilities and the estimated costs thereof, as compared to the time and costs associated with the expansion or modification of existing storage facilities at reactor sites;

(C) consideration of any available conclusions, findings, and recommendations developed by any Federal agency or inter-agency study of such storage; and

(D) such other factors as the Secretary and other participants in the study shall include.

(2) In making the determination under paragraph (1)(A), the Secretary (A) shall specify the criteria used in making any such determination and (B) shall consider and provide in the report specific data regarding—

(i) the need for away-from-reactor storage capacity, the number of away-from-reactor interim spent fuel storage sites which should be selected, and the number of away-from-reactor facilities which should be in operation by January 1, 1985, to provide the required away-from-reactor interim storage capacity for spent fuel from such reactors;

(ii) the amount of additional interim spent fuel storage capacity at existing and future reactors located within the United States, which, taking into account technical, economic, and regulatory considerations, could be provided by the private sector through—

(I) the modification or expansion of existing and planned storage facilities;

(II) the maximum efficient use of such existing or planned spent fuel storage facilities; or

(III) the intra-utility and inter-utility transshipment of spent fuel; and

(iii) the need for providing storage capacity for spent fuel discharged from future nuclear power reactors.

(3) The study required under this subsection shall—

(A) identify the location of—

(i) one or more potential away-from-reactor spent fuel storage sites, as may be appropriate, which the Secretary believes will comply with the requirements for licensing by the Nuclear Regulatory Commission and which should be considered for such purpose, and

(ii) such existing or future reactor sites which should continue to be used to the fullest extent possible, with or without expansion or modification, for such purpose;

(B) determine the period for which each such away-from-reactor site identified therein is expected to be needed for such interim storage of spent fuel; and

(C) specify the capacity of each away-from-reactor site identified therein.

(4) The identification of potential sites under paragraph (3) shall be made only after consideration of—

(A) the problems associated with transporting such spent fuels to away-from-reactor storage sites;

(B) the identity and location of nuclear powerplants which will use such sites for the interim storage of spent fuel because of their inability for technological, economic or regulatory reasons, which shall be identified by the Secretary, to expand or modify existing reactor storage capacity at such sites;

(C) the safety and environmental factors

associated with the transportation and storage of such spent fuel on an interim basis at such sites;

(D) any law affecting the establishment and operation of such sites, including section 107 of the Department of Energy Appropriations Act of 1978—Civilian Applications; and

(E) any other factors as may be appropriate.

(c) To the maximum extent practicable, the Secretary of Energy shall, within one month after the effective date of this section—

(1) issue a report of the results of the study under subsection (b), including his recommendations and those of the other participants in the study and a statement of reasons for each recommendation contained in the report;

(2) publish in the Federal Register a brief summary of the report and a statement of its availability to the public; and

(3) submit a copy of the report of the President, the Committees on Interstate and Foreign Commerce and Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, and the Governor of any State in which any potential site (as identified in the report under this subsection) of any away-from-reactor spent fuel storage facility may be located.

(d) (1) After completion of the study referred to in subsection (b), the Secretary shall hold public hearings in each State in which any away-from-reactor interim spent fuel storage facility may be located, based upon the study's preliminary identification of the probable location of one or more sites for such facilities. Such hearings shall also be held in the case of any other such sites as the Secretary may subsequently identify.

(2) Hearings required under this subsection shall be held in the vicinity of each potential site. The Secretary shall provide for adequate notice of such hearings. Such notice shall be printed in each newspaper which serves a substantial number of residents within a one-hundred-mile radius of such potential. The Secretary shall give adequate notice of any such hearing to the Governor of the State in which such site is located.

(3) The Secretary shall give the Governor so notified (or his designee) and other interested persons an opportunity for the written and oral presentation of data, views, and arguments and shall provide an adequate opportunity for the oral or written submission of rebuttal and supplementary information.

(4) There shall be a written transcript of each hearing under this subsection which shall be available to the public and may be copied at a reasonable cost of reproduction.

(5) Hearings under this subsection shall be completed by March 1, 1980, unless the Secretary, taking into consideration the date the report required by subsection (c) is submitted to Congress and other factors, finds that a longer period is required to complete such public hearings and publishes in the Federal Register his reasons therefor.

(e) (1) The Secretary shall to the maximum extent practicable, within 45 days after the date all public proceedings required under subsection (d) are completed, and after consideration of all relevant matters presented during such proceedings and consideration of any other factors he identifies and determines are relevant, issue and submit to the President and to the Committees on Interior and Insular Affairs and on Interstate and Foreign Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a final report which—

(A) reviews the findings and recommendations contained in the reports issued under subsections (c) and (f) and confirms

or modifies the findings or recommendations to the extent appropriate; and

(B) designates one or more away-from-reactor sites as a potential site or sites for the interim storage of spent fuel, and identifies to the extent practicable the at-reactor sites which should continue to be used with or without modification or expansion for such storage.

(2) The final report required under this subsection shall include a statement of reasons for each designation and recommendation contained in such report. The Secretary shall publish in the Federal Register a brief summary of the report and a statement of its availability to the public, and shall submit a copy of the report to the Governor of any State in which there is located a site of a spent fuel storage facility, as designated in such report. Each report shall include the views and comments, if any, for the Governor of any State in which there is located a site of a spent fuel storage facility, as designated in such report, and of the other Federal participants in the study.

(f) Not later than February 1, 1980, the Secretary of Energy shall prepare and transmit to the President and the Committees on Interstate and Foreign Commerce and Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report and recommendations respecting—

(1) the estimated acquisition, construction, maintenance, and operating cost of each proposed away-from-reactor spent fuel storage site and facility identified in accordance with the provisions of subsection (b) (3);

(2) how any potential spent fuel storage site and facility identified under subsection (b) (3) should be acquired and constructed;

(3) how any potential interim away-from-reactor spent fuel storage facility should be managed and operated, and by whom;

(4) the methodology to be used in establishing charges to be made to cover the full costs of acquisition, construction, maintenance, and operation of any such site (including all costs associated with the decontamination and decommissioning of any such facility);

(5) an estimate of the per unit amount of such charge;

(6) an estimate of a fee covering all costs, including ultimate disposal costs, as compared to an estimate of a fee covering only the full costs of interim storage of spent fuel;

(7) the ownership of such spent fuel;

(8) the appropriate methods and periods for paying for such full costs by persons using or proposing to use any such site or facility;

(9) persons eligible to make use of such a facility; and

(10) such other factors as the Secretary may deem appropriate.

(g) (1) If the Secretary determines that acquisition by the Federal Government of one or more away-from-reactor sites selected and designated in the report under subsection (e) is appropriate after determining that private acquisition is not practicable, the Secretary may—

(A) acquire such away-from-reactor sites, including any facilities thereon, by purchase, lease, condemnation, or otherwise, and

(B) design such facilities as may be appropriated for such sites.

Such acquisition authority for any away-from-reactor site or facility for the interim storage of spent fuel under this subsection shall be subject to the authorization and appropriation for fiscal year 1981 and subsequent fiscal years of funds by the Congress for such acquisition. Funds appropriated to the Department for fiscal year 1980 and funds and revenues otherwise available to the Department in such fiscal year shall not be available for such acquisition.

(2) If the Secretary designates any away-from-reactor site or sites for the temporary

storage of spent fuel pursuant to this section, such designated site or sites should, by January 1, 1984, be in operation to receive spent fuel from nuclear powerplants that lack available storage at existing storage facilities at reactor sites. Such operation shall be subject to the availability, or acquisition (where appropriate), of a site for such a facility, the authorization and appropriation of such funds as may be necessary for the construction or modification of such facility and the operation thereof, and the requirements of other applicable provisions of law.

(h) Nothing in this Act shall be construed to preclude the Secretary from entering into negotiations, after the submission of the report referred to in subsection (c)—

(1) for the transfer of spent fuel to any potential interim spent fuel storage facility which may be designated under this section,

(2) for other related matters, including the payment of the full costs of the acquisition, construction, maintenance, and operation of any such site and facility, including the costs associated with decontamination and decommissioning, and

(3) with the owners of existing away-from-reactor storage sites and facilities as may be necessary to obtain information regarding the availability or suitability of such sites for selection or designation in the reports issued under subsection (c), (e), and (f)

except that no agreement regarding any such transfer or related matters shall be executed prior to the authorization and appropriation of funds for purposes of such agreement or for the acquisition of any designated site or sites.

(1) The Secretary of Transportation, the Council on Environmental Quality, and the Administrator of the Environmental Protection Agency shall participate in the study and selection of sites and subsequent hearings and in the development of the reports and recommendations under this section.

(j) This section shall take effect on October 1, 1979, or on the date of the enactment of this Act, whichever is later.

URANIUM MILL SITE AT EDMONT

SEC. 503. (a) The Secretary of Energy shall undertake an investigation with funds appropriated pursuant to section 501(5) to determine whether Federal funding is appropriate for 90 percent of the cost of any stabilization, decommissioning, and decontamination actions necessary in connection with the uranium mill tailings site owned by the Tennessee Valley Authority and located at Edgemont, South Dakota. Such study shall take into consideration whether such tailings resulted all or in part from activities conducted under Federal contract. Such investigation shall include an analysis of the total costs which would be required to undertake such actions with respect to such site, including the costs of acquiring and managing any disposal site and facilities which may be necessary for disposal of radioactive materials removed from the site. Not later than one hundred and twenty days after the date effective of this section, the Secretary shall submit a report to the Congress containing the results of his investigation under this section. Such report shall include any recommendation for legislation to provide for such funding. Any such recommended legislation shall be consistent with the provisions of the Uranium Mill Tailings Radiation Control Act of 1978. The report shall also contain the comments and recommendations of the Tennessee Valley Authority.

(b) This section shall take effect October 1, 1979, or the date of the enactment of this Act, whichever is later.

FOREIGN SPENT NUCLEAR FUEL OF UNITED STATES ORIGIN

SEC. 504. (a) The Secretary of Energy shall immediately take steps to prepare for the removal of spent nuclear fuel of United States origin from countries which may become

ineligible for additional nuclear exports pursuant to sections 128 and 129 of the Atomic Energy Act of 1954. These steps should include, where appropriate, (1) the initiation of specific and detailed feasibility studies for retrieving such fuel, and (2) the acquisition, in accordance with applicable provisions of law and this section of physical capacity for implementing a retrieval operation.

(b) There is hereby authorized to be appropriated to carry out this section, \$5,000,000 for the fiscal year 1980.

AMENDMENT OFFERED BY MR. WYDLER

Mr. WYDLER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by the Mr. WYDLER: On page 56, line 21 and 22, substitute the following new title: "TRANSITIONAL STORAGE OF SPENT FUEL."

On page 57, after line 7, insert the following new subsections:

(b) In providing for transitional storage of spent nuclear fuel the Secretary of Energy shall give primary consideration to such fuel from United States civilian nuclear power plants to insure that each has the ability to maintain full core reserve (FCR) in its spent fuel storage capacity.

(c) Upon the initiation of operation of the away-from-reactor (AFR) storage facility referred to in section 502 of this Act, the Secretary shall, as soon as is practicable, in accordance with the provisions of this title, authorize removal of all the spent fuel referred to in this title to said AFR.

On page 57, redesignate the subsection (b) as subsection (d).

Mr. WYDLER. Mr. Chairman, I think this amendment is a fairness amendment to treat American industry and American problems at least as well as we are planning to treat foreign industry and foreign problems in the legislation before us. This is a genuine energy continuity amendment. It is intended to make sure that this country does not have to shut down nuclear powerplants in the 1980's for reasons other than normal refueling or conventional operating problems. The interim storage of spent fuel, which would be done in the away-from-reactor storage facility, cannot possibly be accomplished by the 1985 date. And, even if that timetable could be met, we could face the domestic emergency of shutting down nuclear plants in the meantime.

The present legislation provides for retrieval of U.S.-supplied spent fuel from foreign reactors because of weapons proliferation concerns. In this amendment we are simply providing similar coverage for our own utilities. Given our tight energy supply problems, it would be criminal to do otherwise. We cannot condone the neglect of our own utility industry. It would require roughly a year lead-time to modify an existing DOE facility to prepare it for transitional storage. But doing this in a timely manner will preclude the eventuality of losing hundreds of millions of barrels of oil—I repeat that: hundreds of millions of barrels of oil—because of nuclear shutdowns.

I think that should be a very clear and present danger to the Congress today, since we are hearing the message from the Middle East oil-producing countries that they want to cut back their oil production, they want to increase the price of their oil and to do it on a continuing basis. We must make provisions for our own industry even as we are making pro-

visions for foreign industry to see that our own nuclear plants, which are vital to the economic health and well-being of our country, are provided for.

Therefore, Mr. Chairman, I ask that the members of the committee support this much-needed amendment.

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

Mr. WYDLER. I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, the gentleman is not eliminating the provision for spent fuel interim storage from foreign countries, I take it?

Mr. WYDLER. The gentleman is exactly correct. There is in the bill at the present time a provision which provides for the emergency storage of spent fuel from foreign countries. My amendment merely puts America on the same basis as the foreign countries and provides that in setting up these facilities we can provide that they can be used for emergency purposes for American spent fuel as well. So it does not eliminate the present provision; it merely adds that these facilities can be used for American spent fuel as well as foreign spent fuel.

Mr. OTTINGER. If the gentleman will yield further, I understand that we already have made a provision for the away-from-reactor storage in this legislation.

Mr. WYDLER. There is a study in the legislation to provide for away-from-reactor storage, and some day I hope there will be such a facility and, obviously, I will support the efforts to bring that into being. This amendment provides when and if we do that—I hope it will be at an early date, but it certainly will not be in time to take care of potential problems we have that may arise on an emergency basis—if and when that date comes that we have that facility, this amendment provides that that will then be used in place of the provisions as set forth in my amendment. So that would then become the away-from-reactor storage point.

Mr. OTTINGER. I do not understand what this paragraph (c) means. Can the gentleman explain that?

Mr. WYDLER. That is just what I was trying to explain to the gentleman. I am sorry if I did not do it very well. I am trying to explain to the gentleman that when the away-from-reactor storage facility referred to in the act, which is part of the act, at that point, when that becomes available, at that point this provision will cease and the material will be shipped to that point.

Mr. OTTINGER. This says that the Secretary has to take the spent fuel away from the transitional storage facility and place it in away-from-reactor storage at that time.

Mr. WYDLER. Exactly.

Mr. OTTINGER. I thank the gentleman for his explanation.

Mr. SHARP. Mr. Chairman, I rise in opposition to this amendment.

Mr. Chairman, there are two things we have to recognize: First, we are moving ahead to deal with the question of away-from-reactor storage for domestic spent fuel. Second, we have to recognize there are fundamental distinctions between what the Nuclear Nonproliferation Act requires of us in terms of foreign spent

fuel and what we are trying to accomplish on the domestic scene.

Let me take the first point. We do set up in this bill a way to bring the Congress to a decision on the basic question of AFR's in the next session. When we deal with this bill next year, we will be in a position to hopefully specifically designate whether or not we wish to go forward with a particular given site. Everybody recognizes there is a whole series of procedural things that have to be done, before a final decision can be made.

This bill sets up an orderly process so we can make that decision. We are by our decision this year, not to delay any of the gut considerations that must occur on the question of AFR's, that is, with respect to what to do about the storage of spent fuel which many of us recognize will become a problem at domestic reactors unless either the industry or the Government resolves it, and we are setting up a mechanism by which the Government can resolve the question.

But second, we have to recognize there is I think, some unfairness in this foreign-domestic comparison. The Nuclear Nonproliferation Act of 1978, which a previous Congress adopted overwhelmingly provides for the United States to take back, under certain conditions, spent fuel. It set up a mechanism by which the U.S. Government could maintain some control over nuclear fuels which leave this country. But the emergency that is envisioned in this bill relates to political emergencies. This bill calls for a contingency planning so that on 2 weeks' notice we could take a full core and be able to provide for its shipment and storage.

The emergency that the gentleman from New York, I think, is trying to avert is one that in fact is not an emergency; it is a matter of predictability, it is a matter of long-term planning, and that is the ability to have full core reserve at every domestic site.

□ 1130

It must be recognized that under the guidelines of the NRC and under the practices of the nuclear industry in this country, I am told, there is at every site full core reserve capacity at this time. Therefore, it is not as if we are talking about a sudden emergency.

I assume that the gentleman is not raising here the question that there is some serious risk at the reactor sites at the present time in their storage facility. That would be a whole other issue.

We are dealing with two kinds of situations. One is an international emergency, for which contingency planning must begin. The other is the question of how to take care of a predictable situation where at some point some domestic reactors are clearly going to have trouble holding onsite their spent storage.

We have set up in the bill a way to deal with that. I do not think we should try to mix the two issues together.

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

Mr. SHARP. I will be glad to yield to the gentleman from New York.

Mr. WYDLER. As I understand the

gentleman's first point, it is to the effect that we are making plans for away-from-reactor storage; therefore, we do not need this. The point is that this amendment is specifically intended to cover the period of time between today and the day when we have that facility, just as we are doing for foreign fuel.

In other words, someday we may have that AFR facility, the away-from-reactor storage facility, and if we have the foreign emergency, we will have a place to put it—just so.

Under my amendment, if we have just an emergency, we will have a place to put domestic fuel. Actually, it is exactly the same whether we are talking about the Bingham provision or my own, except mine takes care of the emergencies for American plants, and the gentleman's amendment takes care of emergencies for foreign plants.

Mr. SHARP. Mr. Chairman, if I may reclaim my time, I guess the gentleman is telling us here—and I have difficulty believing he is—that he anticipates some kind of nuclear accident which will generate an emergency in the storage plant.

Is that the emergency the gentleman is talking about?

Mr. WYDLER. If the gentleman will yield, I am saying nothing of the kind. That is not what I am saying.

Mr. SHARP. I will reclaim my time, if I might, and say if that is not what the gentleman is indicating, then I think we are not talking about the same kind of emergency.

The CHAIRMAN pro tempore. The time of the gentleman from Indiana (Mr. SHARP) has expired.

(By unanimous consent, Mr. SHARP was allowed to proceed for 2 additional minutes.)

Mr. SHARP. The emergency situation we are talking about on the international scene is a political one where we identify that somebody is about to misuse fuel and where the United States seeks to quickly take control of that fuel.

The gentleman from New York (Mr. BINGHAM), who is very knowledgeable about this situation, I think will be here in a moment to discuss this matter.

The emergency the gentleman keeps describing is not of a sudden or immediate character. It is something that one knows in a predictable way, and the fact is that utilities can now arrange to move spent fuel from one plant to another so they will not have a reactor shut down. That is a quite predictable thing. I hardly think it deserves the characterization of an emergency.

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

Mr. SHARP. I yield to the gentleman from New York.

Mr. WYDLER. I cannot agree. I think to have a reactor shut down in the United States certainly would create an emergency for the American public. It would create the need for more foreign oil. I do not know what the gentleman's emergency might be but it is too restrictive for me.

Mr. SHARP. Mr. Chairman, if I may reclaim my time, my point is that it is not an emergency in terms of a timetable that something is going to happen now and the reactor plant is going to close down. Any given reactor can tell

you their estimate of when they are going to need storage.

They are prepared, is my point, and they better darn well be prepared to take a full core and place it in their storage at this time in the event of some emergency situation in the reactor. Even that takes time, obviously. That is not the emergency to which the gentleman, I think, is referring.

I think the gentleman is referring to projections that by 1982 or by 1983, a given reactor may have difficulty finding any place to store fuel.

It is precisely that possibility that we are trying to address in this legislation in the provision on the AFR.

Mr. LUJAN. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, much will be said about this amendment, but it simply covers an oversight contained in H.R. 3000 as it now exists.

Section 502 of this bill prepares for the needed longer term storage of spent fuel in an away-from-reactor facility. I support this section.

The original section 504 of this bill authorizes foreign spent fuel storage by the DOE, presumably until the away-from-reactor facility is completed. This is for nonproliferation purposes. I also support this original section.

However, there is an oversight contained in these two sections of the bill. They fail to similarly provide transitional storage for U.S. spent fuel until the away-from-reactor facility is completed. This amendment is a simple correction of that oversight. This amendment provides the same transitional storage for U.S. fuel as H.R. 3000 provides for foreign fuel.

This amendment does not result in any abrupt change in current U.S. practices with spent fuel. We customarily ship spent fuel in the United States and store it in different places, both in the Department of Energy facilities and private facilities. This amendment would result in a gradual and smooth buildup of these present activities. These practices are fully safe and are reviewed by the public.

I urge my colleagues to support this simple solution to correct this oversight that would otherwise discriminate against spent fuel from U.S. reactors.

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

Mr. LUJAN. I yield to the gentleman from New York.

Mr. WYDLER. I think we and Members of this Congress have to really get it clear in our minds that although the two situations may not be exactly the same, the emergencies that occur are likely to arise, and the emergencies are really the problems that will be faced by perhaps 16 currently operating nuclear plants which are supplying electrical power to the consumers of our country having to shut down for some inspections. It may or may not happen, but possibly needing some place to temporarily store some spent fuel. That would be an emergency in my judgment, because the result would be, if that storage space was not available and it could not be done, these plants would have to close.

That would mean that the electrical

rates in those areas would go way up. It means we would have a shortfall in our electrical production capacity. It means we probably would have to use more foreign oil. I call that an emergency. It is not exactly the same kind of emergency. It is an American emergency, if utilities are not allowed their flexibility in managing these plants but it is a serious problem we all are trying to face here in the Congress.

I hope that the Members will give to the American industry at least the same protection that they are now going to offer to foreign industry.

Mr. LUJAN. The gentleman is absolutely correct. They were talking about any emergency that might not exist.

Let me give a small example of something that would happen that is not a catastrophe, but let us say that there was a small rupture somewhere that needed to be fixed, and you needed to take the core out in order to repair it. If you need to do that, and if you do not have the facility to do that, you would be operating under unsafe conditions. You have to have full core reserves in these reactors.

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

Mr. LUJAN. I yield to the gentleman from Indiana.

Mr. SHARP. That is required under NRC, so that is a practice on any given site. They can take the core out and put it in storage they have available.

The issue, I think the gentleman correctly wants to address and which we have sought to address, is that at some point you can only stack up so many cores, and at some point you are going to want to have a long-term facility.

I could not agree more with that thinking, but I certainly do not characterize that in the same characterizations as an emergency where in 2 weeks you have got to have something.

We can predict in every given reactor. That is what the GAO is trying to study and trying to get an accurate handle on, what we need over the next 5, 10, or 15 years.

Mr. LUJAN. Maybe the gentleman does not understand that there are presently reactors without a full-core capacity, so if something happened, for example, at the San Onofre, in California, right today, that the core had to be removed, there is not enough space in that particular reactor site for a full-core reserve.

Now, what would the gentleman do? Operate it unsafely or provide space for the full core to be pulled out so that the repair could be made? It would be unsafe to continue to operate it simply because of the limitation that the gentleman is talking about.

The CHAIRMAN pro tempore. The time of the gentleman from New Mexico (Mr. LUJAN) has expired.

(At the request of Mr. CORCORAN and by unanimous consent, Mr. LUJAN was allowed to proceed for 1 additional minute.)

□ 1140

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

Mr. LUJAN. Certainly I yield to the gentleman.

Mr. CORCORAN. In the example the gentleman gave us, could he tell us pres-

ently what that particular utility does with the storage of its spent fuel?

Mr. LUJAN. They are having to ship to GE at Morris, Ill., as I understand, because they do not have the capacity.

Mr. CORCORAN. So the point of the gentleman is if there is a rupture or some sort of difficulty, there is not at the site capability of storing or of accomplishing core reserve?

Mr. LUJAN. That is correct. The point I am making is if there is a very, very small rupture, then because they do not have the facility to move the core out, then just what do they do with it? Do they not fix it? That could be disastrous. Nothing would happen but it would get worse and worse all the time.

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

Mr. LUJAN. Certainly.

Mr. McCLORY. Would this amendment accommodate a nuclear generating plant located in my district which is rapidly using up its available temporary storage facilities in pools which are at the same location as the generating plant. The company desires to revise or to modify the storage area so that it can accommodate additional spent fuel rods.

The CHAIRMAN pro tempore. The time of the gentleman from New Mexico has again expired.

(At the request of Mr. McCLORY and by unanimous consent, Mr. LUJAN was allowed to proceed for 2 additional minutes.)

Mr. McCLORY. If the gentleman will yield further, would this amendment accommodate that kind of an emergency situation?

Mr. LUJAN. It would help in the sense that if they do not have capacity right now, they do not have sufficient capacity, what are they going to do with it? This amendment says take those rods that are now stored, put them in a temporary facility, and while we are arguing about away-from-reactor storage areas, for the time being, let us put them somewhere where it will be safe. It is prudent to follow such a course.

Mr. McCLORY. If the gentleman will continue to yield, it may be right nearby or it may be an expansion, or it may be a modification?

Mr. LUJAN. No. No. That is not the case. What this amendment says is we must look at a facility someplace else. We cannot do it right there.

Mr. McCLORY. So, that if they do run out of space within this temporary facility, then there would be an emergency situation, which would be covered by this amendment, and which then would accommodate this nuclear generating plant?

Mr. LUJAN. To expand, is the gentleman asking?

Mr. McCLORY. The gentleman talks about another area of some kind, an emergency area.

Mr. LUJAN. Yes, a traditional area.

Mr. McCLORY. So the question I ask is that such an area would be available under this amendment?

Mr. LUJAN. Certainly. That is exactly the point.

Mr. LAGOMARSINO. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to engage the gentleman from New York (Mr. WYDLER) in a colloquy if I might. I know the gentleman has discussed this several times already in this debate, but I want to make sure, absolutely clear, that the gentleman's amendment in no way impinges on the language that is already in the bill relating to storage of foreign supplies; is that correct?

Mr. WYDLER. Will the gentleman yield?

Mr. LAGOMARSINO. I am glad to yield to the gentleman.

Mr. WYDLER. Yes, that is correct. In other words, my amendment does not change the language that is in the bill except to add to it a provision which makes it possible for American industry to use the facilities that we are going to provide in any event for foreign countries. So my amendment does not change that provision at all, it just makes those facilities available for American industry as well.

Mr. SHARP. Mr. Chairman, will the gentleman yield on that point?

Mr. LAGOMARSINO. I yield to the gentleman.

Mr. SHARP. Mr. Chairman, I think there is a misunderstanding among us as to what the amendment does. The bill does not authorize the construction, the purchase, or new site for storage of foreign spent fuel and, therefore, the gentlemen's amendment does not authorize any new construction, any new facility. What it does say is that existing Federal storage could be used in an emergency. It does not get at the gut issue that a number of people have been trying to address, and that is a genuine problem, a predictable problem of backing up storage at reactor sites. So I think that we are not really solving what people think is being solved by this amendment. The amendment does not address that gut issue.

Mr. WYDLER. Mr. Chairman, will the gentleman yield further?

Mr. LAGOMARSINO. I yield to the gentleman from New York.

Mr. WYDLER. I would say to the gentleman I do not understand the distinction there. Whatever we are doing for foreign industry and for foreign spent fuel we are going to make available for American industry and American spent fuel. I do not care about all of these little differences. The fact of the matter is, it seems to me, the basic point is if American industry has a problem and needs help, we should be providing help to it, at least to the extent that we provide it to foreign countries and foreign industry.

Mr. LAGOMARSINO. I just want to make the point that the language already in the legislation, which is language I cosponsored with the gentleman from New York (Mr. BINGHAM) is clearly necessary to give credibility to U.S. efforts to prevent nuclear proliferation.

This legislation would enable the United States to develop the option of retrieving U.S.-origin nuclear material from a country that violates our nuclear nonproliferation agreement. U.S. laws have established our responsibility for recovering nuclear material used in vio-

lation of intended peaceful purposes. While we have that provision in our laws, we have no actual means to accomplish that retrieval. The small amount of money set aside for this purpose in this bill simply makes more credible our commitment to vigorously pursue the goal of nonproliferation of nuclear weapons.

Apart from the general principle of being able to meet a contingency need for retrieval, we must look to the very real problem we face with the misuse of nuclear fuel by India and its 1974 nuclear explosive test. In less than 6 months, we face the automatic cutoff for cooperation in nuclear energy with countries that violate safeguards against proliferation. That will specifically affect India, which has said that once U.S. exports of nuclear fuel ends, India considers that it can start to reprocess U.S. nuclear material stored at its reactor site at Tarapur. Such reprocessing would result in large supplies of weapons-grade material.

If we are to persuade India and other countries not to proceed with their declared intention to start reprocessing, we had better have the means to implement our policy and provide for a contingent capability to retrieve our U.S. fuel.

The only thing that concerns me about the gentleman's amendment is whether or not it will interfere or impinge on our credibility or our ability to take care of these nuclear problems in foreign countries. In other words, if they feel we do not have the capacity to carry out storage, they are going to ignore the requirements and we are going to face even greater problems of proliferation.

Mr. WYDLER. I would say to the gentleman that we cannot measure these things exactly because, as I am sure the gentleman realizes, we do not know exactly what the emergencies are going to be. But my answer to the gentleman would clearly be no. I think there are adequate facilities in our country to handle both problems and any potential problems without any great difficulty.

AMENDMENT OFFERED BY MR. SHARP AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. WYDLER

Mr. SHARP. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. SHARP as a substitute for the amendment offered by Mr. WYDLER: On page 56, line 21 and 22, substitute the following new title: "TRANSITIONAL STORAGE OF SPENT FUEL."

On page 57, after line 7, insert the following new subsections:

(b) In providing for such transitional storage of spent nuclear fuel the Secretary of Energy shall give primary consideration to such fuel from U.S. civilian nuclear powerplants to insure that such plants have the ability to maintain Full Core Reserve (FCR) in their spent fuel storage capacity in order to cope with any emergency.

On page 57, redesignate the subsection (b) as subsection (d).

POINT OF ORDER

Mr. WYDLER (during the reading). Mr. Chairman, I make a point of order on the amendment.

The CHAIRMAN pro tempore. The gentleman will suspend until the Clerk reports the amendment.

Mr. WYDLER. Mr. Chairman, I make a point of order. I believe the gentleman from Indiana was already recognized on this amendment and there were other people standing on the amendment.

The CHAIRMAN pro tempore. The gentleman from Indiana has been recognized to offer a substitute for the gentleman's amendment, and the Clerk is reporting the substitute amendment.

Mr. WYDLER. The gentleman had already been recognized on my amendment. Is the Chairman aware of that?

The CHAIRMAN pro tempore. The Clerk will report the amendment. The gentleman is on the committee which considered the pending title and is entitled to separate recognition to offer an amendment, and the Clerk will report the substitute.

The Clerk concluded reading the amendment.

□ 1150

Mr. SHARP. Mr. Chairman, the gentleman from New York will recognize that the major portion of his language is in this amendment. What I have sought to do is to compromise and accept the notion that, in principle, certainly we will provide for any kind of critical emergency on a temporary basis while we resolve the long-term problem.

I personally think it is not actually necessary to do so, but we will in this amendment provide that in Federal facilities there will be a chance to provide storage in the event of an emergency. However, at this point the amendment would not deal with the long-term question of other spent fuel. That kind of question is to be resolved in the next bill.

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

Mr. SHARP. I yield to the gentleman from New York.

Mr. WYDLER. Mr. Chairman, I understand the gentleman's amendment. I did not mean that I was objecting to his amendment, but I was merely trying to raise a point of order because I think other Members were trying to be recognized.

I have read the amendment, and frankly I think it does cover the problems I am trying to address. I just feel that we should, as a nation, make some provision for our own industry when they have serious problems. I think this amendment will do that, so I would be willing to accept the gentleman's amendment.

Mr. SHARP. I thank the gentleman.

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

Mr. SHARP. I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, I have no great objection, but it seems to me that the two provisions, the one that is presently in the bill and this provision, are totally separate matters. The provision in section 504 merely provides for removal of spent fuel from abroad, from other countries. It has nothing to do with storage. It does not make any provision for storage.

It says:

These steps should include, where appropriate, (1) the initiation of specific and detailed feasibility studies for retrieving

such fuel, and (2) the acquisition, in accordance with applicable provisions of law and this section of physical capacity for implementing a retrieval operation.

It contemplates using the existing storage of the United States. The thing I want to make absolutely clear is that we are not making any provision, if we do accept the amendment, for the creation of any new transitional storage.

Mr. SHARP. It is my understanding that the original amendment, as well as the amendment I have offered to it, simply provide for storage on an emergency basis. The Federal Government can take spent fuel on an emergency basis and provide for the placing of it in an existing Federal facility that now exists. It clearly would not be a long-term solution. I think the gentleman from New York and I both agree on this.

Mr. WYDLER. I would agree. That is my interpretation. The away-from-reactor (AFR) storage problem on an interim and not transitional basis is faced in section 502 of the act. I think that is where it should be; section 504 with my amendment covers transitional storage for domestic reactors so they can be assured of full-core reserve at all times.

Mr. GOLDWATER. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I rise in support of this amendment offered by my colleague from New York (Mr. WYDLER). I think it is an appropriate amendment inasmuch as our storage capacity for spent fuel rods is reaching a dangerous point of undercapacity, and therefore putting us in a position where we might have to shut down a nuclear reactor or in fact not be allowed to build any new ones. We need this capacity, and we do not have the adequate capacity for the future.

That is why this amendment is important as we proceed, by 1985 and probably longer, to build away-from-reactor storage capability.

Mr. Chairman, I also feel that it is somewhat criminal that we have never adopted a policy in this country of completely completing the nuclear fuel cycle, going to reprocessing, and establishing a permanent waste disposal policy and facility. It is a fact that if we proceeded with the full fuel cycle, we could extend the available energy supply some sixty-fold of the nuclear reactor capacity in this country. That is an issue that has plagued us for many, many years, and because we failed to address ourselves adequately to it, we are finding ourselves wasting energy and increasingly moving behind the world in the proper utilization and efficient utilization of nuclear energy.

But nevertheless, faced with the existing policy of storing spent fuel rods in pools of water and reaching a capacity, we need to transition into this away-from-reactor policy which will be established later on in the future. Mr. WYDLER's amendment addresses itself to that.

Mr. Chairman, I would like to ask the gentleman from Indiana (Mr. SHARP), when he puts in the word "emergency", what his definition of an emergency is.

Mr. SHARP. Mr. Chairman, if the gentleman will yield, I am assuming from the conversations that have oc-

curred in the debate so far that we mean a sudden problem. The gentleman from New Mexico mentioned the possibility of a rupture that requires the removal of fuel. The Federal Government will certainly be available to take the fuel core or to guarantee there is storage available at another reactor to cover a serious situation that could lead to a closedown of a plant.

I do not know how to precisely define the situation. I was trying to distinguish an unexpected emergency from a predictable situation. I think we ought to plan for the predictable needs of the 1980's and that is what we are trying to do in this legislation. We can see a need for storage in the near future; and we can decide how to handle it in advance.

Mr. GOLDWATER. Would the gentleman agree, therefore, that the word "emergency" should be interpreted in its broadest extent, encompassing any adverse or unusual situation that could be looked upon as an emergency?

Mr. SHARP. Well, it is hard to dispute the general statement the gentleman has made. I guess I would find that to be acceptable. I would think that any court or any administrator or any Member of Congress would have difficulty specifying a course of action out of that language, but I certainly would take a fairly broad interpretation.

Mr. GOLDWATER. I thank the gentleman.

Our energy needs are in this day and time are such that, failing to select a site to serve as a transitional storage facility would impair our ability to maintain our reactors at peak capacity. In debating this legislation we have over and over pointed up the necessity of alleviating our dependence on foreign oil. By taking the steps this amendment would, we are going a long way to meeting the goal of energy self-sufficiency. The costs associated with modifying our plants, maintaining them, and administering their operation are fundamental to a policy of developing nuclear technology for a system capable of meeting this Nation's demand for power from our public utilities.

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

Mr. GOLDWATER. I yield to the gentleman from New York.

Mr. WYDLER. Mr. Chairman, I would agree with the gentleman in everything he said. Of course, I would include in those situations one in which, because there was not adequate storage on site for spent fuel at a particular nuclear plant, and circumstances were such that the plant was going to have to shut down with the resulting devastation to the economy and to the country, that the Department of Energy would be in a position to help out.

Mr. RITTER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I simply would like to provide my colleagues with a perspective on this amendment from the point of view of a trained scientist

familiar with the technical details that are involved. To clarify my own situation, no reactors are now in my district, nor are there any planned. However, we are close to several, and transport of the materials is a factor. My intention is to provide a few facts in a hope for a reasoned approach and consideration of this amendment.

The amendment is wise in requiring that the Secretary of DOE would insure that U.S. reactors maintain full core reserve in their spent fuel pools.

□ 1200

I will get into the meaning of "full core reserve" in a short while if my colleagues are interested. Scientists and regulatory officials know that in the meantime a full core reserve is the only prudent practice in operating our reactors. Maintaining this full core reserve insures that inspections and maintenance will not unnecessarily be deterred or postponed for lack of storage.

Let me assure my colleagues that spent fuel storage as practiced presently is safe. I know many of you read in the newspapers about leaks, and the leaks you may have heard about concern defense-related liquid solutions associated with producing weapons grade material. They do not relate to the fuel storage from electric utility uses of nuclear power. We have hundreds of reactor years of safe experience in fuel storage. Storage has been shown to be equally safe both for storage in water and in a dry environment. Scientists have done three analyses and detect no deterioration even after almost two decades of storage, but this transitional storage is planned for merely another 5 years.

I would like to talk for a moment about the transportation of spent fuel because there is a transportation factor involved. The transportation of spent fuel has been shown to be fully safe on the basis of very extensive experience. This is not at all surprising to a technical person looking at the very stringent regulations and facilities involved in spent fuel transportation. Regulations are thorough and require tough, thick, impact-resistant casks used for transporting spent fuel. I might add this is in contrast to the containers of other dangerous energy-related materials such as gasoline, such as liquefied gas, and other chemicals such as chlorine, such as a number of highly poisonous acids.

In summary, I assure my colleagues that the technical matters involved in this amendment are sound.

Mr. WYDLER. Mr. Chairman, would the gentleman yield to me?

Mr. RITTER. I yield to the gentleman from New York.

Mr. WYDLER. I thank the gentleman for yielding. The gentleman is making an excellent statement, and I appreciate it very much. I think, however, that the committee is ready to support the amendment. I wonder if maybe we could do that and proceed. I appreciate the gentleman's statement; it is an excellent one.

Mr. RITTER. I had finished my statement, and I would gladly yield back the remainder of my time.

Mr. MARKEY. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment. I think that the compromise which has been reached in this section is one which indicates the ability of both sides in this issue to work together, and to achieve reductions and sound accommodations that meet the desired goals of those who stand on both sides of this issue. At the same time I think that it also recognizes the need to preserve the understanding that was struck by the Committee on Interior and Insular Affairs and the Committee on Interstate and Foreign Commerce to give the Department of Energy until later next winter to study this question.

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

Mr. MARKEY. I yield to the gentleman from Arkansas.

Mr. HAMMERSCHMIDT. I thank the gentleman for yielding. I want to strongly support this amendment.

Mr. Chairman, Arkansas Power & Light Co. has two nuclear plants in my district. Their first plant (Arkansas Nuclear 1) to go critical and start furnishing power a few years ago will be one of the first domestic powerplants which will have to shut down within the next year because of this storage problem unless positive steps are taken. I strongly support the Wylder amendment which looks to taking care of our own reactors before we solve international problems by retrieving foreign spent fuel. Proliferation concerns are important but our own energy supply situation is critical and that is where our emphasis should be for handling spent fuel emergencies.

Mr. MARKEY. I think that this gives us a real opportunity to have the Department of Energy study the GAO report which was issued in June of this year. The GAO report indicated that utilities and commercial enterprises have a real opportunity to be able to provide onsite storage of nuclear wastes. I think we need the opportunity to have good, strong oversight by the Congress when that report is returned to us by the Department of Energy. At that time I think we would be fully prepared to be able to deal more adequately with the AFR issue. I would hope at this time that the amendment offered by the gentleman from Indiana is accepted.

● Mr. BINGHAM. Mr. Chairman, I rise in support of the substitute offered by the gentleman from Indiana (Mr. SHARP) to the amendment offered by the gentleman from New York (Mr. WYDLER). While the gentleman from New York has indicated very clearly that it is not his intention in any way to compromise the basic objective of the section under consideration—to enable the United States to meet important security responsibilities spelled out in the Nuclear Nonproliferation Act of 1978—his amendment, as originally drafted, would have had the effect of requiring the use of funds authorized by section 504 for the purpose of domestic spent fuel transfers even in the absence of an emergency. The language offered by Mr. SHARP simply insures that the Secretary of Energy will

both take steps to prepare for the retrieval of foreign spent fuel in the event we are faced with an international non-proliferation emergency, and make available the same facilities and equipment for the transfer of domestic nuclear-spent fuel should an emergency at a U.S. nuclear plant site require such action.

As I have stated on a previous occasion before this body, there is a dire need in this country to have a credible capability to retrieve and store safely U.S.-origin nuclear-spent fuel when it serves our vital security interests in preventing the spread of nuclear weapons. There is a lot of U.S.-supplied nuclear fuel spread all over the world, and we recognized our interest in seeing that it is not misused by passing the Nuclear Nonproliferation Act last year by unanimous vote. Nothing concrete, however, has been done to implement those provisions relating to spent fuel. Section 504 of H.R. 4839 would remedy this situation. It directs the Secretary of Energy to develop a spent fuel retrieval capability so that if a country violates an international safeguards agreement or otherwise misuses U.S. materials we will be in a position to respond quickly and effectively.

I would remind my colleagues that India would not be in the position she is today—able to convert U.S. origin spent nuclear fuel into an arsenal of nuclear weapons—had we acted decisively after her 1974 nuclear test to cut off further nuclear trade and to retrieve the remaining spent fuel for safe storage in the United States.

I would hope that the debate has shown today that more must be done, and done quickly to defend vital U.S. foreign and security interests in a tough stance against the spread of nuclear weapons worldwide.●

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Indiana (Mr. SHARP) as a substitute for the amendment offered by the gentleman from New York (Mr. WYDLER).

The amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New York (Mr. WYDLER), as amended.

The amendment, as amended, was agreed to.

PERSONAL EXPLANATION

Mr. BINGHAM. Mr. Chairman, I wish to state that I was unavoidably absent from the floor during the discussion on the amendment offered by the gentleman from Indiana (Mr. SHARP) as a substitute for the amendment offered by the gentleman from New York (Mr. WYDLER). Had I been present, I would have risen in favor of the Sharp substitute.

Mr. CORCORAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have in my congressional district, at Morris, Ill., the only away-from-reactor (AFR) nuclear spent fuel storage facility operating in the country today. This facility, operated by

GE, has contracts with several utilities throughout the United States to store their excess spent fuel.

In February 1977 GE, anticipating its storage space problems in the early 1980's, applied to the Nuclear Regulatory Commission for a license to expand the storage capacity of the Morris facility.

On October 18, 1977, the Carter administration announced its proposal to take responsibility for excess spent fuel produced by commercial nuclear reactors. The announcement outlined four basic commitments: Federal ownership of AFR's; one time fee for interim storage and ultimate disposal; Federal assumption of title to fuel; and Federal responsibility for ultimate disposal.

In response to my local problem and the President's proposal I introduced, on December 15, 1977, legislation (H.R. 10301) to establish a Federal policy on spent fuel storage and nuclear waste management, something we still lack in this country despite 30 years of commercial nuclear power. No action was taken on this proposal, which would have established a specific timetable for evaluation and subsequent action on storage facilities.

In the meantime, the Carter administration continued its studies and assigned task forces to formulate specific recommendations following the President's decision in April 1977, not to reprocess spent fuel. Among these was the Interagency Review Group on Nuclear Waste Management (IRG), a 14-member body whose evaluations confirmed the need for a Federal leadership role in nuclear waste management, including the desired availability for more than one away-from-reactor (AFR) facility for storing spent fuel. The IRG has strongly recommended a "regional siting" approach on the ground that while there is no need for 50 storage sites, there is a need for from three to six sites. Moreover, since many regions benefit directly from nuclear power, it is not unreasonable to expect that each region will bear some of the interim storage burden. Furthermore then as a matter of fairness, no one region or State in the country becomes a so-called dumping ground for nuclear spent fuel as is the case today. The National Governor's Association supported this concept in testimony before our subcommittee during hearings on the administration's spent fuel storage bill, H.R. 2586.

Mr. Chairman, now let us review the congressional commitment to AFR spent fuel storage. As the House moves to approval of the fiscal year 1980 Department of Energy authorization bill, and as the Subcommittee on Energy and Power continues its ongoing process of hearings on the administration bill (H.R. 2586), it is extremely important that we recognize the commitment made in the last Congress to proceed with the implementation of the President's spent fuel executive directive of October 1977. Despite the failure of the administration to transmit enabling legislation last year to deal with this issue, the 95th Congress felt strongly enough about the matter to

approve the construction of an initial away-from-reactor storage facility. This congressional approval was given via the passage of the conference report to accompany H.R. 12928, the Energy and Water Resources Appropriations bill, which included Project 79-1-p, a construction line item. This measure was subsequently signed into law by the President (Public Law 95-482) constituting both an authorization and an appropriation bill.

Pending at the close of the 95th Congress was additional clarifying language in section 403 of H.R. 11392, the fiscal year 1979 DOE authorization bill. This language was proposed based on an extensive hearing record constructed before the Energy and Power Subcommittee of the House Commerce Committee as well as extended deliberation by the full committee during its markup process. The author of that section, Mr. Gammage of Texas, provided some important insight into the impact of Project 79-1-p. A colloquy on the House floor between the author and the chairman of the Appropriations Subcommittee on Energy and Water Development, Mr. BEVILL of Alabama, confirmed the intent of Congress to proceed on an AFR program during fiscal year 1979 via the following language:

H.R. 11392, Section 403: "The Secretary (of Energy) shall conduct a study, select sites . . . and construct facilities at away-from-reactor sites . . . At least one such facility shall be in operation by January 1, 1984 . . ."

Mr. Chairman, the design, construction, long-lead procurement and acquisition authority for regional AFR's given the Department of Energy for fiscal year 1979 via Project 79-1-p has been sustained for fiscal year 1980 by the conference report on H.R. 4388, the Energy and Water Resources Development Appropriations Act. The conference report, which has been approved by both the House and the Senate, earmarks an additional \$5 million for Project 79-1-p. The spent fuel storage studies called for in the bill we are considering today (section 502 of H.R. 3000), complement the work that is presently being done on Project 79-1-p. The studies contained in section 502 will also facilitate the progress of Project 79-1-p as is made clear in the legislative history on H.R. 4388.

Mr. Chairman, I would like to point out that President Carter and the Department of Energy requested \$30 million to go forward with the program outlined in section 502; however, only \$5 million is provided in the pending bill on the grounds that this is what is needed for study and site selection, but that acquisition should not go forward without specific congressional approval as would be provided in the administration's spent fuel storage bill, H.R. 2586, which is pending further hearings in our Energy and Power Subcommittee.

I am very hopeful and determined that we can move on a schedule which addresses all aspects of this issue both by Congress and the affected agencies to solve these nuclear storage problems.

In fact, extensive documentation of

the environmental ramifications of AFR storage is now available. I would like to describe some of the major elements of that documentation at this time in order to inform my colleagues of the work that has already been completed in this regard.

Mr. Chairman, as you know I am disappointed by the continuing opposition of President Carter to reprocessing of spent fuel. In view of our energy crisis I do not think we should deny ourselves the contemplated demonstration testing at Clinch River, Tenn., of this particular nuclear option. However, I am pleased to report that the administration is commendably aggressive in its commitment to solving our nuclear waste management problems. To the extent appropriate DOE has proceeded to fulfill the requirements imposed by the National Environmental Policy Act—NEPA—related to implementing the President's spent fuel proposal.

In August 1978 DOE filed a draft environmental impact statement—EIS—entitled "Storage of U.S. Spent Power Reactor Fuel," examining all alternatives for implementing the President's October 1977 policy statement relative to domestic spent fuel—DOE/EIS-0015-D—A supplement to this draft EIS was made public in December 1978—DOE/EIS-0015-DS.

A document entitled "Preliminary Estimates of the Charge for Spent Fuel Storage and Disposal Services" was made public by DOE in July 1978. This was followed by a December 1978 release of a draft environmental impact statement, "Charge for Spent Fuel Storage" which established the basis for determining both interim storage charges and final disposal—DOE/EIS-0041-D.

Also in December 1978 a draft environmental impact statement dealing with the storage of foreign spent power reactor fuel was published—DOE/EIS-0040-D.

A great deal of public discussion of the need for and the attributes of the program was included in the February 1978 "Report of the Task Force for Review of Nuclear Waste Management," commonly known as the Deutch report. This effort culminated in the Interagency Review Group report to the President on Nuclear Waste Management submitted in March 1979. And, as I understand it, a decision memorandum has been forwarded to the President. In his August 2 environmental message, the President announced that his long-awaited national waste management policy was about to be clarified, thus completing a 2-year cycle on this important issue.

In an important supportive effort the Nuclear Regulatory Commission released in August its final generic environmental impact statement on the handling and storage of spent fuel (NUREG-0575). This assessment, available to the public, includes the impacts of implementing a program for away-from-reactor interim storage, particularly in terms of regulatory considerations. This underlies the ongoing program of approving licenses for onsite (at reactor) expansion of storage capacity. NRC, by the

way, as a recipient of some 65 applications for expansion permission has independently determined that substantial away-from-reactor storage will be needed sometime between 1982 and 1983. This progress by NRC should be considered an important aspect of the adherence to NEPA concerns.

Thus I think it should be clear to my colleagues that as far as NEPA and the public comment process is concerned, the pertinent agencies are virtually ready to proceed with activities directly related to site selection and construction of our interim storage facilities for nuclear spent fuel.

Based on the need to proceed with both the authorization process for a definitive project and a parallel path for review of the enabling legislation for transfer of title and establishment of charges for the one-time fee arrangement, we are now being asked to vote on provisions within section 502 of H.R. 3000 which are intended to complement the process initiated in fiscal year 1979. Had the administration moved more expeditiously on the pertinent legislation, we would be involved in a more important vote; namely, giving the Department of Energy the authority to take title to domestic spent fuel. I personally am hopeful that we can bring the Subcommittee on Energy and Power's hearings on H.R. 2586 to a rapid close so that further action on this important program can be taken.

There are several broad issues here on which there is general agreement. First is the issue of need for the interim storage capacity. Essentially all witnesses who have appeared before us during hearings on H.R. 2586 have urged proceeding with the program. The only difference of opinion was stated by the General Accounting Office which, although it concluded that some away-from-reactor storage would be needed as early as 1981, felt that DOE should concentrate its efforts on getting resolution of the question of whether spent fuel would be reprocessed and its valuable fuel residue recovered for further use.

While this forward-looking perspective by GAO is commendable it begs the question before Congress: Are we going to jeopardize the ability to maintain operations of existing nuclear powerplants in the mid-1980's because of a failure to act today? Our responsibility is to anticipate today the energy needs and the practical problems associated with meeting those needs in the coming years and take reasonable planning steps starting now to meet both long-term and short-term needs.

Of course, had it not been for President Carter's decision to force the NRC to terminate its licensing of commercial spent fuel reprocessing plants in 1977, we could now be looking forward to the operation of privately funded facilities in South Carolina, Tennessee, New York, and possibly other States, all capable of storing the excess fuel. In each of these cases the processing facilities would have provided for their own onsite temporary storage until the fuel was loaded into the plant. Hopefully we will some day get back to this mode of operation since

every other industrial nation with a substantial commitment to nuclear power is proceeding this way. But clearly that is not the question before us today.

Even more disturbing to me was the GAO's failure to account for the very real prospect that activities of intervenors and regulatory bodies will preclude achieving even a modest improvement in the ability to store the fuel within their own systems. For example, GAO noted that their estimates were based on utilities being able to fulfill their intrautility shipment plans.

However, the Natural Resources Defense Council (NRDC), the same organization which has represented to Congress that implementing the President's AFR policy is unacceptable to them, has proceeded to intervene against Duke Power, in South Carolina, and Commonwealth Edison, in Illinois, to block the shipments of spent fuel between reactors. Intervenors have also challenged the efforts of utilities to expand their onsite capacity to the maximum extent possible. These tactics must be recognized for what they are—blatant efforts to force the shutdown of existing nuclear powerplants.

But perhaps more serious is the action of regulatory bodies such as the Minnesota Pollution Control Agency. This agency, on behalf of the State of Minnesota, has intervened against Minnesota utilities to block expansion onsite. In a case involving this agency and Northern States Power, the agency agreed to allow onsite expansion contingent on the commitment that once the AFR becomes operational, Northern States must halt additional onsite storage and ship to the AFR any spent fuel which is discharged from the reactor after the date on which the AFR became operational. The point is that GAO based its conclusions on the assumption that all current and planned expansions of onsite capacity would be utilized to the maximum extent possible. Thus, we can see that the simplistic assumption of GAO does not meet the test of reality. What we must come to understand is that dealing with this issue is a Federal concern and that the States expect the Government to deliver on its commitment. We cannot allow the unavailability of a firm commitment to build an AFR to be used for harassment of our nuclear electricity production industry.

In my own State of Illinois the State attorney general has taken steps to attempt to block the onsite expansion at two operating facilities, the Dresden and Zion plants, which include five of the seven nuclear units currently providing some 30 percent of our electricity. The GAO's response to my inquiry about their assessment of which this institutional obstacle might be overcome was "we don't know." I submit to my colleagues that it is up to Congress to deal with this debilitating uncertainty.

A key issue important to our discussions is the extent to which regional spent fuel storage facilities will be encouraged. The Interagency Review Group has strongly recommended this approach since it puts the need for providing this interim management option

into perspective—many regions benefit directly from nuclear power so it is not unreasonable to assume that each region will shoulder some of the burden. The National Governor's Association has supported this concept in testimony before the committee and I understand that each Governor involved has recognized the important role of regional facilities.

For example, Governor Riley of South Carolina supports expansion of the Barnwell facility from 400 tons to 1,750 tons in order to accommodate excess spent fuel from nuclear plants in the Southeast. Other regional demands of consequence include the Northeast and the Midwest. The Department of Energy should proceed on a course which emphasizes the use of regional facilities. To date, the proposals presented to Congress would permit aggressive pursuit of this option.

Another important aspect of our efforts to implement the President's spent fuel storage proposal is the establishment of a charge to be paid by the utility at the time fuel is accepted for storage or waste is accepted for disposal. It is his expressed intent that the charge to be paid by utilities for this service will recover all costs including applicable research, acquisition of sites, construction, operation, surveillance, and decommissioning. The utilities support this proposal because they need a sound basis for approaching their local electricity rate commissions. Recently a Connecticut public utility commission approved the use of the DOE estimates for disposal costs as a recoverable expense to be charged customers benefitting from the energy derived from the nuclear fuel.

There has been a bit of confusion over what this one-time fee actually means. I would like to briefly discuss some of these issues. First, the one-time fee would be charged for each batch of fuel assemblies or waste canisters delivered to the Government facility. This fee would be paid at least once a year for the 30 to 40 years of powerplant operations and would include any updates on both costs incurred and revised cost estimates. For example, a utility beginning to operate a power plant in 1980 would be making payments each year through the year 2010 to 2020.

Second, the Government has already established a procedure for full cost recovery over a reasonable period of time. This is currently the basis for charging for uranium enrichment services provided by the Government from the Oak Ridge, Tenn., Portsmouth, Ohio, and Paducah, Ky., plants. These costs include labor, materials, power, research, plant additions, and inventory charges plus a contingency. Criteria have been published describing the basis for the charge and must be submitted to Congress any time a change is contemplated. Third, the charge would be annually updated to include the most recent experience in construction and operation.

As we all know, the technology for the spent fuel storage pools is currently in use at 72 reactors in the United States alone and essentially every Government nuclear installation. Detailed engineering

designs for the final repository have been completed for a full range of options—including every candidate geologic media. Extensive documentation is provided in the April 1979 draft environmental impact statement on "Management of Commercially Generated Radioactive Waste" published by DOE. Estimates for repository construction, including mining, back filling, and shaft sealing are provided for salt, granite, shale, and basalt. Various fuel cycles from the throwaway to the residual fuel recovery are also analyzed. By the time the first payments are made by a utility we will have constructed the interim storage facility, and should have specific site construction programs under way. As long as Congress does its part, we should have the first repository operational long before the final fuel is discharged from currently operating reactors. Thus, every utility will be a participant in paying for its share of the storage and disposal system.

The action of this body during its consideration of title I to provide for an Intermediate Scale Technology Demonstration project could contribute significantly to the Department of Energy's refinement of its cost estimate for the disposal-only portion of the fee to be paid by utilities. There is no better way to get the important experience needed than through the construction of a specific site facility which, although designed at a smaller scale, can be used as a basis for examining handling facilities, emplacement techniques, and waste forms in enough detail that even more confidence can be placed in a scale-up of the design. In the event that Congress cannot move expeditiously to resolve the more important question of establishing a comprehensive waste management policy, projects such as these can provide the needed direction for the ongoing program. I personally support this approach because it will enhance rather than detract from our future legislative responsibilities in this area.

While utilities will continue to take whatever actions are available to avoid the shutdown of nuclear power reactors due to inadequate spent fuel storage, the ability of utilities to adopt temporizing measures in expanding spent fuel storage facilities or transshipments is diminishing. Passage of the pending bill (and the approval of H.R. 2586 or a similar measure) is needed to provide AFR capacity because it is the only viable alternative in the near term, because it is the best economic alternative, and because the problem is directly related to uncertainties created by Government policies and, thus, resolvable only by Federal action.

For these reasons I urge passage of this section of the bill as a most important part of this year's Department of Energy authorization bill.

(Mr. CORCORAN asked and was given permission to revise and extend his remarks.)

AMENDMENT OFFERED BY MR. GONZALEZ

Mr. GONZALEZ. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GONZALEZ: Page 45, line 6, strike section 502.

Mr. GONZALEZ. Mr. Chairman, once again it looks to me as though the House, the Congress generally, is playing nuclear roulette with the fate of the American people, again with a very limited background of thoroughgoing and forthright presentation of all of the issues involved.

My amendment is very simple: It strikes out all of the provisions relating to a study by the Department of Energy on the problem of storage for nuclear reactor wastes, away from the site of such reactors and implementation thereof.

What we are being asked to do, constantly, in the business of nuclear power, is to clean up after this, that or the other mistake. In this case we are being asked to create storage space in communities that don't have nuclear wastes to worry about, to take care of the problems of the communities that do have nuclear wastes to worry about.

I do not see why my community, or any other community that is free of nuclear wastes ought to become the potential waste bin or dumping ground for some place that cannot handle its nuclear trash.

Today, nuclear wastes are stored on the site of nuclear power plants. That is the way it ought to be. That is the way they argued it should be, before T.M.I. Those who create the poison have to live with it.

But Section 504 of this bill would relieve those places of their responsibility to live with what they have created. It would transfer their poison to other places that have been wiser, or you might even argue, more fortunate than to have a nuclear junkpile in their backyards.

I know that the committee will argue that unless away-from-reactor disposal is made available, certain powerplants will run out of storage space in 1983. But the people of this country did not make any agreement to be responsible for storage of this waste. It is the people who create waste that have to be responsible for its disposition, not innocent communities hundreds of miles away. If a power company built a reactor, then its responsibility was to assure that the wastes would be taken care of. But section 504 of this bill relieves them of this responsibility and commands others, who are not responsible, to assume all the risk and all the consequences of this thoughtless act. This is manifestly wrong.

I know too that the committee will argue that without the capacity for away-from-reactor storage, certain powerplants will begin to run out of storage space in 1983 and be faced with the possibility of shutting down. But everyone knew, from day one, how long that storage space would last, and now that the predicted end is near, they are saying that we have to create dump grounds elsewhere, or see tragic consequences. This is nothing other than simple blackmail, and it does not change the fundamental rights and wrongs of the situation. It still does not answer the question of why some communities must become the recipients of the poisons of other communities.

It might be said that if my amendment is adopted it will be the beginning of the end of nuclear power in this country. I say, if that is so, then so be it. We can live without nuclear power, and it might well be that we may not be able to live with it. But if we have to live with nuclear power, let those who created the poison be responsible for it, and live with it. Do not make innocent people have to live with a monster they had nothing to do with, never asked for and never wanted. Let those who did the deed live with its consequences.

□ 1210

The CHAIRMAN pro tempore. The time of the gentleman has expired.

(At the request of Mr. CORCORAN and by unanimous consent, Mr. GONZALEZ was allowed to proceed for 2 additional minutes.)

Mr. CORCORAN. Mr. Chairman, will the gentleman yield for a comment?

Mr. GONZALEZ. I yield to the gentleman from Illinois.

Mr. CORCORAN. I respect what the gentleman has said in terms of raising the issue of why have we not provided by now for not only interim storage of spent fuel but also permanent disposal of nuclear wastes.

As I tried to point out in my earlier comments on this section of the bill, one of the problems that has come upon us recently has been the decision of the Carter administration to stop the breeder reactor program. The original idea was that the spent fuel would be used as part of a new technology in developing additional nuclear fuel. For that reason the storage sites were relatively small at the nuclear powerplants. We now find ourselves in a different situation.

There are two things happening which I think are progressing reasonably well under current circumstances. One, section 502 of the bill, which answers the problem the gentleman raises in that it provides for a need study, public hearings and all of the procedures so that we can come to a final determination on whether or not the spent fuel should be stored on site or at away-from-reactor facilities. Second, section 502 of the pending bill helps bring us to that day when we can ultimately have permanent disposal sites for high level nuclear wastes.

Mr. GONZALEZ. I appreciate the gentleman's effort to make the point that I know he wants to make. However, that would be well if that is as far as it went. However, a very careful evaluation of the language of this section will reveal to the gentleman we go beyond that. We are actually making a very definite commitment. If you look at it you will see it goes beyond just coming in with a study and recommendations. It sets up a plan of action; this has been, incidentally, an approach which resembles the way the whole matter of private commercial development of nuclear fission has been presented to the Congress and therefore to the country. It has been absent of all of the established facts.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

(At the request of Mr. CORCORAN and by unanimous consent, Mr. GONZALEZ

was allowed to proceed for 1 additional minute.)

Mr. CORCORAN. Will the gentleman yield?

Mr. GONZALEZ. Surely I will yield to the gentleman from Illinois.

Mr. CORCORAN. I am sure the gentleman and I can disagree on what we have read, but I can assure the gentleman, having participated in the development of the section as a member of the Subcommittee on Energy and Power of the Committee on Interstate and Foreign Commerce which has jurisdiction in this section, that it is the intent, and I declare it is the language of the section that it is a study, and all the other actions are conditioned on that study.

Mr. GONZALEZ. In other words, Mr. Chairman, the gentleman is saying as far as the intent of the committee writing this section is concerned, all you were really asking for is a study and any implementation thereof would have to, of necessity, be evaluated by the Congress subsequently?

Mr. CORCORAN. Will be evaluated, to use the gentleman's words, by the Congress subsequently.

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

Mr. GONZALEZ. Certainly I will yield to the gentleman.

Mr. SHARP. Mr. Chairman, that is precisely our intent. On both pages 54 and 55 there are references to both the words authorizations and appropriations. In other words, that the Federal Government cannot buy, cannot purchase land, cannot call for construction.

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

(At the request of Mr. SHARP and by unanimous consent, Mr. GONZALEZ was allowed to proceed for 2 additional minutes.)

Mr. GONZALEZ. I yield to the gentleman from Indiana.

Mr. SHARP. They cannot take title to spent fuel until there is a further authorization and appropriation. Our assumption is that through this study, through the preliminary groundwork the department will engage in, that on the next authorization bill or on a separate piece of legislation we would then be in a position to have exactly the debate the gentleman properly wishes to have.

Mr. Chairman, there was an effort by the administration and some others to try to get Congress to put money in the bill for the purchase of an AFR facility. We rejected that on the grounds we did not have the documentation of exactly what is the problem, whether we wish to go with further onsite storage or whether the Federal Government should provide storage, so we tried not to resolve all of those gut questions but put us on a timetable so we will have the information available to us in a much more thorough manner when we consider the next authorization bill.

Mr. GONZALEZ. I sincerely thank the distinguished subcommittee chairman and also the gentleman from Illinois (Mr. CORCORAN).

Mr. Chairman, upon reading this amendment, my interpretation leaves me

to believe it is essentially erroneous and it does not in any way make a commitment in the way of providing any future site based on a study.

Mr. SHARP. That is right, Mr. Chairman. In fact, we avoided precisely, as one of the gentlemen here can tell you, any allowance of designation of any given site.

We do ask the administration to come forward with potential sites so that when we get down to discussing the issue we will know what we are talking about, where we are talking about, how it will be used. Then and only then will Congress decide: Yes, go forward and buy it, or, No, do not do it.

Mr. GONZALEZ. I have always been in favor of studies. I do not want to be narrow in my interpretation. If this seems to be the consensus here among those who have written the section, I might well ask unanimous consent to withdraw my amendment.

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

Mr. GONZALEZ. I yield to the gentleman from Massachusetts.

Mr. MARKEY. Mr. Chairman, I would like to reassure the gentleman that withdrawal of the amendment would be appropriate. I have expressed the same concerns as the gentleman in the well. I serve on both subcommittees, that of the Committee on Interior and Insular Affairs and that of the Committee on Interstate and Foreign Commerce.

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

(At the request of Mr. MARKEY and by unanimous consent, Mr. GONZALEZ was allowed to proceed for 2 additional minutes.)

Mr. MARKEY. The language which is in this bill is exactly that. It is intended to allow and mandate the Department of Energy to conduct a study and report back to the Congress on what are their recommendations, but to give them no authority or no appropriations that would allow them to act without specific authorization and appropriations from the Congress. We will have that opportunity then to be able to give specific instructions to them. I think the gentleman's motion to withdraw the amendment would be appropriate because, indeed, we do build in those protections.

Mr. GONZALEZ. I thank the gentleman from Massachusetts.

Mr. Chairman, if it is in order, I ask unanimous consent that I may be allowed to withdraw my amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. McCORMACK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, in considering this section 502, I think it is important for us to keep a few facts clearly in mind. There was some confusion in the discussion of the amendment by the gentleman from Texas that I should like to correct at this time so that there will be no misunderstanding of these facts.

Mr. Chairman, the gentleman stated there is about 75 million gallons of waste, nuclear waste in this country. I should

like to point out that of the nuclear wastes in this country, about 99.9 percent of them have nothing whatsoever to do with our nuclear energy program.

□ 1220

These wastes come almost exclusively from our defense program, our nuclear weapons program. There are virtually no wastes at all from our nuclear energy program, because we have only reprocessed a handful of fuel elements from our nuclear plants. Part of the tank of wastes at West Valley in New York come from commercial fuel elements, but most come from the Department of Defense. This one small tank is partially nuclear energy wastes and this bill does contain a provision to glassify that waste.

So it is important to remember that the nuclear wastes referred to around the country are almost entirely associated with the defense program.

It is important to remember also that each spent fuel bundle, about 6 or 7 inches square and about 10 feet high, contains the electric energy equivalent of between 6 and 10 million barrels of oil in fuel that has not yet been used. There is only about 2 percent waste in a spent fuel element, and we do not get the waste until we reprocess and we do not have any reprocessing program today. I think we would have a reprocessing program, and I regret that it has been delayed.

This study, of course, will, along with the provisions that are provided in title I of the bill, help lead to a reprocessing program at the appropriate time. I have no doubt that we will do that.

I believe, as a matter of fact, that we will come to a conclusion to create a Federal nuclear fuel cycle corporation, where the Federal Government preempts all the fuel cycle from mine mouth to waste disposal and carries out all the operations on a contract basis and leases the fuel elements to nuclear powerplants and has them returned intact for reprocessing. But it is important to get the simple facts in context and to go ahead now with these studies.

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

Mr. McCORMACK. I would be glad to yield.

Mr. SHARP. Mr. Chairman, I would just like to take exception to one of the gentleman's facts. I think the gentleman is accurate when he says 90 percent of the volume of radioactive waste does come from the military and 10 percent from our energy program. It is my understanding that given the measure of radioactivity, that it is, in fact, 50-50 in terms of radioactivity.

Mr. McCORMACK. Well, of the wastes themselves, it is about 99.9 percent defense.

In the future the portion from the energy program will increase. As we reprocess the fuel and separate the wastes, and as the radioactivity dies away from the defense wastes, then there will be more activity from the nuclear energy program.

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

Mr. McCORMACK. I would be glad to yield.

Mr. WYDLER. Mr. Chairman, I think the gentleman's statement is excellent. I think it tends to put in perspective what the responsibilities of the American people are, because the American people have a responsibility, whether they like it or not or want it or not, to take care of the waste material that has been granted in our country from our nuclear bombs, our atomic weapons, which are there to protect our Nation. That is a Federal problem. There is no way we can escape that and it has to be dealt with at the Federal level.

Some of the earlier discussion, I am afraid, indicated that these spent fuel rods, which are going to be put away from reactor storage facilities, are wastes and, of course, as the gentleman so clearly pointed out, they are not waste. They are one of our most valuable assets, one of our treasures, as a matter of fact, because they contain enormous amounts of power and energy which we can use to develop the economy of our country in the next 100 years. So obviously, it is not a question of disposing of wastes, but it is a question of preserving those assets, so that when we finally make the decision to use them, as we inevitably will, they will be there for us to use them.

Mr. McCORMACK. Mr. Chairman, I thank the gentleman. He is completely correct.

I should point out that not only are these spent fuel elements a great treasure for the United States, they are the greatest source of energy we have in this country.

The CHAIRMAN pro tempore. The time of the gentleman from Washington (Mr. McCORMACK) has expired.

(By unanimous consent, Mr. McCORMACK was allowed to proceed for an additional one-half minute.)

Mr. McCORMACK. When the wastes are separated from the spent fuel, they will occupy a very small volume, indeed. When we glassify these wastes, a typical 1,000-megawatt nuclear plant will provide only 10 canisters of waste, about 1½ feet in diameter and 6 to 10 feet high per year. That is the entire volume of high level wastes per year produced by a nuclear powerplant. We have the technology now to totally remove all of the high level wastes completely from the biosphere forever. That technology exists. It is being used in France today. We have already demonstrated it in this country. We simply have to go ahead and do it.

Mr. MARKEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think that section 502 as it emerged from the Committee on Interior and Insular Affairs and the Committee on Interstate and Foreign Commerce is, indeed, a fine compromise position. The study provided for in this section is the away-from-reactor spent fuel storage program. It is inherently a neutral assessment of the nuclear future of our country. It makes no real decision on whether or not reprocessing is something which in the future will be encouraged by our Government. It makes no determination as to whether or not there is the ability at already existing

nuclear power facilities for onsite spent fuel storage.

It does not really answer the question of whether or not reracking and expansion of onsite storage pools are an answer which might be able to get us through the interim period while we are awaiting a permanent solution to the nuclear waste disposal problem in this country.

The GAO report, issued on June 27 of this year, indicated that they found that the Department of Energy had greatly overestimated the need for spent fuel by almost four times, making the real storage requirement only about 25 percent of what DOE had projected. When utilities were interviewed by the GAO, only one utility did not have an option to expand its existing storage capacity, and that utility is in fact considering the possibility of building an independent storage facility in partnership with another group of utilities. The study of the problem of commercial spent fuel in section 502 of this bill took a great deal of time and painstaking care to structure. I think all parties understood that it did not make a determination that either reprocessing or Government purchase of AFR capacity was going to be a necessary result of any DOE study. Rather, we intend that there be an impartial zero base analysis of the whole question of away-from-reactor capacity and then recommendations would be returned to the Congress that we would be able to act upon.

I think that is, indeed, what this section of this measure indicates and I would hope that the broad-based support that we receive here will also be present when the recommendations and studies are returned from the Department of Energy.

The CHAIRMAN pro tempore. Are there further amendments to title V?

Mr. FUQUA. Mr. Chairman, are we through with title V?

The CHAIRMAN pro tempore. The Chair is not aware of any further amendments to title V.

Mr. FUQUA. Mr. Chairman, I ask unanimous consent that three amendments be offered to title I of the bill, despite the fact that the title has been passed over in the reading. One amendment is a technical amendment that I will offer. One is an amendment by the gentleman from North Carolina (Mr. NEAL) that has been agreed to; and one is an amendment by the gentleman from Washington (Mr. McCORMACK) that has been agreed to by both the minority and the majority committees involved.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. WYDLER. Mr. Chairman, reserving the right to object, I am just going to announce that I will not object to this particular request, but any further requests of this type, I will object to.

Mr. FUQUA. Mr. Chairman, I appreciate the gentleman's consideration.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

AMENDMENT OFFERED BY MR. FUQUA

Mr. FUQUA. Mr. Chairman, I offer a technical amendment.

The Clerk read as follows:

Amendment offered by Mr. FUQUA: Page 2, line 4, strike out "\$48,000,000" and insert in lieu thereof "\$56,000,000".

Mr. FUQUA. Mr. Chairman, this is a technical amendment to clarify an error that was made in the amendment offered by the gentleman from West Virginia (Mr. RAHALL) last week when the bill was considered. The committee accepted the gentleman's amendment. Inadvertently it was printed incorrectly in the RECORD. I ask that the amendment be adopted.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Florida (Mr. FUQUA).

The amendment was agreed to.

□ 1230

AMENDMENT OFFERED BY MR. M'CORMACK

Mr. M'CORMACK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. M'CORMACK: Change section 107, paragraph (B), subparagraph (2) on page 5, lines 12 and 13 by deleting the following:

"(2) Waste treatment technology and other activities, \$20,950,000."

And adding the following:

"(2) Waste treatment technology and other activities, \$21,950,000."

The CHAIRMAN pro tempore. The gentleman from Washington (Mr. M'CORMACK) is recognized for 5 minutes in support of his amendment.

Mr. M'CORMACK. Mr. Chairman, his amendment is to add \$1 million to the subject of waste treatment technology.

The purpose of the amendment is to accelerate the program for research and development into incineration or other methods of reducing the volume of the low-level radioactive wastes that are produced in this country.

About half of the low-level wastes comes from hospitals and from industrial use. Every time somebody goes to a hospital for any kind of therapy and requiring nuclear medicine, any time this type of equipment is used, hospitals eventually have to dispose of radioactive materials, syringes, boxes, anything at all, and there is a considerable volume of this low-level waste.

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

Mr. M'CORMACK. I yield to the gentleman from Florida.

Mr. FUQUA. Mr. Chairman, as I mentioned before, we have already agreed to accept the gentleman's amendment. We think it is a very worthy amendment, and I urge its adoption by the committee.

Mr. M'CORMACK. Mr. Chairman, I thank the gentleman from Florida (Mr. FUQUA).

Mr. Chairman, despite the fact that the amendment has been agreed to, I think there is another point that must be understood here. It is a very important point. That is that for the low-level wastes that are being shipped across this country today, there are only two functioning low-level waste repositories.

About half of the material comes from hospitals and other nonnuclear industries, and it has a huge volume. There is very, very little radioactivity involved.

We are shipping these materials all over the country as if they are dangerous materials, only to comply with the regulations, and the important thing, I think, is to reduce the volume as much as possible so we do not have the problem of handling these materials just to meet the requirements of regulations.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Washington (Mr. M'CORMACK).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. NEAL

Mr. NEAL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. NEAL: On page 2, line 8, strike: \$88,150,000 and insert \$85,050,000.

On page 19, after line 8, insert the following new item:

(11) Project 80-FE-12, peat-fueled combustion demonstration plant, site undetermined (A-E and long-lead procurement only), \$3,100,000.

On page 35, after line 18, insert the following new item:

(15) Project 80-FE-12, peat-fueled combustion demonstration plant, site undetermined (A-E and long-lead procurement only), \$3,100,000.

Mr. NEAL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. NEAL. Mr. Chairman, one of this country's largest untapped energy sources is peat. We have enough peat in the United States to produce the energy equivalent of about 250 billion barrels of oil. That is roughly comparable to Saudi Arabia's total oil reserves.

What is more, the commercial use of peat is no pipe dream. European countries have been burning it successfully for years. We know that with only a few technological refinements we can use peat to produce electricity in the United States. We even have studies indicating that, in generating electric power, peat would be cost-competitive with both coal and nuclear power. We know also that peat is a cleaner-burning fuel than coal.

In view of these facts, it is absolutely incredible that our Department of Energy is not spending a penny to develop peat combustion technology.

We are sitting on an energy resource of enormous value, at a time when this Nation is on the verge of critical energy shortages, and we are simply ignoring it.

Mr. Chairman, that is why I am introducing an amendment to the Department of Energy Authorization Act for fiscal 1980, to provide \$3.1 million for first-year funding of a demonstration peat-fueled electric generating plant. It is recognized that this will be the first module in a full-sized commercial electrical generat-

ing facility. The Senate version of the DOE authorization bill already contains a similar provision.

This demonstration plant would fill a serious gap in our energy development program. It would fully explore the potential of peat-fired power production by testing and refining the latest available equipment. It would also measure the environmental effects of harvesting and burning peat.

Mr. Chairman, the DOE authorization bill already contains \$6.7 million for peat gasification research and development. My amendment would make our peat development program a more balanced one. The Science Committee staff has informed me that no additional funding is necessary, beyond what is in the bill, for the purposes of my amendment. It was pointed out that many aspects of the combustion program, particularly as they relate to peat harvesting, will complement the gasification program.

Mr. Chairman, some will ask why the Government cannot just wait until the utility companies get around to developing this obvious resource on their own. Well, we do not have that luxury anymore. We need energy now. Furthermore, we have to recognize that utilities are not rushing into peat fuel development. Why? Primarily because the available technology has not been refined for use in the United States. Large-scale use of our American varieties of peat—which are different from European peat—will require development of new kinds of boilers and a new harvesting system. This equipment seems to be technologically feasible and easily obtainable, but private utilities now seem unwilling to make the initial investment. I have seldom seen a situation in which the Government had so much to gain from providing an incentive.

I have no doubt that the availability of Federal matching funds would bring forth utilities eager to build a peat-fired electric plant.

One such organization is the North Carolina Electric Membership Corp., which represents 28 consumer-owned electric cooperatives. This group has offered to pay more than half of the cost of constructing a 150-megawatt peat-fired generating plant. After extensive research, the North Carolina cooperatives have estimated that such a plant could generate electricity at a cost of about 17 mills per kilowatt hour. That compares favorably with the Virginia Electric Power Co.'s current cost of 15 mills using old equipment and 20 to 23 mills using new coal or nuclear equipment.

Under the North Carolina proposal, the Federal share of the cost would be \$72 million over 6 years. In addition, the cooperative organization's directors recently approved a resolution agreeing to "repay that portion of any moneys the Federal Government has expended for production equipment if the project results in a successful and economic savings to its members." That could reduce the ultimate Federal share to about 20 percent.

As an example of peat's potential value,

consider the fact that North Carolina's peat reserves—only 2 percent of the Nation's reserves—are said to be sufficient to supply all of that State's electric power for 23 years. Other States have even greater stores of peat.

Mr. Chairman, our energy forecasters tell us to expect serious electricity shortages by the 1990's because of problems in bringing nuclear plants on line and in mining sufficient coal. In addition, President Carter has now committed the country to reducing its oil imports by half by 1990.

It is obvious, then, that we had better develop alternatives. Peat is one of our best hopes for closing the energy gap. It is this country's second most abundant fossil fuel. Yet we do not have even one commercial peat-fired generating plant, even though peat's potential in this field has been amply demonstrated in Russia, Finland, Ireland, and other countries.

In addition to its other appealing qualities, peat is not likely to compound our air pollution problems. Compared with coal, peat is a relatively clean-burning fuel. It has significantly less sulfur, ash and nitrogen than coal. The demonstration plant would, however, measure peat-burning's effect on air quality and would answer questions about peat harvesting's impact on the environment and on land use.

On balance, when one considers the availability and potential value of peat, the only remaining question is: What are we waiting for?

I hope that my colleagues will get us started by supporting this amendment.

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

Mr. NEAL. I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, the committee has had a chance to review the gentleman's amendment. I think it is an excellent one, and I urge the committee to adopt it.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from North Carolina (Mr. NEAL).

The amendment was agreed to.

The CHAIRMAN pro tempore. Are there further amendments to title V?

AMENDMENT OFFERED BY MR. VENTO

Mr. VENTO. Mr. Chairman, I offer an amendment to title V.

The Clerk reads as follows:

Amendment offered by Mr. VENTO: Section 502(b) (1), add the following new subsection (C) and renumber accordingly:

(C) be based on the assumptions that:

(i) these facilities will be designed solely for the interim, short-term storage of spent fuel;

(ii) these facilities will be used solely for the near term need;

(iii) the storage capacity shall not be expanded beyond the level needed to meet the amount of spent fuel withdrawn from the core of any nuclear reactor licensed by the Nuclear Regulatory Commission prior to 1990, and, where appropriate and consistent with applicable law, foreign nuclear reactors; and

(iv) facilities for the long-term or permanent storage of spent fuel and nuclear high level waste shall be made available as soon as possible.

PARLIAMENTARY INQUIRY

Mr. WYDLER (during the reading). Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state it.

Mr. WYDLER. Mr. Chairman, may I ask, is this amendment being offered to title V, and, if so, have we not completed title V?

The CHAIRMAN pro tempore. The Chair will state that the committee is still on title V. The Clerk has not yet designated title VI.

The Clerk will continue to report the amendment.

The Clerk concluded the reading of the amendment.

Mr. McCORMACK. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN pro tempore. The gentleman from Washington (Mr. McCORMACK) reserves a point of order on the amendment.

The gentleman from Minnesota (Mr. VENTO) is recognized for 5 minutes in support of his amendment.

Mr. VENTO. Mr. Chairman, the need or the concern that is expressed in this amendment deals with the study and study criteria stated with regard to away-from-reactor storage. I have shared this amendment with members of the various committees who are concerned with this particular issue, and I was hopeful that we would have this particular provision accepted by those committees. Nevertheless there is concern with regard to the amendment and what the impact of it would be.

What I want to point out today is that what comes through to us on this away-from-reactor study, which is a very unusual study, it all but authorized the quick implementation and construction of away-from-reactor facilities in this legislation.

I think all of us ought to recognize that, and I believe we do recognize it. We also recognize the critical problem in terms of dealing with spent fuel. That problem is with us now, especially with nuclear reactors throughout the country. By 1990 I assume there will be some 150 nuclear reactors operating, all of which will be producing spent fuel, with the real possibility of no resolution regarding permanent or long-term disposal of nuclear material. I think that this would obviously be an abrogation of our responsibility and purpose with AFRS.

My fear with regard to the study is that the time frame for short-term storage is something like a time frame of 30 to 50 years. The problem is that once that has been attained, the pressure really is off with regard to finding permanent or long-term types of storage solutions.

All this amendment would propose to do would be to recognize that up until 1990 there would be a certain amount of spent fuel produced which would require away-from-reactor storage, and that we ought to have certainly short-term storage, that is, a 30- to 50-year short-term

storage available. That storage could continue to be used, with this amendment, after 1990, but it would limit the amount of away-from-reactor storage or short-term storage anticipated by the criteria of this study to the 1990 level. This AFRS program will likely be implemented within a year without a congressional veto but hopefully rigorous oversight.

The point is that this amendment really provides an option, to say we were going to obviously provide this capacity but we are not going to go beyond that 1990 base as a solution to the problem.

Obviously that has met with some opposition, and I really think the best interests of nuclear reactors, and so forth, would be served by reaching a long-term or permanent type of storage agreement. But unfortunately, it is my judgment that if this is passed into law, absent the proposed amendment, the impetus to find permanent and long-term storage would be severely retarded.

However, I do agree with the intent of what we are trying to do here. I think we do not have the answers. The inter-agency group study pointed out the lack of information and the unanswered questions. We cannot force human knowledge or the answers to implement a long term, permanent storage solution to be created by law. There are many questions that should be answered. I certainly hope they will be answered so we can proceed with a plan for the storage of various types of waste and hazardous materials, especially those related to nuclear reactors.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. Does the gentleman from Washington (Mr. McCORMACK) insist on his point of order?

Mr. McCORMACK. Mr. Chairman, I do not insist on my point of order. I rise in opposition to the amendment.

The CHAIRMAN pro tempore. The gentleman from Washington (Mr. McCORMACK) is recognized for 5 minutes.

Mr. McCORMACK. Mr. Chairman, with all due respect to the gentleman from Minnesota (Mr. VENTO), because I appreciate the intent of his amendment, I believe that it would put unnecessary, unwieldy restraints upon the programs which will be evolving during the coming years between the administration and the Congress.

I believe that section 502 sets out a study program which is a reasonable one. As did the gentleman who sponsored this amendment in its written form with the committees involved, I say it is a completely neutral study. Indeed I think that is what it should be.

In my own mind, I am convinced that in the very near future the administration will come forth with programs for fuel reprocessing, and that the requirements for fuel storage will be very much reduced as we get a nuclear fuel cycle in operation. But we cannot be exactly sure of the dates and what this amendment does is provide dates which might conceivably confuse the situation and make it unworkable.

□ 1240

Indeed, the amendment contains language which I consider to be vague beyond the point of workability, where it says that spent fuels shall be stored solely for the near-term need. I think defining "near-term need" is almost impossible.

For these reasons, in spite of the fact that I respect the gentleman's attempts to try to define that we shall not protract the surface storage of spent fuel indefinitely, I must rise in opposition to the amendment.

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

Mr. McCORMACK. I yield to the gentleman from Minnesota.

Mr. VENTO. I thank the gentleman for yielding.

Mr. Chairman, I just want to assure the gentleman that there is no mystery intended by the amendment in terms of subtle meanings that are difficult to define.

I just want to remind the body that we did have amendments before us that said within 1 year, within 2 years, we would in fact arrive at a solution of permanent long-term storage. The intent of this amendment certainly is not to put it in a 1- or 2-year time frame but, rather, to just suggest that the away-from-reactor storage study on the construction that may be authorized under this would in fact fall into some sort of a reasonable time frame. That is the intent of it.

So I think the Members ought to think about it, those who voted for the 1-year and the 2-year construction permit. This really just says we are going to keep this as a long term storage solution on track, that we are not going to let the near-term storage of spent fuels anticipated by this away-from-reactor storage study lull us into complacency and pretend to fill the need itself. We should keep this on track.

Mr. McCORMACK. I thank the gentleman for his comments.

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

Mr. McCORMACK. I yield to the gentleman from New York.

Mr. WYDLER. Mr. Chairman, I want to congratulate the Committee on Interstate and Foreign Commerce on the amendment that they wrote, which I think is very superior to this amendment. I oppose the amendment that is being offered and I support the action of the Committee on Interstate and Foreign Commerce.

Mr. McCORMACK. I thank the gentleman for his remarks.

Mr. Chairman, I only want to say that, in all due respect to the gentleman from Minnesota, I do believe that the wording of his amendment is too vague, is too restrictive, and it will do more damage than good.

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

Mr. McCORMACK. I yield to the gentleman from Michigan.

Mr. DINGELL. I thank the gentleman for yielding.

Mr. Chairman, with a great deal of

respect to the author of the amendment, I think it is duplicative of provisions already included in the section. It breaches understandings arrived at.

My good friend, the gentleman from New York (Mr. WYDLER), mentioned it was the Committee on Interstate and Foreign Commerce which crafted section 502. It really was not. It was three committees working in concert, the Committee on Interior and Insular Affairs, the Committee on Science and Technology, and the Committee on Interstate and Foreign Commerce.

Mr. Chairman, I oppose the amendment offered by the gentleman from Minnesota on the grounds that it is duplicative of provisions already included in this section.

The purpose of this amendment is to insure that the Secretary, in studying the need for away-from-reactor spent fuel storage, limits his determination of such need to spent fuel discharged from reactors licensed to operate before 1990. The purpose of this limitation is to insure that assistance is provided only to those reactors which were designed to have limited onsite storage capacity and with the expectation that such fuel would be shipped offsite to a reprocessing plant. As reprocessing is not presently an option, these reactors may be running out of storage capacity. As this problem was supposedly caused by Government actions, then, it is argued, the Government should offer relief by providing interim storage capacity. This amendment would then seek to limit that assistance only to those who relied on past Government policies and would require reactors licensed after 1990 to anticipate the problem and provide their own adequate storage capability.

The issue of providing away-from-reactor spent fuel storage capacity for future reactors is already addressed in section 502(b)(2)(ii), which specifically directs the Secretary of Energy to study and submit data on the need for providing storage for future reactors. Thus, the Secretary would then be providing information as to which reactors now under construction would be able to provide their own additional on-site storage capacity for their discharged spent. The existing provisions would not then guarantee space to all such factors, as would this amendment, and, thereby, the existing text would reduce the potential size of the need.

As to the argument that the Government should provide storage for all existing and future reactors, the Department has testified that their intention is only to assist those reactors which face an immediate storage problem as a result of changing Government policies and not to establish a continuing program, which I believe is consistent with the terms of the present text.

It should be noted that the proposed amendment is vague in the sense that it does not define such terms as "short term storage" or "near term needs." The present text, in section (b)(3)(B) directs the Secretary to determine the period of time for which such storage should be provided.

Finally, subparagraph (iv) of the proposed amendment states that—

Facilities for the long term or permanent storage of spent fuel and nuclear high level waste shall be made available as soon as possible.

The objective of our program should not be to perpetuate storage, but find a suitable method of disposal.

For these reasons, I oppose this amendment and urge its defeat.

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

Mr. McCORMACK. I yield to the gentleman from Illinois.

Mr. CORCORAN. Mr. Chairman, we have a carefully established, bipartisan compromise on which the members of two Committees, Commerce and Interior, have agreed.

It is the purpose of the study in section 502 of this bill to determine the need for away-from-reactor storage space for our nuclear spent fuel. Our Nation's utilities are running out of onsite storage space. It is imperative that this condition be redressed if we are not to force utility shutdowns in the 1980's and beyond.

We certainly hope that permanent, effective nuclear waste disposal facilities are in place and operating by 1990. Storing our spent fuel should not be made contingent upon those facilities, however. These are two separate problems. And to arbitrarily say that we will shut down our nuclear utilities in 1990 if such facilities are not in place, and that is what this amendment does, is shortsighted, ill-advised, and dangerous to our energy future.

I have consistently argued that the nuclear option must remain a part of that future. Our utilities are already abandoning nuclear power because of our refusal to make a firm commitment to support nuclear growth. Tuesday's Washington Post highlights this fact by announcing Vepco's decision to refrain from completing two nuclear plants that it had under construction.

This amendment, which would plan to terminate the away-from-reactor program before it begins, would also send an unfortunate message of withdrawal from nuclear power.

We cannot afford to do that. I ask that the recommendation of the two committees having jurisdiction in this matter be accepted, and this amendment defeated.

Mr. SHARP. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

I think the author has raised some significant points that I am not sure those of us on the Committee on Interior and Insular Affairs are totally in disagreement with. I think basically we want to keep the focus on finding a long-term solution and certainly have no intention of allowing the AFR issue to become a means to skirt that question. I do not think that is the intent of most of the supporters of the language of the bill.

Secondly, I think another aspect of the amendment that the gentleman intends is another one about which I think there is strong support, and that is that

we do not want the Federal AFR program, if one is adopted, to become a substitute for initial storage onsite at the reactor, because many of us, in our initial judgments on this issue, feel that onsite storage is likely to be safer. The less traveling and the less maneuvering of this material in the country, the better off we are.

So I think the intent, in getting this study, is to try to keep it focused on real problems and not to become a substitute for responsibilities of local utilities and not as an evasion of the long-term waste solutions that are needed.

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

Mr. SHARP. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I have listened carefully to my colleagues in response to the amendment and what its intent was. I just want to assure the Members that the amendment would not preclude or would not have precluded storage after 1990. This sets a limit as to the amount of away from reactor based on capacity of nuclear plants that existed, powerplants that existed, by 1980. So it is not something that would be cut out at that time or stopped.

I think with the discussion here today and the reaction of my colleagues, suggesting that the intent is that a long term or permanent storage should not be retarded with this intent, that a more permanent solution is something that should be kept in focus, I will rely on those assurances and the record that we have established, and I ask unanimous consent to withdraw my amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The CHAIRMAN pro tempore. Are there additional amendments to title V? If not, the Clerk will designate title VI. Title VI reads as follows:

TITLE VI—OTHER RENEWABLE RESOURCES AND CONSERVATION ACTIVITIES

AUTHORIZATION

SEC. 601. There are authorized to be appropriated to the Department of Energy for the fiscal year ending September 30, 1980, not to exceed—

(1) \$6,675,000 for analysis and technology transfer functions regarding buildings and community systems;

(2) \$25,000,000 for energy extension service functions;

(3) \$18,000,000 for appropriate technology functions;

(4) \$5,000,000 for purposes of urban waste energy conservation activities, of which no amount may be transferred to any other agency or instrumentality of the United States;

(5) In the case of fossil energy activities—

(A) \$3,750,000 for coal utilization and supply functions;

(B) \$3,000,000 for shale oil development and commercialization functions;

(C) \$500,000 for enhanced oil recovery functions;

(D) \$4,000,000 for unconventional gas development functions;

(E) \$500,000 for purposes of supply initiatives; and

(F) \$4,295,000 for program administration functions;

(6) \$23,000,000 for solar applications—market development and training functions; and

(7) \$10,509,000 for industrial conservation functions.

AMENDMENT OFFERED BY MR. DASCHLE

Mr. DASCHLE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DASCHLE: Page 58, after line 19, insert the following new section:

COLLECTION, EVALUATION, AND DISSEMINATION OF INFORMATION REGARDING BIOMASS

SEC. 602. (a) (1) The Secretary of Energy shall collect, evaluate, and disseminate to the general public information regarding—

(A) the collection of biomass and the conversion of biomass to energy and to fuels for the production of energy, including the technology of such collection and such conversion,

(B) any financial assistance and any financial incentive available from any source in connection with the conversion of biomass to energy or to fuels for the production of energy (including the construction of plants for such conversion) or in connection with the production of energy from fuels produced from biomass,

(C) the utilization of fuels and byproducts produced from biomass, and

(D) any law of the United States applicable to the collection, acquisition, transportation, transfer, conversion, or disposal of biomass, or fuels or byproducts produced from biomass.

(2) The Secretary shall inform the general public of the availability of information collected and evaluated under paragraph (1).

(b) Not later than 60 days after the close of each fiscal year occurring after the date of the enactment of this Act, the Secretary shall submit to each House of the Congress a report describing the activities undertaken by the Secretary to carry out subsection (a), the results of such activities, and any recommendations of the Secretary regarding the implementation of such subsection in such fiscal year.

Mr. DASCHLE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from South Dakota?

There was no objection.

Mr. DASCHLE. Mr. Chairman, I am offering an amendment today to H.R. 3000, the Department of Energy authorization for fiscal year 1980. This amendment directs the Secretary of Energy to collect, evaluate, and disseminate to the general public information regarding biomass energy resources and fuels produced from biomass. This information will include information on technology for collection and conversion of biomass, use of fuels from biomass, use of the byproducts of the conversion of biomass to fuel, financial assistance and incentives for use of biomass, and appropriate Federal laws. I believe this is both a practical and needed amendment.

There is growing interest throughout the country in making wise and fuller use of our Nation's vast renewable energy resources, particularly biomass and the fuels which can be produced from biomass. The American people in unprecedented numbers in every region and

in every State are discovering, exploring, and using biomass and fuels produced from biomass because they want our country to become more energy self-sufficient and less dependent on uncertain and increasingly expensive foreign sources of energy.

I believe the public's growing recognition of and interest in biomass and fuels from biomass is very encouraging and well founded. Biomass and fuels from biomass can certainly make an important contribution to the Nation's energy supply. For example, the Department of Energy has recently estimated a total of approximately 156 billion gallons of ethyl and methyl alcohol for fuel could be produced from biomass in 1980. This quantity of alcohol for fuel compares very favorably with the approximate 110 billion gallons of gasoline we are estimated to consume annually.

Biomass and fuels from biomass are not the single solution to the Nation's energy supply problems, but they can and should play a more important role in the Nation's energy future. Petroleum, coal, oil shale, tar sands, natural gas, and other energy resources can help us meet our national energy needs, but unlike biomass, these energy resources are finite and will eventually be exhausted. As long as the Sun shines, biomass will be available to produce alcohol for fuel for our cars, trucks, and tractors and to heat our homes and businesses, methane, and densified biomass which can supplement and replace coal.

Not only is biomass renewable, it is abundant, available in every region of the Nation and in many cases not being utilized as an energy resource. Urban wastes, logging and forestry wastes, canneries wastes, cheese whey, citrus wastes, agricultural products, and residues including animal wastes are forms of biomass which can be converted to fuel.

A large and growing number of people are eager to make wise and fuller use of biomass energy resources, but they lack adequate information. This desire for information is clearly indicated by the unprecedented large number of requests for information made in recent months. The Bureau of Alcohol, Tobacco, and Firearms, which regulates the production of ethyl alcohol for fuel, received fewer than 100 inquiries about these regulations during 1978. In comparison, during the first 5 months of this year, the Bureau received more than 6,000 such requests. During 1978, the Bureau received 18 applications for an experimental permit to produce alcohol fuel. Through August of this year, the Bureau had received more than 3,000 applications for an experimental permit.

In my office, I have established a toll-free line to assist my constituents obtain information. During the last 3 months my office has been swamped with requests for information about alcohol fuels and gasohol. Since early July, I have received more than 2,500 calls and letters from people who are seeking information about the rules and regulations governing alcohol fuel production, financial assistance and incentives for alcohol fuels, alcohol fuel production

technology, alcohol fuel use, and other similar questions. While the majority of these requests have come from South Dakotans, people from 16 other States and the District of Columbia have contacted my office for information.

As my staff and I have contacted the executive branch for information to answer these requests, we have learned no fewer than seven Federal agencies and no fewer than seven different offices within the Department of Energy have some responsibility for biomass and fuels from biomass. My staff and I have experienced frustration as a result of the countless calls we have made to obtain useful information and I can easily imagine the frustration a private citizen must experience as he or she tries to obtain information on biomass and fuels from biomass from the Federal Government.

This lack of information and the inability of citizens to readily obtain adequate information are unquestionably two major obstacles to the wise and fuller use of biomass and fuels produced from biomass. The purpose of my amendment today is to eliminate these obstacles and make adequate information available to the general public.

This amendment is needed because the interest shown by the Department of Energy in biomass and fuels from biomass has been disappointing and without the direction this amendment provides it is likely the Department would make no measurable improvement in its efforts to collect, evaluate, and disseminate information on biomass and fuels from biomass to the public. This amendment is practical because the Department has substantial resources available to it and it is fully capable of providing the public with adequate information on biomass and fuels from biomass at no additional cost to the taxpayers. I urge the adoption of this amendment by the House.

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

Mr. DASCHLE. I yield to the gentleman from New York.

Mr. OTTINGER. I thank the gentleman for yielding.

Mr. Chairman, the committee has had an opportunity to look at the gentleman's amendment. I think the study will serve a very useful function. We support it and urge the committee to adopt it.

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

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

Mr. LOEFFLER. Mr. Chairman, I am not aware of receiving the amendment at the Republican desk. I am wondering if the gentleman would make one available to us.

Mr. DASCHLE. I brought them over last week and talked with several Members on the minority side. There should be an amendment there.

Mr. OTTINGER. Mr. Chairman, if the gentleman will yield, the amendment provides for a study of various factors that need looking at in the biomass area without providing new funds whatsoever. It is within the existing level of funds. I would hope that the gentleman would accept the amendment.

CXXV—1810—Part 22

Mr. LOEFFLER. Mr. Chairman, I now have a copy of the amendment. I thank the gentleman for his explanation.

Mr. DASCHLE. I am under the impression that you have accepted the amendment on the minority side; is that correct?

Mr. BROWN of Ohio. No, I would like to reserve a point of order on the amendment.

The CHAIRMAN pro tempore. The Chair will advise the gentleman from Ohio that it is too late to reserve a point of order on the amendment.

Mrs. SMITH of Nebraska. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I rise to support the amendment offered by the gentleman from South Dakota. This amendment would require the Department of Energy "to collect and disseminate to the general public information regarding" the identification, collection, and conversion of biomass resources, including agricultural commodities. It would also provide for information for the public on financial assistance from any source available for this conversion, including the construction of conversion plants. This amendment would also provide for information on any laws concerning biomass resources and on the use of the products of the conversion of biomass resources, such as alcohol in the product popularly known as gasohol.

The gentleman from South Dakota's point is well taken. There is no need for Congress to even concern itself with programs to give incentives for the production, commercialization, and use of alternative energy sources if the Department of Energy does not adequately inform the public of the existence of these programs. More people write or call my office inquiring about how they can learn more about becoming involved in the commercialization or use of alternative energy sources than almost any other subject. For example, I have constituents interested in commercializing alcohol fuels, waste oil technology, wind energy technology, compost technology, electric vehicle technology, and more. Likewise, I am inundated with questions about grants, loans, or tax incentives available for installation of alternative energy systems in residences and commercial buildings.

While not all the energy sources I have mentioned are related to biomass resources, an informational program starting with biomass conversion is a big step in the right direction. That this informational program would not require additional funding makes the amendment much more attractive. However, I would support it even if additional funding were required. It is ludicrous to promulgate programs without adequately informing the people whom they are to benefit.

Use of appropriate technology, new methods of conservation, and new inventions and developments involving alternative technology are decentralized activities by nature. Small businessmen, farmers, and homeowners have a vested

interest in these activities, and they are the ones who are going to make the difference in our energy situation. Information on Government programs involving these activities needs to reach these people if it is going to be an effective catalyst.

It is this kind of Government involvement with citizens and business that is both useful and desirable. What is not useful or desirable are Government attempts to alter the free enterprise system by imposing controls and mandatory allocation requirements on the sale of petroleum products. This is the kind of Government that our constituents identify with the Department of Energy and the Congress—especially since last summer. We have an opportunity here to do something to stimulate the economy and benefit our constituents rather than stifle free enterprise with controls and allocations—that even if effective and helpful, which I am sure they are not—the DOE has been proven incapable of enforcing.

Let us give the American entrepreneurs, farmers, homeowners, and other private citizens the chance to solve this energy problem. They are the strength of this country and are the ones to whom its position and welfare today is due. It is not the Congress or an administrative department that has all the answers or definitely knows the best direction to pursue in this situation. The beauty of our system is that those citizens who have ideas and want to help, can—unless by ineffective Government, we preclude the opportunity. To be effective, the electorate must be informed, and I think the Government, and the DOE in particular, has a responsibility to keep them informed. I urge swift passage of this necessary amendment.

□ 1250

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

Mrs. SMITH of Nebraska. I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, I would like to inform the gentleman that I think the committee has accepted the amendment. I understand the minority will accept the amendment. We would be glad to see it pass. I agree with the gentleman's comments.

Mrs. SMITH of Nebraska. I am glad the gentleman does. I thank the gentleman.

I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from South Dakota (Mr. DASCHLE).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. FUQUA

Mr. FUQUA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FUQUA: On page 58, following line 15, add the following new subsection:

(G) Project 80-RA-1, coal-to-methanol demonstration plant, site to be determined, \$7,500,000; *Provided*, That all sums authorized under this project number may be used in accordance with section 7 or section 19 of the Federal Nonnuclear Act of 1974, as deemed appropriate by the Secretary.

Mr. FUQUA (during the reading). Mr. Chairman, I ask unanimous consent that

the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. FUQUA. Mr. Chairman, I rise in support of my amendment.

Mr. Chairman, when this bill was considered last week, I offered an amendment for two other projects, and I announced at that time that I would offer an amendment to authorize some \$7½ million for coal-to-methanol demonstration projects.

This is in effect dealing with demonstration programs of synthetic fuels technology. It is going to be critical in the effectiveness of any of our national commitments to synthetic fuels.

I think it has the support of both the majority and the minority, and I ask that the committee adopt the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Florida (Mr. FUQUA).

The amendment was agreed to.

Mr. DINGELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as we approach the end of this legislation, my good friend, the gentleman from Indiana (Mr. FITHIAN), had colloquy in which he wished to engage.

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

Mr. DINGELL. I yield to the gentleman from Indiana.

Mr. FITHIAN. Mr. Chairman, I note that in this title VI, section 601(4) you have identified money to improve the energy management of urban and domestic waste. I would like to endorse and support this position in that I deeply believe that we have too long overlooked the energy production and conservation potential that lie within the ways with which we manage the wastes of our society. In light of this, I would like to ask the gentleman if these moneys would be available to cover such areas of commercial energy production as the anaerobic digestion of waste organic materials for the production of gaseous fuels; the commercial expansion of energy conversion devices that can convert the latent chemical energy of waste into more usable and valuable forms, such as electricity and the commercialization of other small gas generators that operate on waste materials?

Mr. DINGELL. I would like to assure the gentleman that it is precisely these sorts of waste management concepts and techniques that we had in mind when this bill was put together. I share your views that improved waste management holds a real near-term opportunity for not only reducing energy consumption but, also, producing new sources of domestic energy.

I thank the gentleman.

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

Mr. DINGELL. I yield to the gentleman from Massachusetts.

Mr. MARKEY. Mr. Chairman, it is my understanding that within the authorized \$3,750,000 for the coal utilization and supply functions of the Department of Energy, as provided for in title VI of this measure, there are sums available to allow the Department to examine the "produce-ability" of New England's one significant fossil fuel resource.

I refer to the anthracite coal field that underlies the southeastern portion of Massachusetts and part of Rhode Island: The so-called Narragansett Coal Basin.

Am I correct in the hope that the DOE budget for 1980 permits the modest investment of \$50,000, as originally requested by the Department, to pay for the examination of the production possibilities of the Narragansett Coal Basin, which is New England's only identified fossil fuel resource?

Mr. DINGELL. Yes, the gentleman is correct. It is our intention to maintain that program at the recommended DOE level.

I assure the gentleman of our continuing interest in the matter toward that end.

Mr. MARKEY. I thank the gentleman.

Mr. DINGELL. I thank the gentleman from Massachusetts (Mr. MARKEY), and I yield back the balance of my time.

Mr. WALGREN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the purpose for which I rise is to engage the chairman of the Subcommittee on Energy Development and Application of the Committee on Science and Technology, the gentleman from New York (Mr. OTTINGER), in a colloquy to make clear is the understanding of the committee that the funds authorized for coal preparation under this bill, some \$12½ million, include funds to proceed to the pilot plant stage to make usable pellets from lignite.

As I understand the situation, lignite amounts to about 30 percent of our national coal reserves.

We are presently unable to use lignite effectively because of its water weight and difficulties in transportation. But, as a result of basic research sponsored by DOE, a breakthrough was achieved resulting in the economical pelletizing of lignite, increasing the BTU content and allowing ready transfer of the material away from the mine site. This is a major breakthrough bringing us close to the commercial use of huge energy reserves that are presently beyond our reach.

The next step toward the use of lignite would be the funding of a pilot plant to demonstrate that this can be done on a large scale. It is important that we proceed with a pilot plant now.

Is it the understanding of the committee that DOE will allocate the funds necessary to go forward with such a pilot plant out of the funds for coal preparation provided by the Congress in this bill?

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

Mr. WALGREN. I yield to the gentleman from New York.

Mr. OTTINGER. Yes, indeed, that is

my understanding, that the administration's Department of Energy does intend to go ahead with the pilot plant.

I applaud my colleague from Pennsylvania (Mr. WALGREN) for his leadership on this subject, and moving forward on a pilot plant at this time merely awaits the approval of the appropriations bill; but the funds are in the fiscal year 1980 program for completion of a pilot plant.

Mr. WALGREN. I appreciate that, and I yield back the balance of my time.

AMENDMENT OFFERED BY MR. PEASE

Mr. PEASE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PEASE: Page 57, lines 19 and 20, strike out "\$25,000,000 for energy extension service functions" and insert in lieu thereof "\$35,000,000 for energy extension service functions".

Page 58, after line 19, insert the following new section:

ENERGY EXTENSION SERVICE CHALLENGE GRANT PROGRAM

SEC. 602. Section 512(c) of the National Energy Extension Service Act is amended by striking out paragraph (3) and inserting in lieu thereof the following new paragraph:

"(3) In addition to the funds allocated to States under the preceding provisions of this title from sums appropriated therefor, the Director shall make grants for fiscal year 1980, in a total amount not less than \$10,000,000, for the implementation of energy extension service activities in States which have elected to meet the challenge of helping to finance energy extension service activities by including provision in their plans developed pursuant to sections 505 and 506 for the commitment of funds to meet such challenge (by units of State or local government or both) in a manner which will effectively contribute to the achievement of the purposes of this Act. Grants under this paragraph shall be available to States on a first-come first-served basis reflecting the degree of promptness with which such plans are submitted to the Director and are approved by him as meeting the requirements of this paragraph; and the amount of the grant to any State with a plan so approved shall be equal to the lesser of \$1,000,000 or twice the amount committed to meet such challenge in accordance with the State's plan by units of the State government and of local governments within the State."

Mr. PEASE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

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

There was no objection.

Mr. PEASE. Mr. Chairman, this is an amendment dealing with the Energy Extension Service, which is in existence and which would be funded at an authorized level of \$25 million by the bill before us today.

Originally, the Committee on Interstate and Foreign Commerce decided on a figure of \$25 million for the Energy Extension Service.

The Committee on Science and Technology, on which I serve, decided on a figure of \$35 million. The compromise struck by the two committees was the \$25 million figure.

The intention of my amendment to-

day was to increase that figure back up to \$35 million and to create a Federal-State matching grant program to encourage the States to make even greater use of the Energy Extension Service concept.

However, this amendment has somewhat been overtaken by time. As members of the committee know, we have spent a great deal of time on this energy authorization bill.

In the meantime, both of the Committees in Appropriations of the House and the other body have acted to appropriate \$25 million in this authorization bill. Since a \$35 million authorization would be bucking that, and since I also understand that both the Committee on Interstate and Foreign Commerce and the Committee on Science and Technology will be holding hearings later this month on an energy management participation act, which would include discussion of expansion of the Energy Extension Service, I will not press to completion this amendment, but rather use it as an opportunity to emphasize the great potential that we have in the energy extension service to bring to the homes of ordinary Americans actual knowledge of the technology needed to make their homes more energy efficient.

□ 1300

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

Mr. PEASE. I am happy to yield to the gentleman.

Mr. OTTINGER. Mr. Chairman, the committee has had an opportunity to look at the gentleman's amendment. As the gentleman knows, our committee originated the idea of an Energy Extension Service and it was primarily the work of the gentleman from Arkansas who did serve in this body, Mr. Thornton. We provided for the higher figure in our own authorization, but in negotiations with my good friend from Michigan the Committee on Interstate and Foreign Commerce provided less, as the gentleman pointed out, and we arrived at the \$25 million figure. Since that time the Appropriations Committee has acted at the lower figure.

As the gentleman indicates, we are going to be having hearings. I assure the gentleman we will do that promptly on the new administration program, the EMPA program, and we will take a very good and close look at the concept in seeing if we cannot expand this very important service.

I think the gentleman is really performing a very useful function by bringing this to the attention of the committee and the House. But I would hope he would go ahead and not press the amendment to a vote at this time since there is an agreement between ourselves and the Committee on Interstate and Foreign Commerce and since the Appropriations Committees have already acted.

Mr. PEASE. I thank the gentleman from New York for his comments.

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

Mr. PEASE. I yield to the gentleman from New York.

Mr. FISH. Mr. Chairman, I would like to commend the gentleman for his

amendment. I think there is a critical need to educate the public on conservation. During committee authorization hearings, we learned that lack of capital and access to information were primary barriers to realizing effective conservation by homeowners and small businesses. This is the mission of the Energy Extension Service. It is clearly a good way to help get the word to the people on energy savings. Many simple measures are now available if only the public were aware of them.

In our hearings we also heard about the need to get the States actively involved in the Energy Extension Service program. Matching State funds, as suggested in the gentleman's amendment, is one good step in this direction, and will help get the necessary State participation in this program. For this important reason, I support the concept suggested by the gentleman's amendment.

However, I must reluctantly oppose this amendment for several reasons. First, the Science Committee and the Commerce Committee have worked many hours on this bill to forge an acceptable agreement on DOE authorizations. These committees have concluded that the Energy Extension Service should be funded at \$25 million for fiscal year 1980. I do not think that we should disturb this agreement now. Second, as you may well know, the Interior Appropriations Committee has already appropriated \$25 million for this program for fiscal year 1980. Thus, an additional authorization at this point would really serve no purpose.

Our committee will consider the gentleman's idea during our upcoming hearings on the EMPA bill, a measure to consolidate the Energy Extension Service program with state grant programs. Our committee plans hearings on the EMPA bill this month, and I am encouraged that the gentleman's proposal be considered during these hearings. Although I believe it is not appropriate to consider the gentleman's idea now, I do believe that the committee's upcoming hearing on the EMPA bill will provide a proper forum for the effective consideration of his proposal.

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

Mr. PEASE. I am happy to yield to my friend from California.

Mr. MOORHEAD of California. Mr. Chairman, I rise to oppose this amendment which would increase the funding for a worthless program an additional \$10 million. We have already increased their funding in this bill last year's \$15 to \$25 million. Last year the Energy and Power Subcommittee saw fit to trim funding for this program by \$10 million. DOE asked for \$25 million and we gave them \$15 million. Ultimately, the Appropriations Committee and our colleagues on the House floor confirmed the wisdom of our \$10 million cut and \$15 million was appropriated. DOE is back again this year asking for \$25 million for this same project. This amendment would make it \$35 million.

Hearings held in the Energy and Power Subcommittee could unearth no new

justification to increase funding. In fact, DOE officials could put forth no reasons why this program should not be phased out. It still duplicates other DOE programs. In another part of this authorization, DOE will get over \$85 million for State and local conservation programs. National Energy Act provisions already require utilities to act as energy extension agents for consumers. Several million is already provided to weatherize low-income homes. Information on conservation and solar applications is readily available to small business and others just by writing or calling DOE, HUD, Commerce, the Small Business Administration, energy organizations like the Solar Lobby and of course many consultants in the private sector. HUD and DOE operate a Joint Solar Information Center. Many States and local governments have their own energy conservation programs not withstanding this program.

Virginia, for example, has an entirely State-funded program including a toll free hot line. California has a similar self initiated program. The program I am seeking to cut seems to work to defeat other DOE activities seeking to promote commercialization of solar applications by going into direct competition with individuals in the private sector who provide consulting services to small businesses and others. The only real beneficiaries of the program are those employed by DOE. It is a good make work program but it does nothing to solve our energy problems. There is no doubt in my mind that the DOE energy extension service pilot program overlaps and duplicates several other Federal programs.

An expanded energy extension service would overlap local and State programs as well as Federal programs. One of the most persuasive arguments against this program is the fact that the States themselves should pick up the bill for State energy conservation programs. Twenty-eight State legislatures have called for a constitutional convention to balance the Federal budget. Only 34 States are needed. There are nearly 100 resolutions spending in the Congress calling for a constitutional amendment to balance the Federal budget.

The President has promised to balance the budget. We are under the gun and this is where it starts, right here, by trimming back unnecessary duplicative programs. The States can help us balance the Federal budget right here by taking over some of their own conservation efforts. Everyone in his right mind is for conservation but we will not do any conserving with a wasteful, useless Federal program like the extension service. It would be a mistake to call this a conservation program. There is no evidence that the pilot program has saved one drop of oil or one lump of coal. The program we are seeking to contain could be more accurately called the DOE employee expansion plan. I ask a no vote.

The CHAIRMAN pro tempore. The time of the gentleman from Ohio has again expired.

(At the request of Mr. DINGELL and by unanimous consent, Mr. PEASE was al-

lowed to proceed for 3 additional minutes.)

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

Mr. PEASE. I am happy to yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I have great respect and affection for the gentleman and I rise reluctantly to oppose the amendment. I believe there is considerable merit to the concept the gentleman has set forth and I commend him for having done so.

I again reiterate that I must regretfully oppose the amendment because I do not believe this is either the proper time or the proper forum for making the kind of change the gentleman has suggested in the Department of Energy programs. The amendment would impose whole new responsibilities on the Department just at the time the Department is commencing a new program of legislative initiatives, both to conserve energy and also to reorganize the Energy Extension Service program, on which, parenthetically, I observe that the committees, including the Interstate and Foreign Commerce Committee, will shortly be working.

As my good friend from Ohio knows, his committee, the Science and Technology Committee, and the Interstate and Foreign Commerce Committee on which I serve, will be holding hearings on the legislation proposed by DOE, particularly on the Energy Management Partnership Act, better known as EMPA. This would revise and expand Energy Extension Service programs and coordinate the services activities within the Federal and State energy programs.

The gentleman's proposal should be properly considered by the committees working on EMPA. I give the gentleman my personal assurances that it will be given consideration in the forthcoming hearings of the Interstate and Foreign Commerce Committee.

I also assure my good friend from Ohio that I am favorably disposed toward this concept, and only want to see that it is properly integrated in a comprehensive restructuring of the Energy Extension Service and its programs.

I do commend the gentleman for his interest in this matter and for having brought this to the attention of the House.

Mr. PEASE. I thank the gentleman for his contribution and for his assurance that this matter will be thoroughly considered in the hearings upcoming in the Science and Technology Committee and the Interstate and Foreign Commerce Committee.

Mr. Chairman, I would like to make just two brief comments before I ask unanimous consent to withdraw my amendment.

One is that study after study shows that a very large component of any solution to our energy problem is going to be conservation. We simply have a major stake in conservation. Indeed, a recent Harvard University study concluded if the United States were to make a serious commitment to conservation we might well consume 30 to 40 percent

less energy than we do now and still enjoy the same or a higher standard of living.

Secondly, I would like to make the point that many people allude to the miracle of American agricultural production. We are able to feed the United States and half of the world as well.

The CHAIRMAN pro tempore. The time of the gentleman from Ohio has again expired.

(By unanimous consent Mr. PEASE was allowed to proceed for 1 additional minute.)

Mr. PEASE. Mr. Chairman, a major reason why American agriculture is so fabulously successful and productive is we have had the Agricultural Extension Service over the years pointing the way to American farmers, bringing them on their own farms the new technology to further increase their productivity. This same thing can happen with energy conservation.

Mr. Chairman, I ask unanimous consent to withdraw my amendment.

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

There was no objection.

The CHAIRMAN pro tempore. Are there further amendments to title VI?

AMENDMENT OFFERED BY MS. HOLTZMAN

Ms. HOLTZMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. HOLTZMAN: Page 58, insert after line 19 the following new section:

ENERGY CONSERVATION GRANTS

SEC. 602. (a) (1) The Secretary shall administer an experimental program under which grants may be made available to local governmental units to undertake any of the energy conservation activities described under subsection (b). Any local governmental unit desiring to receive a grant under this section shall submit an application therefor to the Secretary in such manner, at such time, and containing such information as the Secretary may require.

(2) In determining the amount of any grant to be awarded under this section, the Secretary shall consider—

(A) the contribution to energy conservation which can reasonably be expected to result from the activities for which the grant is made;

(B) the number of people to be affected by such activities; and

(C) such other factors as the Secretary considers appropriate.

The amount of any grant made to a local governmental unit shall not be more than \$3 multiplied by the total number of individuals residing within the jurisdiction of such unit, to be determined on the basis of the most recent census figures available from the Department of Commerce.

(b) The energy conservation activities for which grants are to be made under this section may include the following:

(1) The establishment of a mechanism for coordinating all energy-related activities of the local governmental unit, such as the creation of an energy office, the designation of an agency to serve as a lead agency with regard to energy matters, or the establishment of citizen advisory groups.

(2) The establishment of local energy conservation targets which are consistent with any State energy conservation targets established by the President.

(3) The development of programs to encourage energy conservation in operations of the local governmental unit including such activities as—

(A) retrofitting street lights;

(B) devising and implementing innovative heating and cooling systems;

(C) generating energy from such resources as local water sources, fuels, biomass, wind, wood, and other available resources;

(D) cogeneration of power;

(E) installing adequate installation and other energy-saving devices in public buildings; and

(F) installing a synchronized traffic signal system.

(4) The development of programs or laws to decrease energy consumption by the private sector.

(5) Establishment of a central clearinghouse to provide information relating to energy conservation programs available to citizens of the local governmental unit, including—

(A) Federal, State, and local programs (such as programs providing assistance for the installation of solar energy devices, programs offering assistance to low-income individuals to encourage energy conservation measures, or tax credits available for certain energy conservation activities); and

(B) programs offered by utilities within the area, such as energy audits.

(6) Development of regional plans and projects with other local governmental units to promote conservation on a regional basis.

(c) Funds appropriated under this section may not be made available as grants or loans to any individual or to any private entity.

(d) Within one year after the date of the enactment of this Act, the Secretary shall submit a report to the Congress which specifies the recipients of the funds made available under this section, the amount of the grant received by each recipient, the projects for which the grants were made, and the actual or estimated energy savings resulting from such projects.

(e) For purposes of this section—

(1) the term "local governmental unit" means any city, county, township, parish, or other unit of general government which (A) is a political subdivision of a State, and (B) has taxing authority with respect to real property; and

(2) the term "Secretary" means the Secretary of Energy.

(f) There are authorized to be appropriated to carry out this section \$30,000,000 for the fiscal year ending September 30, 1980.

Ms. HOLTZMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. DINGELL. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN pro tempore. The gentleman from Michigan reserves a point of order.

Ms. HOLTZMAN. Mr. Chairman, as prior speakers have pointed out, one of the most effective ways of dealing with the present energy crisis and reducing our dependence on OPEC nations is a major effort at energy conservation.

I want to commend the gentleman from Michigan and the gentleman from Florida as well as other members of his committee for the concern they have shown in the past about energy conservation.

What my amendment would do, however, is to plug a gap in present energy conservation measures. This bill provides funds to State governments to engage in energy conservation. States are given money to set up energy offices and to develop State energy conservation plans. There is no way, however, to assure that the money will trickle down, in a meaningful way, to local governments. There are no funds in this measure or in any other to provide funds to counties or cities for the creation of local energy offices, or for the undertaking of an effort to encourage conservation by county governments, and city governments. There are no funds to help advise or educate local citizens about energy conservation problems or projects.

I want to commend the committees for providing funds for energy conservation at the State level. The problem has been, and this is true nationwide, is that the county and city governments have not received any substantial part of this money.

□ 1310

Since State and local governments consume 13 percent of the energy consumed in this country, a major effort at the municipal, county, and local level to encourage energy conservation and to give local governments the means to do this would make an important dent in our energy consumption.

Mr. OTTINGER. Mr. Chairman, will the gentlewoman yield?

Ms. HOLTZMAN. I will be happy to yield to my colleague from New York.

Mr. OTTINGER. Mr. Chairman, I am in total sympathy with the gentlewoman's effort. In fact, I was very concerned in the programs that we worked out for hospitals, schools, and for State governments, that municipal governments were in fact not included. They own huge numbers of buildings that ought to be retrofitted and for which they do not have the funds.

I understand that my chairman is either going to make a point of order or oppose the amendment. I would just like to assure the gentlewoman, that in my conversations with the chairman that he is sympathetic to this proposal. He will give the gentlewoman's proposal a full hearing and try to work out some way to get money to localities in the future.

I think it is a real need that the gentlewoman has pointed out, and I would hope that we would act in this area as expeditiously as possible. The committee is going to have a joint hearing with my subcommittee on Energy Development and Applications on the Energy Management Partnership Act very shortly, and perhaps we can include the gentlewoman's amendment at that time.

Ms. HOLTZMAN. I wonder if I can engage the gentleman from Michigan in a colloquy about this amendment, given the concerns expressed by my colleague from New York.

Is there any way, given the present structure of the Department of Energy authorization bill, that the gentleman could assure that some of the moneys going to State governments would be required to be shared with county and local

officials so that we can have an effective conservation effort at the local level? Is there some language that could be put in the report? Is there something that could be done in connection with the conference with the other body to insure that there will be funds in fact going to localities?

Mr. DINGELL. Mr. Chairman, will the gentlewoman yield?

Ms. HOLTZMAN. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, the gentlewoman is a very valuable Member of this body, and it always pains me when I have to oppose her on any matter. The answer to the question is, if we will refer to title III, which is Commercialization and Related Activities, there is an item (C) at page 41, line 17, which provides \$80,000,000 for State and local conservation functions under part C of title III of the Energy Policy and Conservation Act, as amended by the Energy Conservation and Production Act; and (D) \$6,783,000 for State and local conservation functions not provided for under subparagraph (C).

If the gentlewoman would yield further, I would observe that we will shortly be commencing work on a series of conservation initiatives which will go more broadly into these areas, at which time I assure the gentlewoman that we will very sincerely look at the possibility of utilizing some of the mechanisms she has set forth in her amendment. I want her to know that not only I, but her good friend and colleague from New York (Mr. OTTINGER), who is a very valuable member of our subcommittee, are very interested in seeing to it that we move forward to the consideration of these, because I recognize the value of many of the steps that the gentlewoman has suggested to the House in her amendment.

Ms. HOLTZMAN. Would the gentleman respond further? Under the language he has pointed out on page 41 of the bill, and for the purpose of legislative history, would the gentleman's view be that funds under sections (C) and (D) of title III, section 301, could be used for the creation of local energy conservation offices, by municipalities, and counties as well as by States?

Mr. DINGELL. I have to confess to the gentlewoman that I would like to give her an affirmative answer. I have never had a chance to study her amendment in sufficient detail to give her an affirmative answer. I would advise further that the administration has sent EMPA to the Congress, and we will consider and at that time, in connection with that legislation, try to provide for more direct grants to local communities as opposed to it going through the States. That program is directed in large part at meeting the needs of local units of government.

Ms. HOLTZMAN. Because of the assurance the gentleman has given me, in a moment I am going to ask permission to withdraw my amendment. But, I am very concerned that we will have to postpone adoption of this measure, because time is not on our side. The OPEC nations have already announced that they are going to be cutting back on oil pro-

duction, and the more we delay in getting conservation enacted all across the country—not just at State or Federal levels, but at local levels as well—the worse off we will be.

I do not intend to beat my head against a stone wall, by insisting on my amendment when the committees oppose its adoption now, but I would urge the gentleman from Michigan to act as promptly as possible, whether in conference with the other body on this bill or holding hearings on my proposal, to get energy conservation implemented at the local level.

Mr. DINGELL. I commend the gentlewoman for her concern in this matter, and we will look forward to working with her.

Ms. HOLTZMAN. Mr. Chairman, I thank the gentleman for his assurance.

Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from New York?

There was no objection.

The CHAIRMAN pro tempore. Are there further amendments to title VI? If not, the Clerk will designate title VII.

Title VII reads as follows:

TITLE VII—OTHER DEPARTMENTAL ACTIVITIES

AUTHORIZATION

SEC. 701. There are authorized to be appropriated to the Department of Energy for the fiscal year ending September 30, 1980, not to exceed—

(1) for uranium enrichment operating expenses—

(A) \$680,683,000 for purposes of diffusion operations and support;

(B) \$6,200,000 for purposes of centrifuge operations and support; and

(C) \$2,566,000 for purposes of uranium enrichment program direction;

(2) for uranium enrichment construction projects—

(A) \$7,000,000 for purposes of project 80-UE-6, UF₆ tails cylinders and storage yards, gaseous diffusion plants;

(B) \$16,200,000 for purposes of project 80-GPP-1, general plant project, various locations;

(C) \$28,500,000 for purposes of project 80-UE-5, motor and switchgear upgrading, gaseous diffusion plants;

(D) \$10,500,000 for purposes of project 80-UE-4, power recovery demonstration cells, gaseous diffusion plants;

(E) \$17,000,000 for purposes of project 80-UE-3, plant facilities security improvements, gaseous diffusion plants;

(F) \$17,000,000 for purposes of project 80-UE-2, control of water pollution, gaseous diffusion plants;

(G) \$7,000,000 for purposes of project 80-UE-1, control of gaseous effluents, gaseous diffusion plants, Oak Ridge, Tennessee, and Paducah, Kentucky; and

(H) \$290,000,000 for purposes of project 76-8-g, enriched uranium production facilities, Portsmouth, Ohio (for a total project authorization of \$802,630,000);

(3) \$18,400,000 for purposes of uranium enrichment capital equipment not related to construction;

(4) \$3,700,000 for purposes of commercial waste management operating expenses relating to site and repository licensing, support studies, decontamination and decommissioning, low-level waste management operation, and repository site selection (other than the research and development aspects of such selection);

(5) for operating expenses for administrative activities of the Department—

(A) \$14,500,000 for purposes of policy analysis and systems studies;

(B) in the case of management and support—

(i) \$149,871,000 for purposes of salaries and expenses, of which not more than \$2,500,000 shall be available for purposes of the Office of the Secretary;

(ii) \$86,906,000 for purposes of support services; and

(iii) \$6,148,000 for purposes of the salaries and expenses for the Office of Inspector General;

(C) \$3,500,000 for international affairs functions;

(D) \$36,870,390 for intergovernmental and institutional relations functions;

(E) \$3,600,000 for in-house energy management functions;

(F) \$44,254,000 for purposes of cost of work for others, and changes in inventory and working capital; and

(G) \$16,400,000 for purposes of security investigations;

(6) for construction for the administrative activities of the Department—

(A) in the case of in-house energy management—

(i) \$19,700,000 for purposes of project 80-DA-1, modifications for energy management, various locations;

(ii) \$4,500,000 for purposes of project 80-DA-2, automated energy management system, Argonne National Laboratory, Argonne, Illinois;

(iii) \$4,200,000 for purposes of project 80-DA-3, process waste heat utilization, Portsmouth Gaseous Diffusion Plant, Piquette, Ohio;

(iv) \$4,000,000 for purposes of project 80-DA-4, automated energy management system, Pantex Plant, Amarillo, Texas; and

(v) \$5,000,000 for purposes of project 80-DA-5, conversion of boiler numbered 5 to high sulfur coal firing, Argonne National Laboratory, Argonne, Illinois; and

(B) \$9,000,000 for purposes of project 80-PE&D-1, plant engineering and design, various locations, and

(7) \$4,815,000 for capital equipment acquisition and fabrication not related to construction for purposes of the administrative activities of the Department.

OPERATORS TRAINING PROGRAM

Sec. 702. (a) The Secretary of Energy, in consultation with the Nuclear Regulatory Commission, State utility commissions, and the public, shall develop a program to be available for the training and retraining of persons, including supervisory personnel, to operate civilian nuclear reactors and related powerplant facilities in accordance with applicable requirements of law and regulations. The purpose of the program is to assure that such personnel are properly trained to operate such facilities and to assure that such facilities are safely and reliably operated in accordance with applicable requirements of law and regulations.

(b) (1) The Secretary of Energy shall provide to the appropriate committees of Congress, not later than three months after the enactment of this section, the program developed under this section, which shall be accompanied by a report discussing the extent to which the program will improve the training of such operators, the estimated annual costs thereof, the proportion of the costs to be borne by the Federal Government and the proportion to be borne by the private sector. The report shall include the views, comments, and recommendations of the Nuclear Regulatory Commission.

(2) The Secretary of Energy shall conduct research on critical aspects of man-machine interactions in the operations of civilian nuclear reactors.

(c) (1) If, within 60 calendar days of con-

tinuous session of Congress after the program, with supporting report, have been submitted to the appropriate committees of the Congress neither House of Congress has adopted a resolution disapproving such program, the Secretary of Energy shall commence operations under such program.

(2) The provisions of section 551(f) and 552(e) of the Energy Policy Conservation Act shall apply to a resolution under this subsection in the same manner as such provisions apply to resolutions under such sections except that in applying section 551(f), the term "energy action" shall be treated as a program submitted under this section.

(d) The sum of \$5,000,000 is authorized to be appropriated for fiscal year 1980 to carry out this section.

COMMERCIAL WASTE MANAGEMENT REPORT

Sec. 703. (a) (1) As soon as practicable but not later than the date on which the Secretary transmits to the Congress legislation authorizing appropriations for the Department of Energy for fiscal year 1981, the Secretary shall transmit to the President and the Committees on Interstate and Foreign Commerce, Interior and Insular Affairs, and Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on the national program for management of commercial high level waste and spent fuel.

(2) The report required under this subsection shall provide an identification of the geologic formations, regions, areas, and sites under study by the Department for the determination of qualification or rejection for application for license as permanent repositories for nuclear high level waste or spent fuel. For each geologic formation, region, area, or site identified, the Secretary shall provide—

(A) the criteria used to determine its qualification for study or for rejection for further study; and

(B) an accounting of funds requested for work on each specific geologic formation, region, area, or site for fiscal year 1981.

(b) The report required under subsection (a) shall include a detailed description of how the Department's commercial waste management program relates to the recommendations of the Interagency Review Group on Nuclear Waste Management.

INTERNATIONAL ENERGY ASSISTANCE

Sec. 704. (a) The Secretary shall use, to the fullest extent practicable, the Department's domestic energy research, development, and demonstration activities in support of the Department's international energy program.

(b) The Department shall coordinate its international energy program with research, development, demonstration energy programs of the Department of State, the Agency for International Development, and any other agency of the United States which has responsibilities in international energy.

(c) There is authorized to be appropriated to the Department not to exceed \$10,000,000, for the fiscal year ending September 30, 1980, of which—

(1) \$200,000 shall be available for the preparation of a comprehensive plan, to be submitted to the Congress by December 31, 1979, which shall contain recommendations for the design of an international energy program which shall concentrate primarily upon the problems of less developed countries; and

(2) \$9,800,000 shall be available to implement high priority projects identified in the plan described in paragraph (1), after it has been submitted to the Congress and approved by the Congress.

(d) All activities carried out under this section shall be performed within the framework of the Development Coordination Committee, established by section 640B of the

Foreign Assistance Act of 1961. To the extent appropriate, programs and projects under this section shall be implemented in cooperation with, and with the participation of, the Agency for International Development.

AMENDMENT OFFERED BY MR. McCORMACK

Mr. McCORMACK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCORMACK: At page 67 line 2 add a new section 705 to read as follows:

705. (a) The Secretary of Energy shall establish, operate and maintain approximately twelve low-level radioactive waste repositories located at appropriate sites in the continental United States on property owned or purchased by the United States Government. The Secretary shall enter into agreements with individual states within which such repositories are to be located for the establishment of the repositories. The repositories shall be made available for the storage of all low-level radioactive wastes generated or used in the region served, and disposable as such in accordance with Federal law. The repositories shall be licensed by the Nuclear Regulatory Commission. The Secretary of Energy shall recover all costs for operating and maintaining these repositories from fees charged for storage of the low-level radioactive wastes. The number of repositories shall be determined by the Secretary of Energy with the goal of serving each region of the country, and in order to minimize the distance that the low-level radioactive wastes will be transported.

(b) There is hereby authorized to be appropriated to the Secretary for fiscal year 1980 the sum of \$10,000,000 to carry out this section.

Mr. McCORMACK. Mr. Chairman, this amendment presents a new concept as far as this legislation is concerned, and a new departure from where we have actually been with respect to handling of low-level wastes in this country. What the amendment would do would be to direct the Department of Energy to establish about 12 low-level radioactive waste repositories located around the country on federally owned land in such a manner that the transportation of these wastes would be minimized, and so that each region of the country would be served.

In doing so, the repositories would be licensed, and the Secretary would enter into agreements with the individual States where the repositories are located for the establishment of the repositories. Of course, there would be total cost recovery.

Mr. Chairman, this is a subject which requires our critical attention now. There are only two sites for storing low-level radioactive wastes that are operated in this country. One is in Nevada, and one in South Carolina.

□ 1320

About 2 weeks ago the Governor of the State of Washington closed the site in Washington State because the Nuclear Regulatory Commission and the Department of Transportation were not enforcing their own regulations with respect to packaging of containers for shipping materials to the site. There is nothing wrong with the site, but the containers were not being properly packaged according to the law. This incident

dramatizes the problem we are facing today. The container that precipitated the incident was from a pharmaceutical manufacturer in New England, and this container that had some radioactive material in it was designated as low-level waste, so it was shipped clear across the country for storage at Hanford. What is interesting about this is that most of the pharmaceuticals, most of the material that is used in hospitals for the radioactive diagnosis of various types of illnesses in human beings goes into the human being.

A large percent of this radioactive material that comes to the hospital in some sort of a container gets put inside of a person, and that person is then examined to diagnose for illness. All that radioactivity that goes inside of that person is ultimately excreted and goes into the sewer. There is no control whatsoever. It goes into the sewer and into the river. But the small percentage that is left in the container, because it is designated as low-level waste, has to be packaged very carefully and very properly according to very strict rules, as I think it should be, and then, in this instance, shipped 3,000 miles to be buried. This is absurd. It is absurd especially when we have 2,390 hospitals and medical schools in this country that are producing these wastes today. We have 201 such facilities in California, 102 in Illinois, 81 in Michigan, 161 in New York State, 119 in Pennsylvania, and 171 in Texas, and a corresponding number in other States. Every one of them is producing radioactive material in their diagnoses of human beings, and these containers and the equipment that is used to handle it, everything that touches it or has any potential contact, is marked low-level waste and must be permanently stored under very strict rules. I think it is absurd to put 99 percent of the radioactivity from a container into a human being, to be excreted into the river, and to then take the empty container and ship it across the country for burial, and spend all of this energy and money required to do so. Last year 49 percent of all of the low-level wastes in this country were either institutional, that is, from hospitals or medical schools, or industrial wastes. About 43 percent came from resins used in the cleanup of the cooling water nuclear powerplants, and about 8 percent from military wastes and government wastes.

The problem is that there is a huge volume involved in these wastes. For instance, if you remember when the President visited Three Mile Island and we watched him on TV walking through the control room of the plant, we saw that he was wearing yellow shoe covers. When he walked into what was considered to be a contaminated zone, he stepped across a ribbon marking the area and he wore the yellow shoe covers. Then he wore the yellow shoe covers through the operating room, and he came back out. When he came back out he took off the shoe covers, and he dropped them into a box, and they became low-level waste forever—whether they were radioactive or not. The same applies to large volumes

of such wastes, such as cardboard, paper, masking tape, and other similar materials that may have been used at that site. This creates these large volumes of waste, and we are now shipping them all the way across the country, even though the amount of radioactivity in them, if any, is very low. Here we are, using energy and time and saying that wastes should all go to one of two sites: one in South Carolina and one in Nevada. The governors of these States have indicated they are not going to sit still forever and allow this situation to continue. They are being constantly harassed by the press because some truck goes through their State with an improperly packaged container. Not only do the Nuclear Regulatory Commission and the Department of Transportation have to shape up and enforce their regulations for packaging, but we should stop this business of shipping low-level wastes all the way across the country.

What my amendment would do is say there should be a site in each region of the country. If hospitals and other facilities are going to produce these wastes, then at least we should handle them in the region where they are used or generated.

If the members of the Committee will recall, early today I submitted an amendment which was adopted that called for accelerated research and development into the consolidation of these low-level wastes, such as by incineration or by other methods. If we can reduce the volume of the wastes, this would help the problem. It would take a while to institute the utilization of these devices, and, of course, we must still store the wastes of whatever volume. I remind you it is the hospital diagnoses that are potentially most critically affected here. Hospitals are allowed to store only a small amount of radioactive materials. If they are not allowed to store it, they will not be able to obtain it, and they will have to stop their diagnostic procedures. We must put an end to the hysteria and the nonsense associated with sensational press stories about nuclear wastes, both high and low level. Of course we must keep all traces of radioactivity under control, but we must reduce the transportation requirements, and have each region in the country manage its own wastes.

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

Mr. McCORMACK. I yield to the gentleman from New Mexico.

Mr. LUJAN. I thank the gentleman for yielding. I want to congratulate the gentleman from Washington for bringing this amendment before us. It makes so much sense that many of us wonder why it has not been done before. It just does not make sense to be shipping this stuff all over the country. It certainly does not make any sense to saddle one, two, or three particular States with that responsibility. I think the gentleman is correct in this amendment.

Mr. McCORMACK. I thank the gentleman.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

(At the request of Mr. WEAVER, and by unanimous consent, Mr. McCORMACK

was allowed to proceed for 2 additional minutes.)

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

Mr. McCORMACK. I yield to the gentleman from Oregon.

Mr. WEAVER. I thank the gentleman for yielding. I would like to ask the gentleman if the State in which one of these 12 or so sites would be located would have to consent to this, or could this be done by the Federal Government without the State's consent?

Mr. McCORMACK. Under the law, individual States cannot veto actions of the Nuclear Regulatory Commission. There is a procedure for licensing that, of course, calls for environmental impact statements and public hearings, allows intervenors. The States can act as intervenors. In fact, the States have a de facto veto, because the Federal Government is not going to insist upon putting a site where a State would object. Of course, if all of the States in the region object, it would simply mean that their hospitals cannot function any more using diagnoses using radioactive materials. Under the law, the Federal preemption clause prevails for nuclear licensing. The NRC has that preemptive authority, but in fact has not been using it.

Mr. WEAVER. If the gentleman will yield further, the State of Oregon has a law prohibiting the dumping of radioactive wastes within its territory. Could the NRC, the Secretary of Energy, establish a site within Oregon contrary to Oregon law?

Mr. McCORMACK. Contrary to Oregon law, it is legally possible. Of course, the option is simply not to allow Oregon to have any radiopharmaceuticals in the State.

Mr. WEAVER. Would the gentleman accept an amendment that provides that the State consent to the establishment of such a site?

Mr. McCORMACK. No, I would not. Such an attempt would constitute a violation of the commerce clause which is about the oldest relationship that has been established between the Federal Government and the States. I would not presume to violate it.

Mr. WEAVER. Would the gentleman yield further, then?

Mr. McCORMACK. I yield to the gentleman.

Mr. WEAVER. Under what authority does the Governor of Washington prohibit the shipping in of radioactive wastes?

Mr. McCORMACK. It is a State-owned operation, and that is the beauty of my amendment. We would have a dozen sites operated and owned by the Department of Energy on Federal land. In the case of the State of Washington, the site would be owned and operated by the State of Washington.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

(At the request of Mr. RUNNELS, and by unanimous consent, Mr. McCORMACK was allowed to proceed for 3 additional minutes.)

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

Mr. McCORMACK. I yield to the gentleman from New Mexico.

Mr. RUNNELS. I thank the gentleman for yielding. I want to congratulate my friend from the State of Washington for discussing openly a subject matter that many people are scared to talk about.

I walk daily in the Halls of Congress and in these buildings, and I have yet to see one soul run from having association with HAROLD RUNNELS. If you are scared of storing nuclear waste, then you should get up immediately and leave. You should leave the Halls of Congress because as I talk to you now I am a walking disposal for nuclear waste. All of you know that I had lung cancer 18 months ago, and when they opened my chest, they inserted in the tumor in my lungs 33 radioactive iodine 125 implants. I wore a bracelet on my wrist that said, "Danger: radioactive." Now I am saying to you that nuclear medicine may have saved my life. If you have ever been told that you have cancer, you will not be scared of it either. You will thank the good Lord that somebody brought it along during your stage in cancer.

□ 1330

After I had that operation just this year, 12 months later I was told I had cancer of the bone in my back and, as you know, I had surgery for the second time.

Mr. Chairman, I am just trying to say since then I have had enough radiation both front and back to be the equivalent of approximately 200,000 X-rays. I go once a month and have inserted in my veins nuclear medicine to give me liver scans, bone scans, brain scans, to see where it jumps next.

Mr. Chairman, I am saying let us do this sanely, let us do it seriously. It can save. It is not always a killer. I support this amendment.

Mr. McCORMACK. I thank the gentleman from New Mexico.

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

Mr. McCORMACK. I yield to the gentleman from Arizona.

Mr. UDALL. I want to commend the gentleman for his leadership in trying to find a way out of this difficulty. As a country we have been producing waste for 35 years and we have yet to dispose of the first pound of these high-level wastes.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

(At the request of Mr. UDALL and by unanimous consent, Mr. McCORMACK was allowed to proceed for 3 additional minutes.)

Mr. UDALL. Will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from Arizona.

Mr. UDALL. The low-level waste in tonnage and volume, as the gentleman has stated, are obviously the biggest part of the waste problem we have. Yet very little has been done and it is causing increasing controversy in many of the States including my own.

Mr. Chairman, I like, basically, what the gentleman is trying to do although I do have misgivings with it. Here is a brand new program which obviously will

cost at least several tens of millions of dollars. Neither the committee of the gentleman nor our committee has had a chance to move on this. We have in the Interior Committee some other legislation pending which we hope to bring here one of these days on nuclear policy that touches on some of this. There has been no input from the industry, from the hospitals, from the State governors on this specific program the gentleman provides.

Mr. Chairman, I would much prefer to have a study. I am not trying to bury this with a study—I have a substitute here for the gentleman's amendment which would essentially say to the Secretary of Energy: Let us get going on these low-level nuclear wastes, bring us back a program within 6 months which would provide for the kinds of things the gentleman has talked about. My substitute basically uses the gentleman's language to outline what the secretary should propose.

Mr. Chairman, I am afraid I would have to oppose the amendment of the gentleman in its present form. I wonder if we could do the compromising thing here and go along with this very short study and then be in a position when we come back next year, in the appropriate committees, to write this thing into law and get going on these low-level wastes. We simply have to find repositories and get rid of the stuff.

Mr. Chairman, the gentleman is right. We cannot just nominate the State of Washington and maybe South Carolina and say, "You take care of all the waste." The wastes ought to be in several places, particularly the low-level wastes.

Mr. Chairman, I think the gentleman has a good idea but I would be reluctant to endorse it without some hearings, some input, some further study.

Mr. McCORMACK. Mr. Chairman, if we were to request a study, if we were to accept the gentleman's substitute and request a study by the Department of Energy, could we then, the gentleman's committee and mine, get together very early in the year and write legislation on this one point alone rather than getting it involved in all other nuclear regulatory legislation?

Mr. UDALL. Mr. Chairman, I would love to work with the gentleman and with the appropriate committees on that subject, and I think we could. At least for the low-level. We have to go with the bits and pieces of this thing and eventually confront this monster of high-level waste and do something about it. I would be glad to work with the gentleman to try to put together a solid, specific program. Within a few months, next year or early the following year, we could have these places in operation and not be here talking about what we are going to do about nuclear waste 10 years from now.

Mr. McCORMACK. Under those conditions I would accept the gentleman's substitute.

Mr. OTTINGER. Will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, I am advised by the chairman of the Subcommittee on Energy and Power of the Committee on Interstate and Foreign Commerce, the gentleman from Michigan (Mr. DINGELL), he also would cooperate and support such a study leading to fast action along the lines the gentleman has indicated.

Mr. WYDLER. Mr. Chairman, would the gentleman yield to me?

Mr. McCORMACK. I would be glad to yield to the gentleman.

Mr. WYDLER. Mr. Chairman, I support the gentleman's amendment. I support the proposed compromise. I would merely like to say I am glad to hear the chairman of the Committee on Interior and Insular Affairs say that we should do something about the problem of high-level wastes as well, and God knows we should.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. WYDLER and by unanimous consent, Mr. McCORMACK was allowed to proceed for 1 additional minute.)

Mr. McCORMACK. I yield to the gentleman from New York.

Mr. WYDLER. God knows, we should be doing something about high-level waste. The fact of the matter is, we can do something about it when the day comes that the gentleman from Arizona and the gentleman from New York and the gentleman from Washington and the ladies and gentlemen sitting in this Chamber decide they are going to do something about it. We have the technology available. Let us apply it. Let us get on with the job.

Mr. McCORMACK. Mr. Chairman, in conclusion, I should observe that we receive more radiation in this room just from the granite in the building than we would if we were living immediately next door to a low-level waste site. I think it is important for us all to understand that.

AMENDMENT OFFERED BY MR. UDALL AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. McCORMACK

Mr. UDALL. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. UDALL as a substitute for the amendment offered by Mr. McCORMACK: At page 67, line 2, add a new section 705 to read as follows:

SEC. 705. Using such sums authorized to be appropriated under section 701(4) as may be necessary, the Secretary of Energy shall conduct a study on low-level radioactive waste and prepare and transmit a report thereon to the appropriate authorizing committees not later than May 1, 1980. Such study shall provide a plan to establish, operate and maintain low-level radioactive waste repositories located at appropriate sites in the continental United States. The Secretary, as part of the study, shall consider the advisability of entering into agreements with individual states within which such repositories would be located for the establishment of the repositories. The repositories, if established, would be made available for the storage of all low-level radiative wastes generated or used in the region served, and disposable as such in accordance with Federal law. Any such repositories, if established, shall be licensed by the Nuclear

Regulatory Commission. The Secretary of Energy should provide for recovery of all costs for operating and maintaining these repositories for fees charged for storage of the low-level radioactive wastes. The number of repositories shall be determined in the study by the Secretary of Energy with the goal of serving each region of the country, and in order to minimize the distance that the low-level radioactive wastes will be transported.

Mr. UDALL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. UDALL. Mr. Chairman, I urge the adoption of the amendment offered as a substitute for the amendment of the gentleman from Washington (Mr. McCORMACK).

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Arizona (Mr. UDALL) as a substitute for the amendment offered by the gentleman from Washington (Mr. McCORMACK).

The amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington (Mr. McCORMACK), as amended.

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MRS. BOUQUARD

Mrs. BOUQUARD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. BOUQUARD: On page 67 of the committee amendment after line 2 insert the following new section:

URANIUM ENRICHMENT REPORT

SEC. 705. (a) As soon as practicable but not later than the date on which the Secretary transmits to the Congress legislation authorizing appropriations for the Department of Energy for fiscal year 1981, the Secretary shall transmit to the President and the Committees on Interstate and Foreign Commerce, Interior and Insular Affairs, and Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on the long term policy and plan for U.S. uranium enrichment.

(b) The report required under this subsection shall provide a full and complete statement of the Department's policy governing commercial uranium enrichment services and an associated plan, with appropriate projections, to the year 2000. The report of the policy and plan shall include, but not be limited to:

(1) the enrichment policies of the U.S. government, including preproduced enriched uranium inventory management, international market share and nonproliferation objectives, and timing for decisions on new capacity additions including energy efficient advanced isotope separation technology;

(2) operations of the current and authorized enrichment facilities, including operating and transaction tails assay, electric power purchase commitments and availability, and incremental replacement of gaseous diffusion capacity with energy efficient centrifuge capacity;

(3) enrichment service contract demand for domestic civilian and military uses, and for foreign civilian uses;

(4) international commitments related to

the Nuclear Non-Proliferation Act of 1978, nuclear fuel-bank set-asides, and any bulk purchase agreements including purchase of feed or tails materials;

(5) estimated annual on-budget costs and total estimated project costs for each increment of authorized and projected additional capacity;

(6) projection of anticipated revenues including foreign exchange;

(7) recommendations for opportunities to encourage private sector involvement in funding; manufacturing, construction, and operation of future increments of enrichment capacity as a supplement to existing government commitments;

(8) impact of domestic uranium production capability and resource availability on enrichment operations, including constraints on uranium production due to land withdrawal.

Mrs. BOUQUARD (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Tennessee?

Mr. DINGELL. Mr. Chairman, we have not seen the amendment. Until we have had a chance to do so, I must object.

The CHAIRMAN pro tempore. Objection is heard.

The Clerk will read.

The Clerk concluded the reading of the amendment.

□ 1340

Mrs. BOUQUARD. Mr. Chairman, I feel my amendment is quite straightforward, I think, as a parallel to section 703, which calls for a report on waste management. I think it is rather noncontroversial.

Mr. Chairman, as my colleagues know, the three committees of jurisdiction on this title, title VII, have cooperated fully in fashioning a strong and important continuing commitment to our domestic uranium enrichment program.

More specifically, we have before us an authorization for \$290 million for fiscal year 1980 which will assure that ample funds are made available to at least maintain, if not accelerate, the schedule for the Portsmouth, Ohio, gas centrifuge enrichment plant. When Congress first endorsed the administration's decision to build this next increment in enrichment capacity using the very energy efficient centrifuge technology, we fully expected that the Department of Energy would take us seriously. During the Science Committee's hearings on this matter, it became clear that the Department was rather cavalier in its treatment of the congressional mandate to get on with this job.

The delays in this project contemplated by the Department could ultimately add \$1.7 billion to the cost of the project, a cost that would be paid by consumers of electricity. Just as critical a factor related to this delay is the erosion of interest within the private sector to provide competitive supplies of technology and products for this program. I personally reject the notion that DOE has the latitude to make decisions of this nature without consulting Congress.

During the Science Committee markup of H.R. 3000, an additional \$70 million in authorization was added to this project. This addition did not affect the appropriations since we also made specific provision for the application of the excess revenue of approximately \$133 million from the sale of enrichment services to the program. This provision is spelled out in section 804, thus, to the extent possible, the enrichment program is paying for itself and poses essentially no burden on the budget. Over the long-term all costs will be recovered as is now prescribed by law. During fiscal year 1980 it is expected that total revenue will slightly exceed the costs for operation as well as construction.

While I am reasonably satisfied with the outcome of our actions, I would like to point out to my colleagues that arriving at a reasoned decision on enrichment funding was difficult if not cumbersome. It was necessary to pursue resolution of a number of issues after the fact of the hearings through exchanges of letters with a number of department officials. One of my major concerns is that we will be asked to make decisions on the fiscal year 1981 budget request under the same conditions.

To avoid this problem, I have proposed an amendment comparable to that proposed in section 703 which is related to congressional interest in the commercial waste management program. In my proposed section 705, a new section in title VII, I am calling for the Department of Energy to transmit to the congressional committees of jurisdiction a comprehensive policy statement and long-term plan in time for review as a basis for fiscal year 1981 budget decisions. As in the above section 703, this amendment authorizes no new funds and calls on the Department to assemble its various positions into a cohesive and comprehensive picture of where the enrichment program is headed. I might add that the Senate Energy Committee reported S. 688, its version of the fiscal year 1980 DOE authorization, with a comparable study provision calling for submittal to Congress by February 1, 1980.

While I found merit in some of the issues addressed in the Senate proposal, there were additional issues which lacked resolution in my view. I attempted to characterize these in my additional views on the committee report.

What I have been concerned most directly about were the Department's projections of demand including potential foreign commitments related to our nonproliferation and export market objectives, the basis for production planning including plant efficiency and uranium feed requirements, the impact of decisions to delay new capacity versus possible total and operating cost benefits of maintaining the currently authorized schedule, and the importance of preserving an aggressive schedule in the selection of industry participants so that the supporting manufacturing base will be developed in a timely manner.

My amendment addresses all of these specific issues as well as others which must be factored into a comprehensive

policy. What we have learned is that decisions on the uranium enrichment program are intimately linked with key international issues such as commitments to provide a stockpile of enriched uranium for the proposed international nuclear fuel bank and with other seemingly unrelated issues such as natural uranium production and availability.

The specific elements of this amendment are as follows: The Department is to provide Congress with a uranium enrichment plan incorporating currently authorized capacity additions including the Portsmouth, Ohio, GCEP as well as projections of any additional capacity needed by the year 2000. We should expect that DOE will use their planning base of 325,000–380,000 megawatts electric installed capacity to make this projection of the timing and amount of capacity needed. An important element in this projection is the current objective for capture of a fraction of the foreign market as well as other factors such as uranium availability which affects operating tails assay assumptions.

During the course of the Science Committee's hearing on enrichment conducted in Oak Ridge, Tenn., on September 22 of this year, Dr. Stanley Weiss, Deputy Assistant Secretary for Resource Applications, and Mr. Bill Voigt, Director of Uranium Resources and Enrichment, both reviewed this amendment and indicated that the Department of Energy had no objections to it, and in their opinion the material requested in the amendment was reasonable and necessary for the determination of a sound management decision on enrichment policy.

I would urge the adoption of this amendment.

Mr. FUQUA. Mr. Chairman, will the gentlewoman yield?

Mrs. BOUQUARD. I yield to the distinguished chairman.

Mr. FUQUA. Mr. Chairman, let me say that the gentlewoman was prepared to offer this in the committee, but because it was to this title of the bill, the gentlewoman was persuaded not to offer it at that time and offer it on the floor.

I certainly have no objection to the amendment of the gentlewoman. I do think that there is one technical suggestion that should be made in reference to the committees, that also the Committee on Foreign Affairs should be reported, because of the nonproliferation activity involved.

Mr. BINGHAM. Mr. Chairman, will the gentlewoman yield?

Mrs. BOUQUARD. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, I thank the gentlewoman for yielding. I appreciate the suggestion.

I hope the gentlewoman would not object to including the Committee on Foreign Affairs among the committees to be advised of the report.

Mrs. BOUQUARD. I would certainly be happy to send it to this committee.

Also, this is straightforward. It is merely to report the direction of our enrichment program, the way they are going, the funds that will be needed and the recommendations that they will be making involving the private sector in the program.

Mr. UDALL. Mr. Chairman, will the gentlewoman yield?

Mrs. BOUQUARD. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, I would like to tell the gentlewoman that the friendly folks on the Committee on the Interior think this is a good amendment and we will support it.

Mrs. BOUQUARD. Mr. Chairman, I thank the chairman and we will see that the gentleman's committee receives this report.

Mr. DINGELL. Mr. Chairman, will the gentlewoman yield?

Mrs. BOUQUARD. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I withdraw my reservation of a point of order.

The CHAIRMAN pro tempore. The reservation of a point of order is withdrawn.

Mr. DINGELL. Mr. Chairman, I indicate that with the suggested change referring to the Committee on Foreign Affairs, I would have no objection to the amendment.

Mrs. BOUQUARD. Mr. Chairman, I thank the gentleman from Michigan.

Mr. WYDLER. Mr. Chairman, will the gentlewoman yield?

Mrs. BOUQUARD. I yield to the gentleman from New York.

Mr. WYDLER. Mr. Chairman, I make it unanimous.

Mr. DINGELL. Mr. Chairman, I ask unanimous consent that immediately following the words "Interior and Insular Affairs" appear the words "The Committee on Foreign Affairs".

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The CHAIRMAN pro tempore. The Clerk will report the modification to the amendment.

The Clerk read as follows:

On page 67 of the committee amendment after line 2 insert the following new section:

URANIUM ENRICHMENT REPORT

SEC. 705. (a) As soon as practicable but not later than the date on which the Secretary transmits to the Congress legislation authorizing appropriations for the Department of Energy for fiscal year 1981, the Secretary shall transmit to the President and the Committees on Interstate and Foreign Commerce, Interior and Insular Affairs, the Committee on Foreign Affairs and Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on the long term policy and plan for U.S. uranium enrichment.

(b) The report required under this subsection shall provide a full and complete statement of the Department's policy governing commercial uranium enrichment services and an associated plan, with appropriate projections, to the year 2000. The report of the policy and plan shall include, but not be limited to:

(1) the enrichment policies of the U.S. government, including preproduced enriched uranium inventory management, international market share and nonproliferation objectives, and timing for decisions on new capacity additions including energy efficient advanced isotope separation technology;

(2) operations of the current and authorized enrichment facilities, including operating and transaction tails assay, electric power purchase commitments and availability, and

incremental replacement of gaseous diffusion capacity with energy efficient centrifuge capacity;

(3) enrichment service contract demand for domestic civilian and military uses, and for foreign civilian uses;

(4) international commitments related to the Nuclear Non-Proliferation Act of 1978, nuclear fuel-bank set-asides, and any bulk purchase agreements including purchase of feed or tails materials;

(5) estimated annual on-budget costs and total estimated project costs for each increment of authorized and projected additional capacity;

(6) projection of anticipated revenues including foreign exchange;

(7) recommendations for opportunities to encourage private sector involvement in funding; manufacturing, construction, and operation of future increments of enrichment capacity as a supplement to existing government commitments.

(8) impact of domestic uranium production capability and resource availability on enrichment operations, including constraints on uranium production due to land withdrawal.

Mrs. BOUQUARD. Mr. Chairman, I urge adoption of this amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Tennessee (Mrs. BOUQUARD), as modified.

The amendment, as modified, was agreed to.

AMENDMENT OFFERED BY MR. LUJAN

Mr. LUJAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LUJAN: On page 65 after line 20, insert the following new section,

SITE RECOMMENDATION FOR A HIGH-LEVEL WASTE GEOLOGICAL STORAGE REPOSITORY

Section 704(a) the Secretary of Energy, in selecting a site for locating a permanent geological repository for nuclear high-level wastes, should give primary consideration to candidate sites located on Federal Government lands with suitable hydrology and geology which are in, or immediately contiguous with, sites having significant quantities of high-level byproduct and special nuclear materials, as defined by Section 11 of the Atomic Energy Act of 1954.

And renumber the final section.

Mr. LUJAN. Mr. Chairman, I rise in support of this amendment to H.R. 3000, which makes the primary consideration for selection of the site for a permanent geological repository to be a location that already has high-level wastes.

The purpose is to limit, as far as we can, the locations in the United States where high-level wastes would be buried. Of course, the Secretary of the Department of Energy must fully take into account the hydrology and geology of the locations to assure that the repository will fully conform with safety requirements. Already investigations by the Department of Energy are far enough along that we know that reasonable prospects exist in Federal lands contiguous to or in Federal sites where high-level wastes exist.

I believe this is a prudent and reasonable guidance in our search for a proper repository location. It does not unduly limit the possible locations in our quest for a fully safe repository.

Further, Mr. Chairman, it assures the

public that we are not needlessly putting significant quantities of high-level wastes in more and more places in the country. Instead, by this amendment, we are being responsible custodians of the lands of this Nation by eliminating needless duplication of high-level waste locations.

Mr. Chairman, I urge my colleagues to support this amendment.

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

Mr. LUJAN. I would be glad to yield to the gentleman from Washington.

Mr. McCORMACK. Mr. Chairman, I want to thank the gentleman for yielding and indicate that in the present form that this amendment is drafted, I have no objection to it.

I think it is important to understand that as the amendment is drafted, it would refer to about 10 or a dozen sites within the United States, including weapons test sites in Nevada, Louisiana, and Alaska and many national nuclear sites.

The fact is that we probably will not select permanent sites for high-level wastes for 20 or 25 years, in any event. Site selection is not a matter of immediate critical concern.

What we should be doing, of course, is studying the best materials and the best conditions for permanent storage. Such programs are already underway in several places, studying various types of rock. These studies will be followed by long-term demonstrations. We have work going on now drilling holes in various types of rock; and this year we will have electric heaters in these holes. Next year we hope to have radioactive wastes canisters in, I hope.

However, we are not talking about selecting a permanent site until after we have a reprocessing program in operation, and until after we are glassifying the wastes. I think it is acceptable, but it will take about 15 years. I think it is important to remember that when the wastes are glassified from a reprocessing plant, they can be stored indefinitely right in the building where they are glassified.

In France, they are making about a canister a day of glass, about the size of a 55-gallon drum.

It simply goes into a hole in the floor. They have 240 holes in the floor in a big concrete block and they put 10 of these cans on top of each other and then put a plug on top and you can walk right around on top of it.

When we say, "What about a permanent site?" they say, "Oh, in 10 or 20 or 25 or 30 years we'll pick a site."

Maybe that is what we are doing here, too, so the gentleman's amendment is acceptable, even though it has no real meaning at this time. It does not mean that we are going to locate any waste site anywhere during the coming years, but it is, I think, a perfectly legitimate thing to consider sites that already contain wastes.

Mr. LUJAN. Mr. Chairman, I thank the gentleman for his support.

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

Mr. LUJAN. I would be glad to yield

to my friend, the gentleman from Oregon.

Mr. WEAVER. Mr. Chairman, can the gentleman tell us where these major sites are?

Mr. LUJAN. Well, there are a number of sites. I do not know that I can specify all the different sites, but Nevada, for example, is one that can be considered. There are some sites in the State of Washington. There are some sites at other places.

Mr. WEAVER. Are there any in Oregon that would qualify under this?

Mr. LUJAN. I do not know of any specifically. I do not think there are any that already contain high-level wastes in the State of Oregon, but I cannot assure the gentleman that there are none. I do not believe there are.

Mr. WEAVER. Mr. Chairman, if the gentleman will yield further, I know of none in Oregon, either, and Oregon has a law prohibiting the storage of radioactive material in Oregon.

I wonder if the gentleman would accept an amendment to require consent of the States here.

Mr. LUJAN. This is simply a study. We are not mandating that they go anywhere. We are just saying to the Secretary that where there are already contaminated lands and where the hydrology and geology is proper, to look at those sites and see which are the better sites.

It is simply a study. It is not mandating anything.

I suppose that if we had that kind of an amendment, every State would want to pass such a law. It is getting back to the same thing we were talking about with the low-level wastes.

□ 1350

The CHAIRMAN. The time of the gentleman from New Mexico (Mr. LUJAN) has expired.

(By unanimous consent, Mr. LUJAN was allowed to proceed for 2 additional minutes.)

Mr. LUJAN. Mr. Chairman, let me ask, what is going to happen to States like Oregon in the case of the study that is going to come up now for low-level wastes?

If Oregon says, "You can't put it here," does that mean the hospitals in Oregon cannot use any kind of nuclear material? What is the solution? Or are we going to say, "Let Oregon have the benefit of this technology, but send the stuff somewhere else?"

This creates a little problem, but at the moment I think it would be best to just leave the amendment as it is.

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

Mr. LUJAN. I will be glad to yield to the gentleman from Nevada.

Mr. SANTINI. Mr. Chairman, would it be appropriate to style this amendment, I say to my good friend, the gentleman from New Mexico (Mr. LUJAN), as an ill-disguised attempt to exclude consideration of his congressional district from possible waste disposal.

Mr. LUJAN. No, that is not so.

Mr. SANTINI. Is this goal a possible motivation?

Mr. LUJAN. No.

Mr. SANTINI. Is this goal an indirect influence?

Mr. LUJAN. None at all. The effort is to say, "Look. Don't just look at one place. Look at places where it might be appropriate to put the high level waste. If the land is already contaminated, let us look at that."

That is a very reasonable direction to take.

Mr. SANTINI. Of course, and it is the gentleman's hope, then, that his congressional district will come into the forefront of consideration as a result of his amendment and perhaps be the No. 1 candidate for disposal?

Mr. LUJAN. We are not talking about "No. 1 candidates" here. We are looking at 10 or 12 different areas that need to be looked at to see where the best place to put it is. This has no parochial interest involved at all.

As the gentleman can very well understand, it is in the national interest that we must look at different places and see where the best place is. There may be more. There probably will be more than just one place where high-level wastes can be disposed of.

We are setting a pattern with low-level wastes here with the amendment offered by the gentleman from Washington (Mr. McCORMACK), as amended by the amendment offered by the gentleman from Arizona (Mr. UDALL). There are going to be several locations. Perhaps that is the answer in this case. I do not know. We had better look at all of them.

The CHAIRMAN pro tempore. The time of the gentleman from New Mexico (Mr. LUJAN) has again expired.

(On request of Mr. SANTINI, and by unanimous consent, Mr. LUJAN was allowed to proceed for 2 additional minutes.)

Mr. SANTINI. Mr. Chairman, will the gentleman yield further?

Mr. LUJAN. I yield to the gentleman from Nevada.

Mr. SANTINI. Mr. Chairman, in the gentleman's pursuit of the national interest, does he see anything inconsistent in suggesting a criteria that may give as a matter of law primary consideration to those areas under consideration rather than, as I would urge upon my friend, the idea that the primary consideration ought to be safety?

Mr. LUJAN. Mr. Chairman, I think this does deal with safety in saying that it must be lands with suitable hydrology and geology. It must be or should be lands that are already contaminated.

Let us not spread it all over the country. Where these conditions exist, then that is where we ought to look at it more strongly. There is no mandate to put it in any particular site.

Mr. SANTINI. Mr. Chairman, if my good friend and turquoise enthusiast would yield once more, does he not agree that by imposing this kind of artificial criteria, he may well be foreclosing areas that either geologically or perhaps due to hydrology would be appropriate candidates for disposal, because he is confining those sites to those that fit his descrip-

tion as to where it might be appropriate to put the material?

Mr. LUJAN. No, I do not believe that.

Mr. SANTINI. Mr. Chairman, if the gentleman will yield further, I say, yes, it does have that result.

Mr. DINGELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the gentleman's amendment which would require that the Secretary of Energy, in selecting a site for a long-term geological repository for waste storage, give primary consideration to sites located on Federal lands which are already being used to store significant quantities of high level byproduct and special nuclear materials.

While the resolution of the nuclear waste issue is of paramount importance which requires that we proceed in an expeditious manner, I do not believe it advisable that we limit the Secretary's ability to select the most appropriate site by directing him to give primary consideration to Government-owned sites which are already being used for the storage of significant quantities of high level byproduct and special nuclear materials.

Many of the sites presently in use were selected on the basis of a criteria that was far more lenient than those applicable today. In many of the localities adjoining these sites, a significant portion of the population believes that they are being forced to contend with dangers far more serious than they were originally led to believe. Their concerns have recently been reflected in the actions of a number of State officials who have voiced their opposition to the continued or expanded use of their State for the storage or disposal of nuclear waste.

The Governors of Illinois, South Carolina, and New York which presently have waste storage facilities in their States have each expressed their concern that announced plans for interim storage of spent fuel and low level waste sites discriminate against their States because of the existence of such facilities within their State, and they all feel that their residents are being compelled to bare a disproportional share of the responsibility for handling nuclear waste. Recently, even the pro-nuclear Governor of the State of Washington felt compelled to temporarily close the low-level waste burial site in that State, and a similar site in the State of Nevada was also recently temporarily closed. Local opposition to the proposed Government-owned WIPP site in New Mexico has been significant.

To require the Secretary to give primary consideration to existing Government-owned waste storage sites not only restricts the Secretary's ability to select the most suitable site, but, more importantly, may actually impede to implementation of a waste disposal policy by increasing the opposition of the affected local communities and officials who believe that such a requirement discriminates against them because of their prior willingness to cooperate in previous Government efforts in regard to nuclear waste storage and disposal.

Because I believe the Secretary's ability to select a site for a terminal waste repository should be based on an objective evaluation of all the relevant criteria applicable to the construction and operation of such a facility, and because I believe it is unfair to discriminate against those communities which have cooperated in past efforts to store and dispose of such waste, and because I believe that giving primary consideration to existing sites would, in the long run, be counterproductive.

Mr. Chairman, I regretfully, in spite of my respect for its author, urge the defeat of this amendment.

Mr. UDALL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to ask my friend, the gentleman from New Mexico (Mr. LUJAN), the author of the amendment, a question. The gentleman does not intend, by this good advice which he is giving to the Secretary about where to look, to change the environmental impact statement requirements or infringe on legal procedures or any of the rest of the requirements?

Mr. LUJAN. Not at all, Mr. Chairman, if the gentleman will yield.

Mr. UDALL. The gentleman is simply sending a little message or a little valentine to the Secretary, and he is just telling him where he ought to look?

Mr. LUJAN. Mr. Chairman, it is more than just a "little message" or "little valentine." This grows out of a feeling that the Department of Energy has not looked at the whole waste question, and we are saying, "There are some lands out there already. Don't you know that? There are lands out there that are already contaminated and that have good hydrology and good geology. Why don't you look at those?"

We are drawing for him a little map and saying these would be places where he ought to look.

Mr. UDALL. Mr. Chairman, my dilemma is that I do not know that the amendment is necessary. Knowing how people operate and having visited with the Governors of a lot of Western States, I understand their feelings and I know they do not have any enthusiasm for being selected as the home for the repository of waste materials and nuclear waste materials.

If we do not pass the amendment, I suggest that these places mentioned in the amendment are where the Secretary will look anyway. Does the gentleman not agree with that, that since certain Western States already have a history of being a repository for waste materials, the Secretary would probably look at those sites first?

Mr. LUJAN. Mr. Chairman, if the gentleman will yield, I say they have not been looking, and we are just pointing them in that direction.

I do not know if the gentleman received a letter this morning from the White House, but I did. It said in effect: We know how difficult it is to vote on these tough, tough issues, but you have done a good job in voting on tough, tough issues before. Keep it up.

Maybe that is the kind of a letter that the Secretary of Energy needs, saying, "Look, you have been trying to resolve this problem, and here are some places that you ought to look at."

Mr. UDALL. Mr. Chairman, I say to the gentleman that is probably where they will look, and the thing that concerns me is that this looks to me like a loaded gun pointed at our friend, the gentleman from Nevada (Mr. SANTINI), whose State has had enough guns pointed at it lately. The more folks in Washington seem to suggest the western public lands are where we are going to be looking, it concerns me that we may do something unnecessarily to stir up the folks in a couple of these specific Western States.

Mr. LUJAN. No, No, it is certainly not my intention to point a gun at my friend, the gentleman from Nevada (Mr. SANTINI). Far be it from me to cause him any more problems than he already has.

It is simply my intention to tell the Secretary of Energy exactly what the amendment says: "Look at these contaminated lands over there. Don't contaminate this whole country. You have already got places where you can put it. Look at these primarily and see if you can't come to a resolution and use those lands. Don't go all over the country."

□ 1400

Mr. UDALL. I do not have strong feelings. I suggest that there are maybe more important, far reaching amendments than this. I can live with it if it passes. But for the reasons that I have stated, I personally am going to vote against the amendment.

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

Mr. UDALL. I yield to the gentleman from Indiana.

Mr. SHARP. Mr. Chairman, I would simply like to point out that it is not as if there has been an ignoring of other possible sites. This bill alone continues up to \$100 million for studies in the State of Nevada and the State of Washington, I am told, on the permanent storage question, in terms of research on that issue.

Mr. SANTINI. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I want to commend my very good and very imaginative friend, the gentleman from New Mexico, for desiring to remove possible consideration of his congressional district under his well structured criteria and wishing to visit a targeted blessing on my congressional district. We have had many blessings of late, underground nuclear testing, and MX missiles are coming our way. The gentleman wants to add to the gratuitous grab bag of benefits that are being dumped on our State with this amendment. But the amendment is wholly and entirely unnecessary.

There is a study going on right now and, as the gentleman from Arizona, the chairman of our committee, ob-

served, that study is doing exactly what the gentleman is hoping his amendment might lock into legislative concrete.

But, second, I think it is most inappropriate for the gentleman to restructure criteria for nuclear waste disposal to suit his own individual district needs but to the exclusion of the safety and transportation concerns of the Nation. Safety ought to be the primary consideration, not whether there is some study going on right now. As the gentleman has written his amendment, safety is not mentioned anywhere in it, except by inference, and the gentleman has put his well crafted product before this body, nothing is said with regard to the hazards that inevitably will occur from transportation. I think there is in place a mechanism to examine this issue, and this kind of don't-dump-it-in-my-backyard legislative attempt is inappropriate for this body to consider as a meaningful piece of legislative contribution to this bill.

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

Mr. SANTINI. I yield to my friend, the gentleman from New Mexico.

Mr. LUJAN. Mr. Chairman, let me tell the gentleman that he has totally misread the intent of this amendment. This amendment simply says "put it in the best place that exists, wherever it may be."

Mr. SANTINI. "Outside my congressional district."

Mr. LUJAN. No, it does not say "outside my congressional district," because if my congressional district has contaminated lands, as some lands are contaminated, and if it has the proper hydrology, the proper geology, then let us put it in there.

Mr. SANTINI. Reclaiming my time, if the gentleman will hear me through, again does not the gentleman agree that safety ought to be the principal criteria, not some arbitrary determination of what is being looked at now or which lands have been spoiled now?

Mr. LUJAN. If the gentleman will yield, that is exactly correct. I think safety is a primary interest. That is why the words "the proper hydrology and the proper geology" are in the amendment. As a matter of fact, that is what I had in mind when I put those words in there, that high-level waste be in a perfectly safe place.

Mr. SANTINI. Reclaiming my time, safety is a much easier word than hydrology and geology, and I am just disappointed that somehow that shorter word never found its place in this particular amendment.

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

Mr. SANTINI. I yield to the gentleman from Oregon.

Mr. WEAVER. Mr. Chairman, I am very sympathetic to my dear friend, the gentleman from Nevada, but I am really at a loss on how to vote for this amendment myself because it does not put the stuff in Oregon. So I am unsure yet as to how to vote. My sympathy certainly lies with the principle the gentleman from Nevada has enunciated, but I would just like to say that there must be something fundamentally wrong with an in-

dustry that produces material that everybody wants out of their area.

Mr. SANTINI. I can certainly say that we have had our share of adverse experiences of late, to confirm the gentleman's suspicions. I would urge my good friend, the gentleman from Oregon, my seat-mate on the Committee on Interior and Insular Affairs, that if he is wavering, let him waver in the interest of his friend, the gentleman from Nevada.

Mr. LUJAN. Mr. Chairman, if the gentleman will yield further, let me tell the gentleman that, as he well knows, my own home State has been as cooperative as his home State has been to this industry. There is no question about it. It is not a ploy to put it in Nevada. If New Mexico is the best place to put it, after they look at the hydrology and the acceptability and the contamination of lands already there, then so be it. But let us look at all of them.

Mr. SANTINI. I appreciate the gentleman's remarks.

I would not characterize the amendment as a ploy; merely as a constructive endeavor to respond to noble constituent concerns.

Mr. Chairman, I urge the defeat of the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New Mexico (Mr. LUJAN).

The question was taken; and on a division (demanded by Mr. LUJAN) there were—ayes 12, noes 13.

RECORDED VOTE

Mr. LUJAN. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

□ 1410

QUORUM CALL VACATED

The CHAIRMAN pro tempore. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN pro tempore. The pending business is the demand of the gentleman from New Mexico (Mr. LUJAN) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 208, noes 197, not voting 28, as follows:

[Roll No. 580]

AYES—208

Abdnor	Ashbrook	Bauman
Addabbo	Ashley	Beard, Tenn.
Albosta	Atkinson	Bereuter
Anderson, Ill.	Badham	Bethune
Andrews,	Bafalis	Blaggi
N. Dak.	Bailey	Bowen
Archer	Barnard	Breaux

Brooks	Heckler	Pursell
Broomfield	Hefner	Quillen
Brown, Ohio	Hefel	Rallsback
Broyhill	Hightower	Regula
Buchanan	Hillis	Rhodes
Burgener	Hinson	Rinaldo
Burton, Phillip	Hollenbeck	Ritter
Butler	Holt	Roberts
Carney	Huckaby	Robinson
Carter	Ireland	Roe
Chappell	Jacobs	Roth
Cheney	Jeffords	Rousselot
Cleveland	Jeffries	Roybal
Coleman	Johnson, Calif.	Royer
Collins, Tex.	Kazen	Rudd
Conable	Kelly	Satterfield
Conte	Kemp	Sawyer
Conyers	Kostmayer	Scheuer
Coughlin	Kramer	Schulze
Courter	Lagomarsino	Sebelius
Crane, Daniel	Latta	Seiberling
Crane, Phillip	Leach, Iowa	Sensenbrenner
Daniel, Dan	Leath, Tex.	Shelby
Daniel, R. W.	Lehman	Shumway
Danielson	Lent	Shuster
Dannemeyer	Lewis	Skelton
Daschle	Livingston	Slack
Davis, Mich.	Lloyd	Smith, Nebr.
de la Garza	Loeffler	Snowe
Derwinski	Long, Md.	Solomon
Devine	Lott	Stangeland
Dickinson	Lujan	Stanton
Dornan	Lungren	Steed
Edwards, Ala.	McCloskey	Stenholm
Edwards, Okla.	McDade	Stewart
Emery	McDonald	Stockman
English	McEwen	Stump
Ertel	McKinney	Symms
Evans, Del.	Madigan	Tauke
Evans, Ga.	Marriott	Taylor
Fascell	Martin	Thomas
Fenwick	Mathis	Treen
Ferraro	Mattox	Trible
Fish	Michel	Van Deerlin
Forsythe	Miller, Ohio	Vander Jagt
Fountain	Mitchell, N.Y.	Vanik
Gaydos	Mollohan	Walker
Gibbons	Moore	Wampler
Gingrich	Moorhead,	Watkins
Ginn	Calif.	White
Goldwater	Moorhead, Pa.	Whitehurst
Goodling	Mottl	Whitley
Gradison	Murphy, N.Y.	Williams, Mont.
Grassley	Murphy, Pa.	Williams, Ohio
Green	Myers, Ind.	Wilson, Bob
Grisham	Neal	Wilson, Tex.
Gudger	Nichols	Wolff
Guyver	Oaker	Wyder
Hagedorn	Pashayan	Wyllie
Hall, Tex.	Paul	Yatron
Hammer-	Pepper	Young, Fla.
schmidt	Petri	Zeferetli
Hance	Peyser	
Hansen	Preyer	

NOES—197

Akaka	Corcoran	Gonzalez
Alexander	Corman	Gore
Ambro	Cotter	Gramm
Anderson,	D'Amours	Gray
Calif.	Davis, S.C.	Guarini
Annunzio	Deckard	Hall, Ohio
Anthony	Dellums	Hamilton
Aspin	Derrick	Hanley
AuCoin	Dicks	Harkin
Baldus	Dingell	Harris
Barnes	Dodd	Hawkins
Beard, R.I.	Donnelly	Holland
Bedell	Dougherty	Holtzman
Benjamin	Downey	Hopkins
Bennett	Drinan	Howard
Bevill	Duncan, Tenn.	Hubbard
Bingham	Eckhardt	Hughes
Blanchard	Edgar	Hutto
Boggs	Edwards, Calif.	Hyde
Bolling	Erlenborn	Ichord
Boner	Evans, Ind.	Jenkins
Bonior	Fary	Jenrette
Bouquard	Fazio	Johnson, Colo.
Brademas	Findley	Jones, Okla.
Brinkley	Fisher	Jones, Tenn.
Brodhead	Fithian	Kastenmeier
Brown, Calif.	Flippo	Kildee
Burlison	Florio	Kindness
Burton, John	Foley	Kogovsek
Byron	Ford, Tenn.	LaFalce
Campbell	Frenzel	Lederer
Carr	Frost	Lee
Cavanaugh	Fuqua	Leland
Clausen	Gephardt	Levitas
Clay	Glatmo	Long, La.
Clinger	Gilman	Lowry
Coelho	Glickman	Luken

Lundine	Oberstar	Spence
McClory	Obey	St Germain
McCormack	Ottinger	Stack
McHugh	Panetta	Staggers
McKay	Patten	Stark
Maguire	Patterson	Stokes
Markey	Pease	Stratton
Marx	Perkins	Studds
Marlenee	Pickle	Swift
Matsui	Price	Synar
Mazzoli	Pritchard	Thompson
Mica	Quayle	Traxler
Mikulski	Rahall	Udall
Miller, Calif.	Rangel	Ullman
Mineta	Ratchford	Vento
Minish	Reuss	Walgren
Mitchell, Md.	Richmond	Waxman
Moakley	Rose	Weaver
Moffett	Rostenkowski	Weiss
Montgomery	Russo	Whittaker
Murphy, Ill.	Sabo	Whitten
Murtha	Santini	Wirth
Myers, Pa.	Schroeder	Wolpe
Natcher	Shannon	Wright
Nedzi	Sharp	Wyatt
Nelson	Simon	Yates
Nolan	Snyder	Young, Alaska
Nowak	Solarz	Young, Mo.
O'Brien	Spellman	Zablocki

NOT VOTING—28

Andrews, N.C.	Early	Mavroules
Applegate	Erdahl	Rodino
Bellenson	Flood	Rosenthal
Boland	Ford, Mich.	Runnels
Bonker	Fowler	Smith, Iowa
Chisholm	Garcia	Volkmer
Collins, Ill.	Harsha	Wilson, C. H.
Diggs	Horton	Winn
Dixon	Jones, N.C.	
Duncan, Oreg.	Leach, La.	

□ 1430

The Clerk announced the following pairs:

On this vote:

Mr. Jones of North Carolina for, with Mr. Rodino against.

Messrs. IRELAND, MARRIOTT, and GOLDWATER changed their votes from "no" to "aye."

Messrs. JOHNSON of Colorado, RATCHFORD, GILMAN, HYDE, and SPENCE, Mrs. BOGGS, and Messrs. McKAY, KINDNESS, and DOUGHERTY changed their votes from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. PANETTA

Mr. PANETTA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PANETTA: Page 67, after line 2, insert the following new section:

PAPERWORK REDUCTION

SEC. 705. (a) Not later than 180 days after the date of the enactment of this Act, the Secretary of Energy shall compile, index, and maintain, in accordance with guidelines developed by the Office of Management and Budget and other applicable provisions of law, a central file containing a copy of each type of application form, each type of information request or requirement form, and every other type of form used by the Secretary to obtain information from any person who participates in, or is affected by, any energy program conducted by the Secretary. The Secretary shall carry out this subsection through the Energy Information Administration.

(b) Not later than one year after the date of the enactment of this Act (but in no event later than September 30, 1980), the Secretary of Energy shall—

(1) promulgate regulations to require, to the extent consistent with the provisions of law applicable to energy programs conducted by the Secretary—

(A) the consolidation of all forms used by the Department of Energy to obtain information which is identical from any person who participates in, or is affected by, any such energy program.

(B) the elimination of forms used to obtain information which is available from any other authority of the United States, and

(C) such further simplification, and reduction of the number, of such forms as may be practicable,

(2) submit to the Congress a report identifying any provision of law applicable to the Department of Energy which interferes with the carrying out of paragraph (1), and

(3) reduce, in accordance with criteria established by the Office of Management and Budget, for fiscal year 1980 the level of paperwork burden hours (as defined and allocated by the Office of Management and Budget) expended by the Department of Energy by 5.5 percent or to the maximum extent practicable.

□ 1440

Mr. PANETTA (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. PANETTA. Mr. Chairman, as we contemplate passage of the energy authorization, it is fitting that we consider an amendment to reduce the amount of paperwork it will generate. Experts predict that all the progress made in cutting paperwork over the past 2 years is threatened by the spate of new energy related legislation soon to be enacted. In light of these predictions, it is crucial that we take action to reduce Federal paperwork.

According to the former Director of the Commission on Federal Paperwork, there are going to be huge increases in paperwork coming up unless something is done quickly. Today, we have the opportunity to contain the paperwork problem at the very moment at which it promises to explode. By taking the steps I have outlined in my amendment, we can blunt the growth of Federal paperwork before it has a chance to overtake us. But we must move quickly and decisively to counter this threat.

My colleagues will recall a week ago last Tuesday the President announced that Federal paperwork has been cut by about 15 percent over the past 2 years. This is a significant accomplishment that is much to the administration's credit. But the sad fact is that the programs contemplated in this energy authorization combined with other new efforts may increase Federal paperwork at a rate so fast that it will completely wipe out those gains. We must take steps to forestall these increases. While OMB is predicting a minimum of 16 million man-hours being added to the paperwork burden as a result of new programs, others are calling this figure low and estimate 80 to 100 million more hours could be added to the Government burden over the next 2 years. It will take as many as 3 million hours in new paperwork to implement the National Energy Conservation Policy Act alone.

The reality of the present situation is that as new programs come down from

Congress, the bureaucracy responds by issuing some new form or reporting requirement. This situation is further exacerbated when these programs come in the form of a response to a critical situation. Under such circumstances, painfully little attention is paid to the paperwork burden these requirements generate. We must have some assurance that the paperwork reduction process will not be short circuited by the overzealous advocates of particular programs. That assurance will only come if we mandate it by stating our intentions and giving the Department the tools to avoid duplication and to reduce paperwork.

Earlier this year, I asked the General Accounting Office whether it could provide me with a list of all the forms presently in use by the Federal Government. Their response was that it would be impossible to compile such a list without devoting their entire staff to the project for a number of years. If we are ever going to get a handle on the problem we have to force each Department and agency to take account of its own paperwork and to seek out and guard against duplication.

In working with the Office of Management and Budget on this matter, I have found that it has developed a system that Departments can use in reducing their paperwork. My amendment mandates the Department of Energy to adopt that system. The amendment is quite similar to the one which was adopted earlier this year in the Housing bill. It requires the Department of Energy to take the following steps:

First. To make recommendations to Congress for reduction and consolidation that cannot be accomplished through rules and regulations;

Second. To make a good faith effort to achieve a 5.5-percent reduction in its paperwork for fiscal year 1980;

Third. To compile and index its paperwork forms within 180 days of enactment of the bill; and,

Fourth. To use the compilation to eliminate and guard against future duplication and to consolidate existing forms.

My amendment implements the basic recommendation of the Commission on Federal Paperwork and has the support of the Office of Management and Budget. With your support we can send a clear message to the people that we are serious about solving the paperwork problem.

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

Mr. PANETTA. I yield to the gentleman from Michigan.

Mr. DINGELL. I thank the gentleman for yielding.

Mr. Chairman, the gentleman has been gracious enough to make a copy of this amendment available to the committee. It has been reviewed by the committee staff. We find it acceptable, and on behalf of the committee I am most pleased to accept the amendment and I commend the gentleman for offering it.

Mr. PANETTA. I thank the gentleman from Michigan.

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

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

Mr. LOEFFLER. I thank the gentleman for yielding.

I would also like to associate myself with the remarks of the gentleman from Michigan, the distinguished chairman of the Subcommittee on Energy and Power of the Committee on Interstate and Foreign Commerce. On this side of the aisle we support the gentleman's amendment. I particularly support it in view of the fact that the gentleman has unfortunately had to call the attention of the Department of Energy to proper management policies.

I encourage adoption of the gentleman's amendment and urge its support.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California (Mr. PANETTA).

The amendment was agreed to.

The CHAIRMAN pro tempore. Are there further amendments to title VII? If not, the Clerk will designate title VIII.

Title VIII reads as follows:

TITLE VIII—PROVISIONS REGARDING USE OF FUNDS

LIMITATION OF REPROGRAMMING OF FUNDS

SEC. 801. (a) (1) Subject to the limitations of sections 201(b) and 802, no amount appropriated pursuant to this Act (other than title I) may be used for any program, function, or purpose in excess of the amount expressly authorized to be appropriated for that program, function, or purpose by this Act, nor may the amount available for any program, function, or purpose from sums appropriated pursuant to this Act (other than title I) be reduced by more than 5 percent of the total of the sums appropriated pursuant to this Act for such program, function, or purpose or by more than \$10,000,000 (whichever is the lesser), except that such funds may be so used (and available funds so reduced) in any case in which—

(A) a period of 30 calendar days (not including any day in which either House of Congress is not in session because of an adjournment of more than 3 calendar days to a day certain or an adjournment sine die) has passed after the receipt by the appropriate authorizing committees of the House of Representatives and the Senate of notice given by the Secretary of Energy or the Federal Energy Regulatory Commission, as the case may be, containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of the proposed action, or

(B) each such committee before the expiration of such period has transmitted to the Secretary of Energy or the Federal Energy Regulatory Commission, as the case may be, written notice stating in substance that such committee has no objection to the proposed action.

(2) In the case of any office or unit within the Department to which funds are authorized to be appropriated without reference to a particular program, function, or purpose, paragraph (1) of this subsection shall be applied to such office or unit as if the references in such subsection to "program, function, or purpose" were to that office or unit.

(3) At the time of any reprogramming of funds appropriated pursuant to this Act (other than title I), the Department shall report to the appropriate authorizing committees of the House of Representatives and the Senate the nature and amount of, and reasons for, such reprogramming.

(b) (1) Except as otherwise provided in this Act—

(A) no amount appropriated pursuant to title I of this authorization Act may be used

for any program in excess of the amount expressly authorized for that particular program by this Act, and

(B) no amount appropriated pursuant to title I of this authorization Act may be used for any program which has not been presented to or requested of the Congress,

except that such funds may be so used in any case in which (1) a period of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than 3 calendar days to a day certain) had passed after the receipt by the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate of notice given by the Secretary containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or (2) each such committee before the expiration of such period has transmitted to the Secretary written notice to the effect that such committee has no objection to the proposed action.

(2) Notwithstanding any other provision of this Act, the aggregate amount of funds appropriated pursuant to the authorization contained in any of the following provisions of this Act shall not, as a result of reprogramming, be decreased by more than 10 percent:

Section 101 (A), (B), (C), (D), (E), (F), (G), (H), (I), (J), or (K);

Section 102 (A), (B), (C), (D), or (E);

Section 103 (A), (B), (C), or (D);

Section 104 (A), (B), (C), or (D);

Section 105 (A) or (B);

Section 106 (A);

Section 107 (A), (B) (1), (B) (2), (B) (3), (C), (D), (E) (1) (a), (E) (1) (b), (E) (1) (c), (E) (2), (E) (3), (E) (4), (E) (5), (E) (6), or (F);

Section 108 (A) (1), (A) (2), (A) (3), (A) (4), or (B);

Section 109 (A), (B), or (C);

Section 111 (A) or (B);

Section 112 (A) or (B);

Section 113 (A), (B), (C), (D), (E), or (F);

Section 114;

Section 115 (A), (B), or (C);

Section 116 (A), (B), or (C);

Section 117;

Section 118 (A), (B), (C), or (D); and

Section 119.

LIMITATION REGARDING MANAGEMENT SUPPORT SERVICES

SEC. 802. No amount appropriated pursuant to this Act may be used in the fiscal year ending September 30, 1980, for any management support services contract unless the contract was entered into in accordance with the provisions of Circular A-76 of March 1979, and Bulletin 78-11 of May 5, 1978 of the Office of Management and Budget, and Department of Energy Order 1370.1 of June 5, 1978, which prescribe policies concerning the use of contracts for such services.

LIMITATION ON THE USE OF UNEXPENDED BALANCES

SEC. 803. (a) If so specified in an appropriation Act, the unexpended balances of any appropriations to the Department for—

(1) operating expenses,

(2) plant and capital equipment, or

(3) any program, purpose, or function not covered under paragraphs (1) and (2),

may be transferred to the new appropriation account established for the same program, purpose, or function pursuant to an appropriation authorized by this Act, and balances so transferred may be merged with funds in the applicable newly established account and thereafter may be accounted for as one fund for the same time period as originally enacted; except that no such amounts appropriated for plant and capital equipment may be merged with amounts appropriated for

operating expenses. The Secretary of Energy shall report such transfers to the appropriate committees of the Congress within 30 days after making such a transfer.

(b) No limitation under any other section of this Act applicable to any funds shall be considered to be inapplicable by reason of this section.

LIMITATION ON THE USE OF CERTAIN REVENUES

SEC. 804. (a) Part C of title VI of the Department of Energy Organization Act is amended by adding at the end thereof the following new section:

"LIMITATION ON THE USE OF CERTAIN REVENUES

"SEC. 661. (a) When so specified in an appropriation Act, (1) any revenues received in any fiscal year by the Department in providing uranium enrichment services may be retained and used solely for the purpose of offsetting any costs incurred by the Department in conducting uranium enrichment service activities, notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484), and (2) the amount of appropriated funds which would otherwise be available for obligation or expenditure for such activities shall be reduced by the amount of any revenues so retained. Revenues from other programs shall not be available for such activities.

(b) Except as otherwise provided in subsection (a) or as specifically provided by any other law, receipts of the Secretary and the Commission, including any payment received because of overcharges by persons under the jurisdiction of the Secretary or the Commission, in fiscal years beginning after September 30, 1979, shall be deposited in the Treasury of the United States as miscellaneous receipts in accordance with section 3617 of the Revised Statutes (31 U.S.C. 484).

"(c) Clause (2) in the first sentence of subsection (a) shall not apply with respect to reprogramming authority allowed under section 801 of the Department of Energy Civilian Programs 1980 Authorization Act or any comparable reprogramming authority.

"(d) This section does not apply to the power marketing functions of the Department.

"(e) Not later than 120 days after the close of a fiscal year, the Secretary shall prepare and transmit to the Congress a report on—

"(1) revenues received during such fiscal year from uranium enrichment activities and other programs, and

"(2) the cost incurred in such year in providing uranium enrichment services."

(b) The table of sections for the Department of Energy Organization Act is amended by inserting after the item relating to section 660 the following new item:

"Sec. 661. Limitation on the use of certain revenues."

(c) Section 111 of the Energy Reorganization Act of 1974 (42 U.S.C. 5821) is amended by striking out subsection (h) and redesignating subsection (i) as subsection (h).

OPERATING EXPENSES

SEC. 805. (a) Amounts appropriated for operating expenses for research, development, and demonstration programs pursuant to authorizations in titles I, VI, and VII of this Act may not be used for—

(1) the acquisition of land, except as provided in subsection (b), and

(2) any item of equipment, if the estimated costs to the Federal Government of such item exceeds \$2,000,000, unless such item has been previously authorized by statute or the use of such funds is in accordance with subsection (c).

(b) Subject to subsection (c), the Secretary may use up to 1 percent of all funds appropriated pursuant to authorizations in titles I, VI, and VII of this Act for operating expenses, for research, development, and demonstration programs to construct, expand, modify, or acquire any facilities, in-

cluding laboratories or major items of equipment, or to acquire land at any location under the control of the Secretary, if—

(1) the Secretary determines, in writing, that—

(A) such action would be necessary because of changes in the national programs authorized to be funded by this Act or because of new scientific or engineering developments, and

(B) deferral of such action until the enactment of the next authorization Act would be inconsistent with the policies established by Congress for the Department, and

(2) in the case of any project the estimated cost of which exceeds \$50,000, the determination under paragraph (1) is made in accordance with subsection (c).

(c) No action required to be made in accordance with this subsection shall take effect unless—

(1) a period of 30 calendar days (not including any day in which either House of Congress is not in session because of an adjournment of more than 3 calendar days to a day certain) has passed after the Secretary has transmitted to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a written report containing a full and complete statement concerning the proposed action, including—

(A) in the case of the vesting of property under subsection (b), the reasons for determining such vesting to be appropriate, and

(B) in the case of any obligation or expenditure of funds under subsection (b), the nature of the construction, expansion, or modification involved, the cost thereof, including the cost of any real estate action pertaining thereto, and the reason why such construction, expansion, or modification is necessary and in the national interest, or

(2) each such committee before the expiration of such period has transmitted to the Secretary a written notice to the effect that such committee has no objection to the proposed action.

EXEMPTION FROM FISCAL YEAR LIMITATION

Sec. 806. (a) Authorizations in this Act for any construction line item project shall remain effective without fiscal year limitation through the fiscal year ending September 30, 1982, except that any such authorization may remain available without fiscal year limitation beyond that date—

(1) if funds to carry out the projects involved are appropriated or otherwise provided pursuant to applicable law prior thereto, or

(2) if such authorization period is specifically extended by statute enacted after the date of the enactment of this Act, but only to the extent specifically so extended.

(b) If so specified in an appropriation Act, any amount appropriated pursuant to this Act may remain available until expended.

INTERAGENCY TRANSFERS

Sec. 807. If so specified in an appropriation Act, funds authorized to be appropriated by this Act (other than under section 601(4)) for operating expenses may be transferred to other agencies of the Government for the performance of the work for which the appropriation is made, and in such cases the sums so transferred may be merged with the appropriations to which they are transferred. Except to the extent expressly provided, no limitation under this Act applicable to any funds shall be considered to be inapplicable by reason of this section.

PERSONNEL EXPENSES

Sec. 808. Appropriations authorized by this Act for salary, pay, retirement, or other benefits for Federal employees may be increased by such amounts as may be necessary for increases in such benefits authorized by law.

LIMITATION OF FUNDS FOR FACILITIES FOR DEPARTMENT OF ENERGY

Sec. 809. No funds authorized to be appropriated by this Act may be used for the renovation, furnishing, or repair of facilities to provide temporary or permanent space for personnel relocated as a result of the establishment and activation of the Department of Energy and for which funds were appropriated by chapter V of title I of the Supplemental Appropriations Act, 1978.

LIMITATION ON USE OF GASOLINE BY DEPARTMENT

Sec. 810. No funds authorized to be appropriated pursuant to this Act for the fiscal year ending September 30, 1980, may be used to purchase motor gasoline or to reimburse any other Federal agency for motor gasoline in an amount which exceeds 85 percent of the amount of motor gasoline purchased (and for which reimbursement was made to another Federal agency or entity) during the fiscal year ending September 30, 1979, by any component of the Department for which funds are authorized to be appropriated by this Act.

LIMITATION ON CONTRACTING

Sec. 811. Authority under this Act to enter into contracts obligating the United States to make outlays may be exercised only to the extent as may be provided in advance in appropriation Acts.

MILITARY APPLICATIONS

Sec. 812. (a) Nothing in this Act shall apply with respect to any authorization in any other law for appropriations for the fiscal year ending September 30, 1980, for any military application of nuclear energy, for research and development in support of the armed forces, or for the common defense and security of the United States.

(b) For purposes of subsection (a):

(1) The term "military application" means any activity authorized or permitted by chapter 9 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2121, 2122).

(2) The term "research and development", as used in this section is defined by section 11 x. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.).

(3) The term "common defense and security" means the common defense and security of the United States as used in the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.).

COORDINATION WITH THE ENERGY REORGANIZATION ACT OF 1974

Sec. 813. With respect to the fiscal year 1980, the provisions of this title shall supersede the provisions of section 111 of the Energy Reorganization Act of 1974.

AMENDMENT OFFERED BY MR. ECKHARDT

Mr. ECKHARDT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ECKHARDT: Page 74, after line 3, insert the following new section:

POSTEMPLOYMENT RESTRICTIONS

Sec. 805. In the case of any employee of the Department of Energy whose basic pay is paid from funds authorized to be appropriated by this Act, section 605(a) of the Department of Energy Organization Act (42 U.S.C. 7215(a)) shall not apply with respect to any appearance, attendance, or written or oral communication made by such employee after the date of the enactment of this Act and before September 30, 1980.

Redesignate the following sections accordingly.

Mr. ECKHARDT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. ECKHARDT. Mr. Chairman, all this amendment does is provide that during the period covered by this authorization the present restrictions which exist in the Department of Energy Organization Act concerning postemployment restrictions will not be effective. The reason for so providing is that these postemployment restrictions were placed in the Department of Energy Organization Act prior to the time that the Ethics in Government Act was enacted. The Ethics in Government Act now covers this area, and it seems appropriate and proper that the same standards be applicable to all employees including Department of Energy employees. This amendment does not change existing law permanently, but it gives a little time in which these provisions are suspended and during which the Ethics in Government Act's provisions apply. If this were not passed, I am told that a number of employees of the DOE would leave employment because of the underlying restrictive provisions of the Department of Energy Organization Act. This amendment will give the committee time to study the matter and, if it thinks desirable, permanently amend the Department of Energy Act.

Mr. DINGELL. Mr. Chairman, would my good friend, the gentleman from Texas, yield?

Mr. ECKHARDT. I yield to the gentleman from Michigan.

Mr. DINGELL. I thank the gentleman for yielding.

Mr. Chairman, the gentleman from Texas has been gracious enough to make a copy of this amendment available to the committee. We have had a chance to review it. We have no objection to it. As a matter of fact, we find it helpful. I further would advise the gentleman from Texas that the point he raises is an excellent one. It is one which needs correction, and I have instructed the staff that to prepare to move forward toward consideration of substantive changes in the law to deal with the long-term question the gentleman is so wisely dealing with on a short-term basis. I am happy to accept the amendment.

Mr. ECKHARDT. I thank the Chairman.

Mr. Chairman, I yield back the remainder of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Texas (Mr. ECKHARDT).

The amendment was agreed to.

Mr. DINGELL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, last night just before the House adjourned I had an opportunity to address the House for 1 minute under a unanimous-consent request. I rise essentially to reiterate the remarks that were inserted in the RECORD at that time at page 28679. I rise at this time to advise my colleagues in the House that when we go back into the House I will request a separate vote on the Courter amendment

which immediately decontrolled gasoline on the effective date of the legislation on which we now labor.

Mr. Chairman, there are a number of points that my colleagues should have clearly in mind at the time that the matter comes before the House. The first is that the controls will expire according to law on September 30, 1981, and that between now and that time we will see, through the phased decontrol of crude oil, the phased decontrol of gasoline. Gasoline at that time will rise to the world market price. By a curious anomaly, although the allocation controls were criticized, the amendment and bill as modified by the adoption of the Gramm amendment permit the allocations which were so sternly criticized to continue and the price controls, which were not criticized, have been removed.

The amendments on which we have labored in the Courter and the Gramm amendments create serious confusion on gasoline regulations. For example, there is a strong possibility—as a matter of fact, it is almost certain—that the amendments as they have been adopted will eliminate funds for the enforcement of cases now relating to gasoline price violations, and as a result persons who have profited greatly in the violation of law will, by the Gramm-Courter amendment, receive the benefit of expiation and legislative forgiveness of the amounts due the Federal Government, and also will receive the shelter from criminal prosecution for violation of the law. There is also the possibility that through the adoption of these amendments, if the House does so, we may find that although there may be allocation to priority categories of users, small retailers, jobbers, ranchers, farmers, and others, the price cannot be specified under which that allocation will take place, with the result that if there were to be disorder, and allocation were to be required, we could find that allocation could take place but that the price could not be subject to any Federal order. The consequence would be that the person required to allocate could say, certainly he will allocate but since the recipient would be outside a regular chain of distribution, there would be a strong possibility that the allocation could take place at two or three or four or five times the regular market price, something which I think is both unwise and unnecessary. My colleagues must bear carefully in mind that in the event that a major shutoff in supply, gasoline prices would be highly volatile. We could witness ourselves in situations where we would see not a repetition of a \$1.50 price which took place during the Iranian crisis, but that prices could go to \$2, or according to former Deputy Secretary of Energy Mr. O'Leary, the strong possibility exists that \$2 or \$3 or \$4 gasoline prices could occur.

Last of all, it should be noted that in the near future the studies required by title III of the Petroleum Marketing Practices Act, the so-called Dealer Day in Court, will be submitted to the Congress with regard to how we shall retain competition in the retail and in the wholesale portions of the gasoline marketing industry. To require decontrol at

this time is literally to foreclose whatever option we might have to assure that the steps to assure competition are carried out as recommended in that study, and I do not think that the House wishes to be guilty of that particular action.

Last of all, the two major small business organizations in this industry are strongly opposed to gasoline price decontrol. The National Oil Jobbers Council, representing jobbers who are both wholesalers and retailers, have passed a resolution resolving opposition to decontrol at this particular time, and the Service Station Dealers of America, formerly known as the National Congress of Petroleum Retailers, are pointing out that decontrol at this particular time may cause many problems.

□ 1450

For these reasons, when we get back into the House, I urge very strongly that my colleagues join me, not only in securing a separate vote on this question of gasoline price decontrol, so unwisely adopted earlier in the committee, but also that they join me in overturning the action of the committee in view of the reasons just expressed.

Mr. STOCKMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it has been indicated when we go back into the House there will be an effort to reverse the Courter amendment. I just want to take a few moments to try to clarify some of the issues and attempt to respond to some of the alarmist rhetoric we have heard about what might be the effect of the decontrol amendment that was adopted.

Mr. Chairman, it has been said in the last few days without price controls in the gasoline market the price of gasoline might rise to \$1.50 or \$2 a gallon. We just heard in the well of this House a moment ago that indeed it would be even more than that, that it might rise to \$3 or \$4 a gallon. I think that must tax our credulity just a little bit because I would remind the House that \$4 per gallon is the equivalent of oil at \$150 per barrel in crude oil prices and I do not think anyone could imagine such an outcome. We are in bad shape in the oil market but certainly not that bad.

Mr. Chairman, what the House has to remember is that today the inventories of gasoline and crude oil have been rebuilt in our refining system.

Mr. Chairman, in contrast to these exaggerated predictions, the fact of the matter is we have rebuilt the crude oil inventories and the gasoline inventories in our refining system. The market supply and demand are now back in balance and if we were to pass this amendment and DOE were to decontrol the price of gasoline tomorrow, in my view it would not rise by even a plug nickel. As a matter of fact, this was testified to before a House committee just yesterday. A spokesman from the Department of Energy appeared before a committee and said there would be no impact on the price of gasoline at the present time. I hope the House would keep that in mind as we reconsider this amendment.

Mr. Chairman, I think the more important point that needs to be made today

is that I have had many Members say, "Yes, we wanted to junk, we wanted to jettison that whole allocation system because that clearly has been counterproductive, but do we not need some kind of price controls to protect us, just in case the market is unstabilized?"

I would have to say to the House, Mr. Chairman, before you think the price controls are going to do you any good in protecting your consumers or holding down the price of gasoline, just consider the experience that we have gone through these past 9 months. During the last 9 months we did have the Iranian shutdown, we did have an unstable market. What is the outcome in terms of impact of this whole gasoline price control system on the price of gasoline?

Mr. Chairman, let me give the House some very interesting information: Between January and September, Exxon's price for No. 2 distillate, which is totally uncontrolled, totally unregulated, rose by 54 percent. During that same 9-month period Exxon's wholesale price for gasoline, which is regulated under the program that this move would try to preserve, also rose by 54 percent.

Mr. Chairman, the point is the gasoline price controls over any considerable period of time—3, 4, 5 months or so—do not hold down the price of gasoline because basically that system is simply a revolving door that allows the rising price of crude to be passed through.

Mr. Chairman, the point is, they are not effective in protecting the consumer, as many Members of this House may have been erroneously led to believe.

Mr. Chairman, the gentleman from Michigan suggests that may be true, when the market is in balance the price controls do not protect the consumer. It may be over a period of 8 or 10 months we get the same outcome anyway, but we should still have the gasoline price controls in case we have another crisis in the world oil market, in case we have another world production outage and we get turmoil in the marketplace.

I would remind the House there are a lot of other countries around the world who went through the same shortage, the same tight market, during April and May that we had in this country. We had price controls on gasoline and they did not. The interesting thing is if you look at the retail price of gasoline at the pump in those countries you will find that even during the crisis period of May and June, their retail price of gasoline, minus the heavy tax they pay, was no different than ours. During June in this country when the price of gasoline was 90 cents a gallon at the pump, in West Germany, minus the dollar tax they pay, the price per gallon of gasoline was 90 cents, as well.

Mr. Chairman, the point is, even during periods of disruption the gasoline price controls do not do a great deal of good. However, certainly, over any 8- or 9-month period they have absolutely nothing to do with holding down the gasoline price because the scarce commodity in the world today is crude oil. If there is an outage of crude oil, the crude oil price is going to rise and this system simply passes it through and it does not protect the consumer.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

(By unanimous consent, Mr. STOCKMAN was allowed to proceed for 1 additional minute.)

Mr. STOCKMAN. What I am suggesting to the House is that we made the right decision to jettison the whole allocation system. I think there is a clear majority in the House to get rid of it.

Mr. Chairman, the further point I am making is that by reversing that amendment under the hope that we are bringing back some price-control protection, we are not doing that at all and so, therefore, the bottom-line meaning of a vote to reverse the amendment that we adopted last week is simply to bring back the allocation system and all the dislocation, all of the disruption that that caused in the market during this previous spring.

Mr. Chairman, I would hope that the House would sustain the wise judgment that we made last week. I hope we will not be misled by that wild, exaggerated predictions that have been made about price. I hope we will understand that this gasoline price-control system really does not hold down the price and by reinstating the current program the only thing we are doing is taking 3,000 pages of allocation regulations, putting them back on the market and if we get another shortage we will get the same disruption.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

(At the request of Mr. BAUMAN and by unanimous consent, Mr. STOCKMAN was allowed to proceed for 3 additional minutes.)

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

Mr. STOCKMAN. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, I want to concur in what the gentleman from Michigan has said. There is a theory of politics that says that the voter reacts most forcefully to the issues that touch his life intimately. I happen to subscribe to that. I think all of us as practicing politicians realize it.

Mr. Chairman, the issue that is being raised in the Courter amendment and the attempt now to repeal the previous action will have an intimate impact on every one of our constituents. Any Member who votes to continue the gasoline allocation system that has messed up this Nation's economy for 5 years will feel the retribution of every person who sits in a gas line henceforth.

The gentleman from Maryland, together with Members from the other States in the Washington area, sat through repeated meetings with the officials of the Department of Energy who candidly admitted that one of the reasons the Washington area and southern Maryland, suffered so much, was the allocation system and its inability to respond to the needs of the marketplace as well as the months and months of delay in changing allocations.

We have seen thousands of small businessmen, independent gasoline station operators, wiped out over the last several years because of this system. We know

the major oil companies do not suffer, but the small businessman suffers, the person who needs gasoline to bring his groceries from the store, his kids to school, to go back and forth to work where there is no mass transit, they are the ones who suffer. All of the experts admit, with a few apologies from some of our friends here who like big government, that it is the Federal gasoline allocation system that is at fault.

Mr. Chairman, if the Members will vote to reverse themselves on this amendment they will have to go home and explain to the people who will suffer that we were willing to continue a system proven false, proven a failure and a system that has harmed this country, harmed individuals and made them suffer.

Mr. Chairman, I do not want that responsibility and we have the chance to reverse a very bad policy today by standing by the Courter amendment.

□ 1500

Mr. STOCKMAN. Mr. Chairman, I appreciate the gentleman's comments.

Let me just say further that the man who ran this program during the worst period in June, Mr. Bardin, testified before our committee and he said that if you had an allocation program for milk like this you would get the same outcome. You would have lines at the supermarket.

Mr. BAUMAN. If milk were under allocation, there would be babies crying all across this country.

Mr. STOCKMAN. I think the gentleman is precisely correct.

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

Mr. STOCKMAN. I would be happy to yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I appreciate the gentleman taking the well to explain to the House what the gentleman has heard in committee. My understanding is that if we keep the allocation system as it presently relates to gasoline, it could be that the cost would be shifted to higher prices for heating oil. Could the gentleman explain that?

Mr. STOCKMAN. Well, I think that is a very distinct possibility and it is a point that we have made before. If you are regulating the refinery margin on gasoline, but not on heating oil, costs that would normally be borne by that gallon of gasoline will be shifted over to heating oil and that means you are going to have people who are in very severe financial straits paying their heating bills this winter, helping to subsidize some teenager who drives his hotrod to school.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. STOCKMAN) has again expired.

(At the request of Mr. ROUSSELOT and by unanimous consent, Mr. STOCKMAN was allowed to proceed for 1 additional minute.)

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield further?

Mr. STOCKMAN. I would be happy to yield.

Mr. ROUSSELOT. Then it is very possible if we reverse what this House very wisely did last Friday, that it could

mean that the cost increase will be shifted to heating oil.

Mr. STOCKMAN. That is precisely correct.

Mr. ROUSSELOT. Mr. Chairman, I appreciate the gentleman making that point.

AMENDMENT OFFERED BY MR. DANNEMEYER

Mr. DANNEMEYER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DANNEMEYER: Page 78, line 11, insert "(a)" after "Sec. 810."

Page 78, after line 20, insert the following new subsection:

(b) (1) The Secretary of Energy shall advertise in the Federal Register to request bids from distributors of alternative fuels produced in the United States for the purchase of such alternative fuels for use during the fiscal year ending September 30, 1980, in motor vehicles owned by the Department of Energy.

(2) The Secretary shall require that each such distributor who submits such a bid include in such bid an agreement—

(A) to provide a quantity of an alternative fuel—

(1) which will produce an amount of energy which is not less than the amount of energy produced by 200,000 gallons of motor gasoline, and

(1) the cost of which does not exceed the cost that the Secretary would incur to purchase 200,000 gallons of motor gasoline,

(B) to pay any amount, as determined by the Secretary, by which any cost of constructing, operating, and maintaining any facility for the storage of such alternative fuel exceeds the cost of constructing, operating, and maintaining any facility for the storage of motor gasoline that would have been incurred if such motor gasoline had been purchased by the Secretary in lieu of such alternative fuel,

(C) (1) to pay the cost of equipping such motor vehicles to consume such alternative fuel, and

(1) to deposit in an escrow account established by the Secretary funds sufficient to pay any cost of refitting such motor vehicles to consume motor gasoline if the Secretary determines that the utility of such alternative fuel is inadequate or if such distributor fails to provide the quantity of such alternative fuel specified in such bid, and

(D) to pay any amount, as determined by the Secretary, by which any cost of repairing or maintaining such motor vehicles equipped to consume such alternative fuel exceeds the cost that would have been incurred to repair and maintain such motor vehicles if such motor vehicles had not been so equipped.

(3) The Secretary shall refuse to accept any bid which is submitted more than 60 days after the date the Secretary advertises for bids under paragraph.

(4) The Secretary shall accept at least one bid which satisfies the requirements of this subsection unless the Secretary has good cause to reject each such bid.

(5) For purposes of this subsection, the term "alternative fuel" means any liquid fuel, other than motor gasoline, consumable by a motor vehicle for propulsion, including gasohol, liquefied methane, liquefied coal, and any liquid hydride.

Mr. DANNEMEYER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

Mr. HUGHES. Mr. Chairman, reserv-

ing the right to object, I wonder if we could have a copy of the amendment or have it read, one of the two.

Mr. DINGELL. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California (Mr. DANNEMEYER) that the amendment be considered as read and printed in the RECORD?

Mr. HUGHES. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Objection is heard.

The Clerk will report the amendment.

The Clerk concluded the reading of the amendment.

Mr. DINGELL. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN pro tempore. The gentleman from Michigan reserves a point of order.

Mr. DANNEMEYER. Mr. Chairman, the amendment I am proposing here today has one simple purpose: To encourage development of alternative fuels by requiring the Department of Energy to provide a market for those fuels whereby they could be tested. The market would consist of the general-purpose vehicle fleet owned and operated by the Department of Energy (DOE).

For years now, we have been hearing about the need to develop alternative fuel supplies. Subsequently, some of these products, such as gasohol, have come on the market and even more recently, legislation has been passed by the House of Representatives calling for Government price supports for synthetic fuels. Clearly, the need is there, as last spring's gas crunch attested; the question is, How can we get these alternative fuels into production in the shortest time and at the least cost to the hard-pressed American taxpayers?

Those advocating the Government-owned or Government-operated synfuels approach argue that the task is either beyond the financial capability of private enterprise or should be controlled by Government to prevent excess profitmaking. But such thinking is overly simplistic. Aside from the fact that Government intervention in, and control over, our existing domestic energy industry is largely responsible for the shortages we are faced with, it is also a fact that there are any number of firms, some of them either new or small, which have developed, or claim to have developed, new types of fuel and are anxious to try them out, but for one reason or another have no ready market or have a market too small to be cost efficient. Likewise, there are other firms that could accelerate development of their products if they only could sell more of it.

Some will argue, so what. If the product is worthy and the price is right, it will develop, and should develop, without Government interference. But, the fact is, the Federal Government buys a lot of fuel and, by so doing, it intervenes in behalf of—or gives an advantage to, depending on your point of view—whatever supplier it contracts with. Since

that is the case, the question is not should the Government help one side or the other but which one on what terms? Carrying this logic one step further, if there is to be a national policy to encourage the production of synthetic or alternative fuels, why not have the Government, through its fuel purchase policy, "tilt" toward alternative, rather than conventional, fuel suppliers? Such a policy would not only be far cheaper than Government owned or operated energy facilities but it would involve a minimum of Government regulation. In fact, the role of Government would be far more what it should be—that of being helpful rather than getting in the way or casting a wet blanket over the whole process.

More specifically, what I am suggesting is that the Department of Energy, since this would be a test program and the Department of Energy is responsible for such testing, be required to solicit bids for alternative fuels as well as for gasoline, and if a supplier of alternative fuels can match or beat the price of gasoline, he be given the contract. Bids would be for 200,000-gallon increments of fuel and all costs—to the Department of Energy—of converting to that fuel would be borne by the supplier. Likewise, any extra maintenance costs would have to be made good by the supplier and the supplier would be further required to put into escrow a sufficient sum of money to lower the costs of re-converting to motor gasoline should he be unable to deliver sufficient quantities of the fuel or should the fuel not work as anticipated.

To make sure that the alternative fuels are going to be produced in this country, bidders would be required to so certify before their bid could be accepted. If more than one bidder appeared, and met the qualifications outlined above, within 60 days of the date the fuel purchase order was put up for bid, the Secretary of the Department of Energy would make the choice between the respective bidders based on the facts outstanding. However, if there was only one bidder who qualified, that bidder would get the contract; the Secretary would not have the option of sticking with motor gasoline unless he could show good cause for not awarding an otherwise qualified bidder that contract.

Were this amendment to be adopted, it would provide, at no cost to the taxpayer, a mechanism to accelerate the development of alternative fuels. For the year ending September 30, 1979, DOE owned and operated 11,441 general purpose vehicles which, during the course of the year, used 9,982,181 gallons of fuel. Roughly 30 percent of this amount was supplied under defense fuel supply contracts, which come under the aegis of the Defense Logistic Agency, and 2 percent was diesel fuel, but that still leaves 6.79 million gallons of gasoline for which substitutes could be found. Even if we pass the 15-percent reduction in usage of gasoline envisioned in section 810 of H.R. 4839, DOE's fuel utilization will still be high enough to permit such an experiment to go forward. Of course,

there will be some limitations brought about by distribution factors, some of the vehicles may be thinly spread over a wide area and then not able to get to a fuel supply center while some others might have to be used for long distance travel away from alternate fuel supply centers, but in areas where there are sizable concentrations of DOE vehicles it ought to work. While most of these vehicles are operated by the contractors hired to operate the DOE facility, that should not be too great a problem. At least, the concept should be given a try; at the very worst, either no bidders meet the qualifications, in which case we are no worse off than we are right now, or a bidder cannot deliver on his commitment, in which case there is a bit of inconvenience but no great loss to the taxpayer.

Lest there be any confusion, this is not a subsidy or loan guarantee program. This is, purely and simply, a program that would give producers, or would-be producers, of alternative fuels, a chance to deliver on their claims. If a producer says he can supply an alternative fuel at a price competitive with motor gasoline, then he would have an opportunity, provided he met the other conditions. But, if a bidder could not meet the conditions he would not get the contract or if the condition were not fulfilled once the contract was signed, he would have to make good the cost to the Government of going back to gasoline. In short, it is a "put up or shut up" type proposition which, given the research and development orientation of the Department of Energy, seems entirely appropriate. If we are going to condition DOE's gasoline purchases to reduction of usage, why not also attach the condition that DOE give alternatives a try. It is entirely consistent, in both purpose and method, therefore, I urge adoption of this amendment.

POINT OF ORDER

Mr. DINGELL. Mr. Chairman, I rise to insist on my point of order.

The CHAIRMAN pro tempore. The gentleman will state it.

Mr. DINGELL. Mr. Chairman, the rules of the House require that amendments to legislation shall be germane, first, to the bill, and second, to the portion of the bill to which they are directed.

Mr. Chairman, without addressing at this particular moment whether or not the amendment is germane to the bill, I will address the second point, which is the lack of germaneness of the amendment to the portion of the bill to which it is offered.

Mr. Chairman, if the Chair will observe, the portion of the bill to which the amendment is offered, it can be observed it is a limitation on the use of gasoline by a department. It then is a limitation on funds, which reads as follows:

No funds authorized to be appropriated pursuant to this Act for the fiscal year ending September 30, 1980, may be used to purchase motor gasoline or reimburse any other Federal agency for motor gasoline in an amount which exceeds 85 percent of the amount of the motor gasoline purchase.

In other words, we have here a limitation. The proposal that is offered by my dear friend, the gentleman from California, is one which would set up a rather large program which would require the Secretary of Energy to do a whole series of things, none of which are consistent with or which are relevant to this limitation.

First, to advertise in the Federal Register, to request bids from distributors of alternative fuels produced in the United States for the purchase of such alternative fuels for vehicles owned by the Department of Energy.

Second of all, there is a series of requirements that the Secretary shall require that each distributor who submits such a bid to do a series of things; to provide a quantity of an alternative fuel, which will produce an amount of energy which is not less than the amount of energy produced by 200,000 gallons of motor gasoline.

I would ask the Chair to note that the section with which we are dealing is a limitation on use of gasoline. This is for alternative fuels, which will have an equivalent energy release of 200,000 gallons of gasoline.

Now, whether the gentleman speaks of hydrogen or whether the gentleman speaks of different alcohols or synthetic fuels produced from other sources with which I might not presently be familiar, I am not able to say; but the fuels here are much broader and are not petroleum products necessarily, but are synthetics.

□ 1510

Further, the individual who submits a bid must agree to pay the cost of constructing, operating, and maintaining facilities for storage of alternative fuels insofar as it exceeds the cost of constructing, operating, and maintaining facilities for the storage of motor gasoline; to pay the cost of equipping motor vehicles using such alternative fuels; to deposit in an escrow fund established by the Secretary sufficient funds to pay the cost of retrofitting motor vehicles to consume motor gasoline if the Secretary determines such alternative fuels are adequate; and to pay any amount, as determined by the Secretary, by which any cost of repairing or maintaining motor vehicles equipped to consume such alternative fuels exceeds the cost if such motor vehicles had not been so equipped.

Then it sets up matters relating to the bidding, and it further sets up matters relating to whether the Secretary shall accept bids or not accept bids.

Then it goes on to define the liquid fuel, which it specifically defines as "other than motor gasoline," whereas the section in question deals with gasoline.

So, Mr. Chairman, I point out that on this basis the amendment is not germane to the portion of the bill to which it is directed.

In addition to this, Mr. Chairman, there are other sections relating to synthetics, relating to conservation, and relating to procurement. Those are not the sections in question here, but I

would point out, Mr. Chairman, that I am unaware of any portion of the bill to which this would be germane, because, as the Chair would observe, it sets up a very large process for the Department of Energy to procure synthetic fuels. That is something which is not found elsewhere in the legislation.

So, for those reasons, Mr. Chairman, I would urge that the Chair find this matter to be not germane to the legislation before us.

The CHAIRMAN pro tempore. Does the gentleman from California (Mr. DANNEMEYER) wish to be heard on the point of order?

Mr. DANNEMEYER. Yes, I do, Mr. Chairman.

The CHAIRMAN pro tempore. The Chair will hear the gentleman.

Mr. DANNEMEYER. Mr. Chairman, section 810 of the committee bill which is before the committee now for its consideration contains a restriction on the use of funds during the existing fiscal year for the purchase of motor gasoline. That is in section 810 of the bill before the committee.

For instance, it provides that the Department of Energy is required to reduce its consumption of gasoline by not less than 15 percent during this 1980 fiscal year.

That is the very thrust of this proposed amendment. It is designed also to reduce the quantity of gasoline that is being consumed by the Department of Energy through the medium of soliciting alternative sources of supply. It is not specific; it just says, "alternative fuels" in the proposed amendment.

It is submitted that the reduction of gasoline by 15 percent which is mandated in the committee bill is consistent with the thrust of the amendment which seeks delaying of the funds for making available alternative fuels.

In a nutshell, Mr. Chairman, there is little difference between reducing the use of gasoline by 15 percent, either by cost or other means, and achieving that reduction of gasoline consumption by the use of alternative fuels.

On that basis, Mr. Chairman, the amendment proposed by the gentleman from California is, I believe, within the scope of section 810 of the committee bill.

The CHAIRMAN pro tempore (Mr. STUBBS). The Chair is prepared to rule.

The Chair will observe that the rules of the House require that the amendment first be germane to the pending portion of the bill to which it is offered.

Title VIII deals with operating funds and personnel expenses of the entire Department of Energy for the fiscal year 1980. The amendment appears to the Chair to be confined to fiscal year 1980 and to constitute an appropriate restriction or direction on how the Department uses its operating funds for the fiscal year in question, and it is, therefore, germane.

The Chair, therefore, overrules the point of order.

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

Mr. Chairman, the amendment that

has been offered by my friend, the gentleman from California (Mr. DANNEMEYER), not only has imperfections as to its drafting, since it relates to vehicles owned by the Department of Energy, it is my understanding that the Department of Energy uses GSA vehicles and owns no vehicles other than those that may be test vehicles that it owns outright itself. So this amendment probably should be directed to the General Services Administration rather than to the Department of Energy.

In addition, many of the vehicles are located in somewhat remote areas where research facilities are conducted, and, consequently, are not readily available to anything other than the normal sources of fuel.

But, Mr. Chairman, let me get to the heart of the matter. The gentleman from California (Mr. DANNEMEYER) has explained that he has someone who has expressed interest in a liquid hydride, that they can make this material, and that it can be used in the Department of Energy vehicles, even though the Department does not own any.

I might point out that this gentleman is well known to our committee, and he is well known to the other body. He has been heard in a hearing before the other body, and he met with the staff and with members of the Subcommittee of the Committee on Science and Technology, but to this date he has failed to provide any information about the process by which he arrives at this or about the technology. We have offered to provide the testing by the Department of Energy, and he has refused to cooperate with them and provide any money or any information so that they can test this process that he is talking about.

I think what we need to do is to go on with the known fuels that we have and not try to have just a single-purpose fuel from one individual. There have been certain representations made by this individual that have not been proven or that have raised serious questions as to the motivation and as to what the purposes were in trying to develop this material. Certain names have been used in allegations that people could cut corners if certain people would invest in other types of things. I think this amendment is something we should not be addressing ourselves to.

I would much prefer that if this technology has a viable use—and I hope that it does; possibly it does—we can define it and we can examine it under the proper circumstances. Then we can make a report and have the Department of Energy make a report to this Congress. Perhaps then we can proceed to try to incorporate this into some of the alternative fuels we may have.

But, Mr. Chairman, until that time I think it is better that we reject this amendment and wait until we can find further information.

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

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

Mr. DANNEMEYER. Mr. Chairman, I would like to ask the gentleman in the

well if he knows whether the producer of this particular product has a patent.

Mr. FUQUA. Mr. Chairman, I understand that he has a patent request which is pending, and by that means I thought maybe he might be able to reveal some of his technology to Government people, as others do, so that they may test the product and determine if this is a viable product.

Mr. DANNEMEYER. Mr. Chairman, it is my understanding—and the gentleman can correct me if I am wrong—that the producer or developer of this particular fuel does not have it patented, that it is a proprietary interest, and that the reason he is reluctant to submit it to the Department of Energy for its evaluation is his fear that the proprietary interest which he has developed, all from private funds, would be exploited to his disadvantage. Therefore, all he is asking for is just an order to provide the fuel to see if it will work in an automobile.

Mr. Chairman, I ask the gentleman in the well, how can the Government or how can the taxpayer lose if the gentleman can produce a fuel that would power a car consistent with what gasoline will do?

Mr. FUQUA. Mr. Chairman, I do not think we ought to change all the GSA automobiles so that they can use this fuel when we do not know whether it will work or not.

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

Mr. FUQUA. I am happy to yield to the gentleman from Washington.

Mr. McCORMACK. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, may I say to my friend, the gentleman from California (Mr. DANNEMEYER), that we have extensive programs of research, both in photovoltaics, which is the source of electricity the gentleman is talking about to make hydrogen, and in the preparation of hydrides and the use of hydrogen fuels.

The CHAIRMAN pro tempore. The time of the gentleman from Florida (Mr. FUQUA) has expired.

(On request of Mr. McCORMACK, and by unanimous consent, Mr. FUQUA was allowed to proceed for 2 additional minutes.)

Mr. McCORMACK. Mr. Chairman, if the gentleman will yield further, we have extensive programs on the preparation of hydrides and on the propulsion of automobiles from hydrogen.

Now, with all due respect, I recognize that it is possible to make hydrogen from this process. We who are acquainted with these technologies and who have been working on them recognize it is possible to make hydrogen from solar energy, using photovoltaic cells. There is nothing new about the technology. We know it is possible to make hydrides and it is possible to run automobiles on the hydrogen from those hydrides.

All these things have been done a number of times and in a number of places. We have ongoing research and development programs in each of these technologies, and we have had success in integrating them.

□ 1520

I think the thing to recognize is that we do have a reasonably well based program based on the state of the art, and that clearly we are not ready yet to start powering automobiles this way, particularly because the hydrogen made this way is very expensive, and any hydrogen must be made from some conventional energy source. The cheapest of them, which happens to be nuclear electricity, still provides a source of hydrogen that is too expensive to be competitive.

There is no doubt about the fact that we are going to have hydrogen-driven cars and airplanes early in the 21st century, but I think it is impetuous of us to try to impose this program on the Department of Energy at this time, and I sincerely request the gentleman from California withdraw his amendment, in the knowledge that we will be going on with these programs in an orderly manner.

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

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

Mr. DANNEMEYER. One of the things which has intrigued the gentleman from California on this subject is: How are taxpayers of this country going to lose if we merely establish a proposal whereby a developer of this fuel will be given an opportunity to bid to see if the fuel that he produces and brings forward will run an automobile? How are the taxpayers going to lose on that?

Mr. FUQUA. Mr. Chairman, let me say to the gentleman that I can bring in 100 new technologies that people have been by to see me or have written me about that have some type of technology that they think may work, and I have some confidence in them. I have confidence that this process may work. But I think it should go through the normal procedure and the process that we have in this government. If not, we will be running like somebody shooting a gun in a chicken yard, in all different directions.

What we are after and what the gentleman from Washington is proposing is that we can have some hearings, try to discuss this matter, and through the normal procedure maybe we can offer the gentleman some help and some hope.

Mr. DANNEMEYER. I thank the gentleman.

Mrs. FENWICK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to suggest to my colleagues that we do not look seriously and carefully enough at innovative ideas.

I just want to give the committee a little vignette. One pair I know has set up in their back yard an innovative solar heating arrangement. They thought it would be interesting to the Department of Energy. It was too simple. It did not seem to be of real interest, and the Department of Energy could not send anybody to look at it. Well, that is perhaps understandable. Maybe it would be impossible to send an inspector to every back yard.

But then we have another idea, a very complicated device developed by two Ph. D.'s from MIT. I do not know exactly what it was because I am not particularly knowledgeable in that area. What answer did they get from the DOE? "We are not interested in something that looks as though it might be commercially viable. This might be commercially viable. We are not interested. We want to develop back-yard solar energy."

Where do you go in this country to find somebody who is going to take an idea seriously? What kind of idea do they consider interesting?

If people had behaved this way about Henry Ford, we would not be in automobiles yet. Somebody has to take an interest in people who have not got very much money, who have an idea, an idea that might be useful, and really get busy to see if their idea is workable.

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

Mrs. FENWICK. I yield to the gentleman from Florida.

Mr. FUQUA. I thank the gentleman for yielding.

Mr. Chairman, I will say to the gentleman that we have a program within the Department of Energy called appropriate technology, and a small inventors' program. They are trying to help small inventors, as the gentleman says, and people who have some excellent ideas they have developed in their own garage or backyard.

Mrs. FENWICK. But look what happens to them. On the one hand they are told that the Department is only interested in backyard stuff and, on the other hand, they are told the idea is too good, "it might be commercially viable, do not bring it to us."

It is easy to say that a given device might be commercially viable, suggesting that they ought to be able to get independent financing; but that kind of money is not moving around any more. The savings of the American people are dropping and dropping. There is not very much loose money.

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

Mrs. FENWICK. I yield to the gentleman from New Jersey.

Mr. HUGHES. I thank the gentleman for yielding.

Mr. Chairman, I have read the amendment very carefully, and I think it is seriously flawed. It would require the Secretary of Energy to actually advertise for bids for any number of alternative fuel. What standards would you advertise? What would you accept? Much of the technology has not been proven. How do you determine whether it is efficient or effective? We are going to use the fleet of Department of Energy vehicles; or perhaps General Services vehicles, as has been represented by the chairman of the Committee on Science and Technology. There are no standards by which the Secretary of Energy could make an intelligent decision as between competing technologies.

Mrs. FENWICK. I agree. I am not speaking specifically on this. This amendment brought to my attention

something that I feel is a very grave lack in the Department of Energy attitude.

Mr. HUGHES. If the gentlewoman will yield further, I agree with what our colleague, the gentleman from California, wants to do, but I think this misses the target. I would hope that my colleagues would reject the amendment.

Mrs. FENWICK. Mr. Chairman, I hope that this colloquy will serve to put the Department of Energy on notice that you cannot say to one group, "It is too good," and you cannot say to another group, "It is too bad." You have to find some ideas interesting.

Mr. ROUSSELOT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to ask my colleague, the gentleman from California (Mr. DANNEMEYER) a question. I tried to listen to this debate on his amendment, which incidentally appears to me to be harmless, but maybe I do not read as carefully as other Members do who seem to oppose it.

My understanding is that the gentleman is not mandating that the Secretary use every one of the 11,000 vehicles of the Department of Energy. Is my figure right? Is it 11,000 vehicles that the Department of Energy has?

Mr. DANNEMEYER. There are 11,441 vehicles owned by the Department of Energy as of September 30, 1979.

Mr. ROUSSELOT. Is the gentleman mandating that a given portion of those vehicles be subject to this experimentation?

Mr. DANNEMEYER. Not at all.

Mr. ROUSSELOT. So it is strictly up to the Secretary; is that correct?

Mr. DANNEMEYER. That is correct. The Secretary would be required to solicit a bid which would then be evaluated as to whether or not the fuel of this alternative source is competitive with gasoline, and if it is a dependable source of supply.

Mr. ROUSSELOT. And those are the only two requirements in opening it up for bid that the Secretary must abide by?

Mr. DANNEMEYER. There are several others that I think redound to the benefit of the taxpayers. The third element is that the provider of the alternative fuel, for instance, must put up the money, estimated to cost \$400 per vehicle, to convert cars to run on hydrogen. In addition, he has to provide that he has to put enough money in escrow so that if he does not continue to provide the fuel, if he runs short, the money is there to reconvert the cars back to gasoline. I do not see how the taxpayer can lose.

Mr. ROUSSELOT. Maybe there is some sophisticated reasoning that we did not quite grasp, as our colleagues who oppose this. This seems like a very, very reasonable amendment and does not put an undue burden on the Secretary. Maybe that is why it will not pass—because it is so reasonable.

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

Mr. ROUSSELOT. I yield to the gentleman from Iowa.

Mr. GRASSLEY. Mr. Chairman, I want to congratulate the gentleman from California on his amendment.

Mr. Chairman, I introduced a bill recently to promote the use of hydrogen, because I found, in looking at the emphasis that the Department of Energy puts on various alternate sources of energy, that hydrogen is down at the bottom of the pile. In fact, hydrogen research has been reduced from \$28 to \$18 million. There is a de-emphasis on this source of energy. Of all the supply of energy in the world, hydrogen is at the top, and it is nonpolluting.

It seems to me that we would want to do all we can to promote the use of this source of energy. This is one very good way to do it. I want to compliment the gentleman.

Mr. ROUSSELOT. Mr. Chairman, I think the gentleman from Iowa has made an excellent point. It will indeed force attention on alternative sources of energy in automobiles. I think that this amendment will force proper attention within the DOE. It still leaves the bidding process, and everything else, to the Secretary. I think the gentleman's point is well taken.

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

Mr. ROUSSELOT. I yield to the gentleman from Montana.

Mr. MARLENEE. Mr. Chairman, I would support the gentleman from California in his amendment. I think there is a misconception here that we may be looking at some exotic fuel that would require radical changeover of motors and Government vehicles. Reading the amendment, I find that this is not the case, that it in fact includes gasohol, which can be burned practically as the automobile is.

I support the gentleman's amendment.

Mr. DANNEMEYER. If the gentleman will yield, the gentleman is correct. Any alternative fuel would be adequate.

Mr. ROUSSELOT. Mr. Chairman, I appreciate my colleague emphasizing the basic thrust of his amendment. It seems very reasonable, and I hope that that is not a strike against the amendment.

□ 1530

Mr. DANNEMEYER. The Department of Energy seems to say, "Our program development for hydrogen fuel for cars is not on line until the year 2000, so please don't bother us before then."

Mr. ROUSSELOT. I thank the gentleman.

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

Mr. ROUSSELOT. I yield to the gentleman from Washington.

Mr. McCORMACK. I thank the gentleman for yielding.

I think it is important to understand that there is a misconception that has been flowing through part of the colloquy that has been going on on the floor during recent minutes.

The misconception is that hydrogen is a source of energy. It is not a source of energy. It is simply a transmitter of energy, somewhat as a copper wire is a transmitter of electricity. We must make the hydrogen before we can use it.

The CHAIRMAN pro tempore. The time of the gentleman from California (Mr. ROUSSELOT) has expired.

(At the request of Mr. McCORMACK

and by unanimous consent, Mr. ROUSSELOT was allowed to proceed for 1 additional minute.)

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

Mr. ROUSSELOT. I yield to the gentleman from Washington.

Mr. McCORMACK. Regardless of how we consider the merits of this amendment, I think it is fundamentally important to understand that hydrogen is not a source of energy. It is only a conductor of energy. We must make the hydrogen before we can use it, and we always lose energy when going from making it to using it, because the laws of thermodynamics demand that that is what happens. The most practical method to make hydrogen is to use electrolysis, and electricity may come from any electric source at all; such as hydroelectricity, nuclear energy, coal, solar energy, or whatever.

In all instances it is much more expensive to use hydrogen as a fuel than conventional fuels available to us today. I think we should understand those simple facts.

The CHAIRMAN pro tempore. The time of the gentleman from California (Mr. ROUSSELOT) has again expired.

(By unanimous consent, Mr. ROUSSELOT was allowed to proceed for 2 additional minutes.)

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

Mr. ROUSSELOT. I yield to the gentleman from Washington.

Mr. McCORMACK. I should like to point out also that the Subcommittee on Energy Research and Production which I have the responsibility for chairing, received from the administration a request for \$2.7 million for the production, storage, transportation, and use of hydrogen for fiscal year 1980. We increased that by \$4 million, to a total \$6.7 million. We have an aggressive program underway. We are pushing this as rapidly as the technology will allow.

I hope the gentleman will understand these simple facts.

Mr. ROUSSELOT. I appreciate that, but the facts that my colleagues has presented so much to the point do not in any way affect this amendment which merely encourages the Secretary to be involved in advertising in the Federal Register to request bids from distributors of alternative fuels.

Just because the cost of producing hydrogen may presently be very expensive does not mean that the Secretary could not carry on this program to determine if that could be utilized in automobiles.

Mr. McCORMACK. If the gentleman will continue to yield, I do not disagree with his point. I would submit that the orderly method would be to go through the regular research, development, demonstration programs we have.

Mr. ROUSSELOT. But the facts my colleagues has presented do not take away from the thrust of this amendment to encourage the Secretary to utilize whatever vehicles he determines should be used for this kind of experimentation; does it?

Mr. McCORMACK. No, except for the fact I think it is ill-advised as far as timing is concerned.

Mr. ROUSSELOT. The timing is off?

Mr. McCORMACK. Yes.

Mr. ROUSSELOT. Knowing how slow bureaucracy moves, maybe this will be a little extra push.

● Mr. DORNAN. Mr. Chairman, I wish to join my colleagues Mr. ROUSSELOT, and Mr. GRASSLEY in support of the fine amendment offered by my distinguished friend and colleague, Mr. DANNEMEYER.

As I understand the gentleman's amendment, it allows for the Department of Energy to solicit competitive bids on the purchase of alternative fuels, fuels other than gasoline. I think that the gentleman's amendment is a splendid idea; for it will give the Federal Government a clear legislative mandate to consider the purchase of alternative fuel systems. Last year, I asked the representatives of the General Services Administration and the General Accounting Office to examine ways in which the procedures for processing competitive bids on new energy systems could be improved. Apparently, current policies and regulations preclude straight competitive bids on alternative fuels. I think that this amendment will serve to correct this problem.

As a member of the Committee on Science and Technology, I can well appreciate the reservations of my distinguished chairman (Mr. McCORMACK) for whom I entertain the highest respect and admiration. But I also must concede that I am more strongly persuaded by the reasoning of the gentlewoman from New Jersey (Mrs. FENWICK). We cannot simply follow current procedures, and go along with business as usual in the field of energy development and application. We cannot depend upon the good will of the representatives of the agencies or departments of this Government to somehow see us through the current energy crisis. If there is one fundamental lesson that I have learned as a Member of this distinguished body, it is this: There is absolutely no reason to believe that the Federal bureaucracy will by itself respond in new and imaginative ways to cope with this Nation's dangerous energy crisis.

Government has failed. It has failed miserably, from the attempt to regulate natural gas prices to absurd attempts to direct the allocation of oil and gasoline throughout the United States. In spite of this failure, we are being asked by the administration to embark upon a desperate, crash program to develop synthetic fuels, through the good offices of the proposed \$88 billion Energy Security Corporation. Notwithstanding the environmentally hazardous nature and the immense cost of such a program, we are being urged to swallow the same old snake oil.

In the meantime, we neglect other, more imaginative means of advancing research and development of new energy resources—whether solar, geothermal, hydrogen, or solar-hydrogen—in and through the private sector. It seems to me that we should act now on the lessons of history. It makes much more sense to

rely upon the inventive genius of the private sector and encourage individual entrepreneurs to develop and market alternative fuels through a competitive bidding program, at no extra cost to the taxpayers, than to rely upon yet another massive, inevitably wasteful and incompetent bureaucracy.

I heartily ask for the adoption of the Dannemeyer amendment.●

Mr. WEAVER. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I think that this debate has opened up one of the most important issues that we face in energy in this country.

I have been most impressed by what both gentlemen from California have said and what the gentlewoman from New Jersey said, the gentlewoman's plea that we stop repressing and suppressing these various energy forms in this country.

I have, I hope, the attention of such distinguished leaders on energy as the gentleman from Washington, the gentleman from Michigan, and the gentleman from Florida and the gentleman from Texas and others. I would like to relate a simple story comparable to that of the gentleman from California (Mr. DANNEMEYER).

In the Northwest we are building thermal plants, the utilities are, at a cost of 40 to 60 mils per kilowatt hour.

I had occasion to visit last week, not a dreamer, not an idealist, not somebody with a method that he did not know anything about, but a man who owns the largest independent lumber company in the United States of America. This is one of the great industrial giants in this country, Roseburg Lumber Co. They presently produce 40 megawatts of electricity in their plant using wood waste.

I asked him, "Could you produce more from the wood that is out in the forest now being burnt as waste up in the forest?"

He said, "I certainly could. I could immediately put 50 megawatts of firm, base load electricity on line."

I would like very much for the gentleman from Washington (Mr. McCORMACK) to listen to this story, because he just said that nuclear energy was the cheapest energy around to produce electricity.

This gentleman, Alan Ford, whose family owns this whole huge lumber combine, who is an expert in producing electricity from wood waste, because they are doing it now and have been for years, said he could produce 50 megawatts—that is enough for a city of 25,000 people—for 20 mils, 22 cents a kilowatt hour, and he could do it tomorrow; but the reason he did not do it is that the utility that serves his area will not buy it from him.

He now produces as much as he needs for his mill operations, but the utilities would not buy it from him except at down power, exactly the situation faced by the constituents of the gentleman from California.

Yet, we build and are building and are going to sell to our consumers in the Northwest 40 to 60 mils per kilowatt hour of electricity, while his wood waste goes

wasted in the forest because of the very bureaucratic inertia or whatever it is that refuses to use these other energy sources.

Now, this is why we simply must open up every possible avenue that we have in this Nation to these other energy sources that are going to waste.

The Dannemeyer amendment is certainly a start and certainly should be supported.

Mr. McCLODY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am going to speak in support of this amendment because I believe that it does precisely what I think should be done.

I have in my congressional district two gentlemen, a Dale Pate and a Herb Hansen, from Elgin, who have developed a motor fuel from alcohol and water which, with a very small modification in any motor vehicle, operates in the same way that gasoline does. I know this, because I have seen it demonstrated, and I have operated the automobile with this fuel of 90 percent alcohol and 10 percent water.

The alcohol can be produced from agricultural products, and it can be produced from garbage, from waste material. Garbage is in plentiful supply. The alcohol can be readily and plentifully produced. This would provide a ready and early answer to the gasoline crunch that we are experiencing.

I would like to ask the gentleman from California (Mr. DANNEMEYER), if I do not correctly interpret the amendment that he is proposing here, so that my constituents and others who are able to produce such alternate fuels, would have an opportunity to bid and to see their inventions and their developments come to fruition through widespread use of alternate fuels such as these gentlemen in Elgin, Ill., have developed.

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

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

Mr. DANNEMEYER. I thank the gentleman for yielding.

The gentleman has correctly interpreted the proposed amendment. It does not specify what type of alternative fuel is being talked about. It can be any that the marketplace would produce. I think that is the genius of it.

Mr. McCLODY. I am in strong support of the amendment of the gentleman from California (Mr. DANNEMEYER).

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California (Mr. DANNEMEYER).

The question was taken; and on a division—demanded by Mr. FUQUA—there were—ayes 35, noes 17.

So the amendment was agreed to.

□ 1540

Mr. KOSTMAYER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

AMENDMENT OFFERED BY MR. KOSTMAYER
Page 79, insert after line 25, the following:
SMALL BUSINESSES

SEC. 814. (a) In order to carry out a policy that the Department maximize procurements of research and development from small businesses, not less than 25 percent, determined on the basis of value, of research and development projects and services procured by the Department with funds authorized to be appropriated under this Act shall be procured from small businesses, except as provided in subsection (b).

(b) If the Secretary determines that compliance with the 25 percent requirement set forth in subsection (a) is impracticable, the Secretary shall transmit to the Committees on Science and Technology, Interstate and Foreign Commerce, Small Business, Interior and Insular Affairs, and Government Operations of the House of Representatives, and to the Committees on Energy and Natural Resources, Governmental Affairs, and Small Business of the Senate, a report which—

(1) appraises such Committees of the impracticability of compliance with such requirement, and

(2) lists the reasons for such determination of impracticability.

(c) For purposes of this section, the term "small business" shall have the meaning given such term under section 3 of the Small Business Act.

Mr. KOSTMAYER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. KOSTMAYER. Mr. Chairman, I ask unanimous consent to modify the amendment so as to read in the third line "12 percent" instead of "25 percent."

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. KOSTMAYER. Mr. Chairman, this is a very modest amendment. It simply would require that 12 percent of the research and development funds of the Department go to small businesses.

Last year the Department of Energy spent a little over \$6 billion for research and development, 5.6 percent of that went to small business. I would like to raise that figure to 12 percent.

I recognize that some flexibility is required and, therefore, my amendment would permit the Secretary of Energy to waive this requirement if he felt that it could not be complied with.

Mr. Chairman, this has the support of many small business groups in the country, including the National Federation of Independent Businesses and the Small Business Legislative Council, which is made up of 43 small business groups.

I would like to read one very brief comment from a recent article in the Washington Star which I think makes the point I am trying to make and points out some of the advantages of trying to spread these funds around.

The National Science Foundation concluded, for example, that in the post-World War II period firms with fewer than 1,000 employees were responsible for half of the "most significant new industrial products and processes." Firms

with 100 or fewer workers produced 24 percent of such innovations—and developed 24 times more major innovations per R. & D. dollar. Yet these small firms received only 3.5 percent of Federal R. & D. money.

It is my understanding, if I am not incorrect, Mr. Chairman, that my very good friend from Washington (Mr. McCORMACK) is opposed to this and will offer a substitute. I have had the opportunity to look at that substitute. Essentially it is very broad and very general and simply promotes the idea of small business. It eliminates the 12 percent.

If we need to do anything in the Department of Energy it is to get them to be more inventive, to be more resourceful, to direct some of this money to some smaller companies. That is all we are asking. We are asking simply for 12 percent, and we are giving the Secretary of Energy the right to waive that requirement if he sees fit.

If the gentleman from Washington does offer his substitute I will ask for a rollcall vote. I hope it will be rejected and that my amendment will be accepted.

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

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

Mr. ROUSSELOT. I appreciate my colleague yielding.

There is already a procedure set up within DOE for getting bids and potential awards on research to small business; is that correct?

Mr. KOSTMAYER. That is correct.

Mr. ROUSSELOT. So it will require no new procedure, just a higher level of activity for small business?

Mr. KOSTMAYER. The gentleman is correct. Last year the Congress passed amendments to the Small Business Act which established a procedure whereby the various agencies of the Government would work with SBA to arrive at targets. According to a GAO report, the Department of Energy, as the gentleman might imagine, has been somewhat negligent. This will spur them on and establish a target.

Mr. ROUSSELOT. If the gentleman will yield further, the procedure is well established and is understood by all who are potential bidders for this kind of research, and it is expected that it will not require any great new bureaucratic effort in order to comply with the 12 percent, meeting that new target?

Mr. KOSTMAYER. The gentleman is correct.

Mr. ROUSSELOT. If the gentleman will yield further, I think his amendment is well taken. There is no doubt about the fact that many of the smaller businesses that would like to be engaged in this kind of research feel rather overwhelmed in their ability to reach out and participate in this because they many times feel the sophistication and skills all rest with the larger corporations of the country.

I compliment the gentleman and I think it is an excellent amendment.

Mr. KOSTMAYER. I thank the gentleman and I urge the adoption of my amendment.

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

Mr. KOSTMAYER. I am delighted to yield to the gentleman from Texas.

Mr. GRAMM. Mr. Chairman, I would like to ask the gentleman a question as to whether he has any concern on imposing an artificial constraint whereby if we could order project proposals in terms of potential return that we have got to not take those projects for which money is appropriated that we can afford but instead we have to take some artificial formula and fund 25 percent or use 25 percent of our money on projects that are proposed by small business? What are we trying to do here? Are we trying to promote small business or are we trying to promote energy?

Mr. KOSTMAYER. Perhaps the gentleman from Texas did not hear me when I said that the Secretary of Energy could waive this when he felt that it was not applicable.

Mr. GRAMM. If the gentleman will yield further, it seems to me to impose a constraint at all simply limits our ability to get the maximum energy per buck, which is what we ought to be trying to do.

Mr. KOSTMAYER. I do not think that anybody thinks the Department of Energy is getting the maximum energy per buck. If there is anything wrong with this Department it is that it is not being innovative. The gentlewoman from New Jersey spoke about the garage projects and the backyard projects.

The CHAIRMAN pro tempore. The time of the gentleman from Pennsylvania has expired.

(By unanimous consent Mr. KOSTMAYER was allowed to proceed for 2 additional minutes.)

Mr. KOSTMAYER. All this amendment does is establish a target which can be waived, and I think a very modest target. The Governmentwide average figure is about 8 percent.

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

Mr. KOSTMAYER. Yes, I yield to the gentleman from Oregon.

Mr. WEAVER. I want to compliment the gentleman for his excellent amendment. It will obviously produce more energy. The debate we just previously had shows that it is the small entrepreneur that is going to develop the new and innovative ideas that will produce this energy and these projects should be given to the small, more of them to the small business to do away with the sloth, inertia, suppression, and repression that large industry, committed to previous courses, obviously shows today. We need to bring the small business person into this energy picture, and this is a way to do it.

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

Mr. KOSTMAYER. I am glad to yield to my colleague from Pennsylvania.

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding. I must admit that I find many aspects of the gentleman's amendment attractive. I do remember that several months ago I had the opportunity to be in California and I was at the plant producing the only solar photovoltaic cells on a production

line basis. That plant happened to be run by ARCO. It used to be a small business and was absorbed by ARCO. The management there made the point over and over again that before they were absorbed by ARCO they were not able to come up with the capital to pursue their business.

It seems to me that kind of innovation then would be somewhat stymied by the gentleman's amendment. I am a little bit hesitant about just putting an artificial figure in without the kind of flexibility that would permit that kind of operation to go forward.

Mr. KOSTMAYER. I think the gentleman makes a very good point and I think his point is that the small company, before they were absorbed by ARCO, was not getting it simply because they were small. I do not think that is any reason, simply because they were small.

The CHAIRMAN pro tempore. The time of the gentleman from Pennsylvania has again expired.

(By unanimous consent Mr. KOSTMAYER was allowed to proceed for 1 additional minute.)

Mr. KOSTMAYER. Mr. Chairman, before this company was absorbed by ARCO they were not getting it; once they were absorbed by ARCO and they were larger, they got it.

I do not think that is a good reason to deny people research and development funds simply because they are not among the largest corporations in the country.

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

Mr. KOSTMAYER. I yield to the gentleman.

Mr. WEAVER. Mr. Chairman, I would just simply like to respond to the gentleman's excellent point that I talked to the president of the solar division of ARCO when he was here. He said for \$10 million he could cut the cost of the silicon by 80 percent if he just had \$10 million, and that is half of the cost of a photovoltaic cell, by the way, the silicon. It would be an enormous reduction in cost and he could not get the \$10 million.

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

Mr. KOSTMAYER. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding further because I think it is well to note that before they were absorbed by ARCO they were getting \$20 million of Federal money for their projects, and it is only after they were absorbed by ARCO that they were able to go even further. I think that is the point.

□ 1550

The CHAIRMAN pro tempore. The time of the gentleman from Pennsylvania has again expired.

(At the request of Mr. LUKE and by unanimous consent, Mr. KOSTMAYER was allowed to proceed for 2 additional minutes.)

Mr. KOSTMAYER. Mr. Chairman, before yielding to my friend from Ohio, if I might, I yield to the gentleman from Florida to explain a change he has proposed in the amendment.

Mr. FUQUA. Mr. Chairman, I was proposing that we accept the gentleman's

amendment with two modifications, as follows:

Following the part where it says, "impracticable," add the words, "in the case of any such project and service." So, it will be on an individual basis rather than a totality that they carry out the purpose of the amendment for the various projects. If we had a synthetic fuel project, they could try to do that on research projects.

Then, in the section 2, after the word "impracticability," add the words: "Nothing in this section precludes the Secretary from proceeding with such project or service upon transmittal of such report."

It would not hold up the project if he determined that it was impractical to do that, but I think it would still make the point that we are very much interested in the project and small business.

Mr. KOSTMAYER. In other words, make a case-by-case judgment rather than a collective judgment.

Mr. FUQUA. Yes.

Mr. KOSTMAYER. I have no objection to that change.

AMENDMENT OFFERED BY MR. FUQUA TO THE AMENDMENT OFFERED BY MR. KOSTMAYER, AS MODIFIED

Mr. FUQUA. Mr. Chairman, I offer an amendment to the amendment, as modified.

The Clerk read as follows:

Amendment offered by Mr. FUQUA to the amendment offered by Mr. KOSTMAYER, as modified: "In subsection (b) of the amendment offered by the gentleman from Pennsylvania (Mr. KOSTMAYER), following the word 'impracticable,' insert: 'in the case of any such project and service.' And in subsection (a) of the amendment offered by the gentleman from Pennsylvania (Mr. KOSTMAYER), following the word 'impracticability' insert 'Nothing in this section precludes the Secretary from proceeding with such project or service upon transmittal of such report.'"

The CHAIRMAN pro tempore. The gentleman from Florida (Mr. FUQUA) is recognized for 5 minutes.

Mr. FUQUA. Mr. Chairman, I appreciate the gentleman from Pennsylvania agreeing to this change in his amendment. I think it clarifies a problem that I did have with the amendment. We are all very much concerned with small business, and that they participate to the maximum extent possible in the development of our energy resources.

I urge the adoption of the amendment to the amendment offered by the gentleman from Pennsylvania.

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

Mr. FUQUA. I yield to the gentleman from Washington.

Mr. McCORMACK. Mr. Chairman, I am having trouble following what the amendment does. Would the gentleman care to tell us again?

Mr. FUQUA. It in fact says that it should be on a case-by-case basis for a project or service or an individual basis rather than collectively on each project. If there was a project of a certain type, that there should be 12 percent small business involvement in that R. & D. project rather than the total.

Mr. McCORMACK. Do I understand that if we are letting contracts for fabrication of components for a fusion

machine, or a nuclear breeder, 12 percent must go to small business?

Mr. FUQUA. It is impractical, in the language of the amendment.

Mr. McCORMACK. If the gentleman will yield further, it strikes me that requiring this on a project-by-project basis makes the amendment even more damaging than it was before, because in the first instance, as the gentleman from Pennsylvania (Mr. KOSTMAYER) originally proposed his amendment, the requirement was for 12 percent of all DOE expenditures.

Mr. FUQUA. That still is in effect.

Mr. McCORMACK. Then let me proceed to ask the gentleman again what this amendment does.

Mr. FUQUA. Well, it would be on an individual basis. Under the illustration the gentleman used, the fusion project, if the Secretary determined that it was impractical to use 12 percent small business, he has to make that finding to the various committees of the Congress, but the project could go ahead.

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

Mr. FUQUA. I yield.

Mr. KOSTMAYER. In a given project, when we are talking specifically we ought to make it clear that we are not talking about subcontracting here. We are talking about prime contractors. One of the problems—I want to make it clear for the record—is that some contracts are leased to small business people, but they very often get only what is left over. Our intent and the intent of the amendment is to get 12 percent of the price contracts, 12 percent of the prime contracts to small business—not subcontracts.

Mr. FUQUA. To the extent practicable.

Mr. COURTER. Mr. Chairman, will the gentleman yield for the purpose of my engaging in colloquy with the gentleman from Pennsylvania?

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

Mr. COURTER. I have a question, with regard to his interpretation of that one word, that word being "impracticable," would the gentleman just for the record, for the history of this particular amendment, indicate to me what is impracticable and what is not impracticable?

Mr. KOSTMAYER. I think that is largely a judgment the Secretary of Energy would have to make. That is a highly technical judgment, and probably would have to be made on a case-by-case basis.

Mr. COURTER. It seems to me that the word really is saying, at his discretion. It seems to me that what the gentleman is trying to do is develop some sort of policy to encourage small corporations that sometimes in fact are more innovative with regard to producing new forms of energy. That is what the gentleman is doing.

Should not the standard be not what is impracticable, but a standard to encourage the effort we can best do in the long-term energy needs of the United States? "Impracticable" to me does not fill the bill.

Mr. KOSTMAYER. I would just say that I certainly concur with what the gentleman from New Jersey has said. Of

course, we would not want to promote something which is not practicable.

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

Mr. FUQUA. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I am just wondering why this amendment does not have a minority set-aside and why it is not targeted to apply to areas of high unemployment.

Mr. KOSTMAYER. That is already part of the law.

Mr. HYDE. If we are looking at this from the point of view of social needs, there are senior citizens, junior achievement groups, farmworkers, and many others to be included.

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

Mr. FUQUA. I yield to the gentleman from Ohio.

Mr. LUKEN. Mr. Chairman, I think we are missing the point if we just consider this to be a social position or consider it just for the benefit of small business. I happen to be chairman of the Small Business Subcommittee on Energy Research and Development, and it is our concern not just from the standpoint of encouraging small business or seeing to it that small business prospers, but simply because we need the energy research and development.

The CHAIRMAN pro tempore. The time of the gentleman from Florida has expired.

(At the request of Mr. LUKEN and by unanimous consent, Mr. FUQUA was allowed to proceed for 1 additional minute.)

Mr. LUKEN. So that it is in the interests of producing the innovations and the inventions. Reports have come out of the small business subcommittees which have shown that one-half of all the major inventions in this country and innovations in this country in this century have come from small business. We do not have to take that literally or 100 percent, but it does dramatize the point that we are doing this not just in the name of helping small business, but of producing the kind of innovation and research and development that we actually need, and the big companies with their entangling alliances with the Department of Energy and the Department of Defense are not producing. That is why we need it.

AMENDMENT OFFERED BY MR. McCORMACK AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. KOSTMAYER, AS MODIFIED

Mr. McCORMACK. Mr. Chairman, I offer an amendment as a substitute for the amendment, as modified.

The Clerk read as follows:

Amendment offered by Mr. McCORMACK as a substitute for the amendment offered by Mr. KOSTMAYER, as modified: Insert a new section 802 and renumber accordingly:

SECTION 802. (a) The Secretary shall, (1) assure that small business concerns will have realistic and adequate opportunities to participate in the programs authorized in this Act; and (2) use all authority provided by law to protect trade secrets and other proprietary information submitted by small businesses under this Act and to avoid the unnecessary disclosure of such information.

(b) At least once every six months, or upon

request, the Secretary of Energy shall submit to the appropriate committees of the House of Representatives and the Senate a full report on the actions taken in carrying out subsection (a) during the preceding six months, including the extent to which small business concerns are participating in the programs involved and in projects and activities of various types and sizes within each such program, and indicating the steps currently being taken to assure such participation in the future.

□ 1600

Mr. McCORMACK. Mr. Chairman, I think it is time, when considering this amendment, that we decide if our purpose is to fund and conduct research and development programs to provide energy technologies for this country; or if our purpose is to run a social action program within the Department of Energy authorization bill. It gets down to just as simple a question as that. If we want to play around and say that incompetent people are going to be given money to do energy research just because we set a quota, then we should accept the Kostmayer amendment.

The Kostmayer amendment says that we will give 12 percent of all the money we spend for energy research and development in photovoltaics, which is a high technology, in fusion research, which is a very high technology, in energy physics, in advanced chemistry, in advanced physics, in nuclear physics, in the fission program, in the breeder program, in the entire synthetic fuels program, in the geothermal program, in the wind program, in battery research, in hydroelectricity, in solar-thermal, in OTEC, in shale oil development, and everything else—that we give 12 percent of \$4.5 billion to small companies whether or not they are qualified. That is what the amendment says. Forget the production of energy. Forget about obtaining scientific information. Just give these small companies some money, 12 percent of the \$4½ billion. I think that is absurd.

What we are trying to do in this program is to develop energy technologies for this country and to bring the best energy technologies forward to the point where commercialization can realistically occur in the private market. Congressional authorization and funding can bring research, development, and demonstration programs on a concept from the laboratory through the pilot stage and through the demonstration stage and out to where it can be used in the commercial world, and our goal is to do this as efficiently as we can and as quickly as we can, and to get the best scientific and engineering facts that we can.

That is what we are after. To the extent that small businesses can compete, that is fine. I have no objection to that and my amendment says that the Secretary shall assure that small business concerns will have a realistic and adequate opportunity to participate and also to protect proprietary information, and that the Department shall report to us on what it is doing to carry out the purposes of this act. But to say outright that we are going to give 12 percent of this \$4.5 billion to companies that qualify under some law—and we have about

a dozen definitions of what a small business is—and they are going to get part of that money whether they can do the job or not is totally unrealistic.

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

Mr. McCORMACK. I yield to the gentleman from Michigan.

Mr. DINGELL. I thank the gentleman for yielding. I want to commend the gentleman. I have served on the Small Business Committee since 1960 when I was appointed to that body by John McCormack. There is on the books right this minute a small business set-aside authority that sets aside 12.5 percent of Government contracts for small business. In addition to that, those small businesses are not always small businesses. American Motors is cataloged as a small business, which the gentleman from Pennsylvania (Mr. KOSTMAYER) who offers this amendment should know.

The gentleman should also know that there are certain of these contracts and certain of these businesses that are well beyond the capacity or the ability of any small business in the country to carry forward, and we are dealing with projects and undertakings that require immense expertise, vast resources, and enormous skills, and there is no way that that kind of work can be set aside for small business. I think that if there is something wrong with the question of small business set-asides and small business set-asides in the area of research and development for the Department of Energy, then there is a committee which is constituted with special expertise to handle this matter.

It is called the Small Business Committee. The gentleman from Ohio (Mr. LUKEN), serves on it. He would probably consider the legislation. He has the expertise; he has the subcommittee; he has the staff. I do not think we should try to rewrite that law on the House floor in a DOE authorization bill.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

(At the request of Mr. DINGELL, and by unanimous consent, Mr. McCORMACK was allowed to proceed for 2 additional minutes.)

Mr. DINGELL. If the gentleman will yield further, I am satisfied that the gentleman from Ohio (Mr. LUKEN) and the Small Business Committee, ably chaired by the gentleman from Ohio (Mr. SMITH), would not only have the willingness and the ability but the capability of dealing with this matter aggressively and energetically and to see to it that not only are the contracts let but that they are properly oversights by a committee which has a long history of sympathy and a long history of ability for dealing with these questions. So I would urge that the amendment offered by the gentleman from Washington (Mr. McCORMACK) be adopted and that we go on about the business of the House.

Mr. McCORMACK. I thank the gentleman.

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

Mr. McCORMACK. I would be glad to yield to the gentleman from Texas.

Mr. GRAMM. I thank the gentleman

for yielding. I would like to commend the gentleman from Washington (Mr. McCORMACK). I think he has cut through the veneer of politics we are trying to put on top of one of the most important programs this Congress is trying to undertake. I think he has pointed out very clearly why we cannot play politics with this bill, and that is exactly what the Kostmayer amendment is—politics, pure and simple, trying to impose a constraint that makes no economic sense and no scientific sense. I intend to support the substitute amendment and oppose any amendment to it the gentleman might offer, or his amendment, even as amended.

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

Mr. McCORMACK. I thank the gentleman for yielding.

Mr. LUKEN. I thank the gentleman for yielding. The gentleman from Washington seems to equate small business with incompetence. We could just as well equate big business with bureaucracy and waste, as we can often equate government with waste, because in any kind of a big operation there is that problem of waste and inefficiency. That is the problem that we are trying to attack. Just as the gentleman is concerned about the vagaries of small business, we are concerned about not only the alliances between big business and big government but the fact that big business in itself has a tendency to be bureaucratic and slothful and inefficient and not productive and, therefore, I think that in order to produce the kind of innovations which the gentleman from Michigan and the gentleman from Washington desire, we have to take some drastic action, not in the name of social action but in the name of producing what we need to produce. That is why we are in favor of it and not in the name of social action.

Mr. McCORMACK. I thank the gentleman. I want to say that I am well aware of the fact that there are some small industries that are high quality industries, such as those that make valves and gauges. They provide an extremely valuable contribution, and they are continuously drawn upon by the Department of Energy and by Department of Energy contractors.

However, they do not come anywhere near 12 percent of the total bill. At the present time, after attempting to involve small business, the Department of Energy has only been able to get up to about 5 percent of its expenditure for small business. The Kostmayer amendment says go to 12 percent, whether or not the small business is qualified. That is what is wrong with the Kostmayer amendment. The substitute that I have offered here to the Members directs the Secretary to assure that small business will be given a realistic opportunity, and that is what we should be trying to do.

AMENDMENT OFFERED BY MR. KOSTMAYER TO THE AMENDMENT OFFERED BY MR. McCORMACK AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. KOSTMAYER, AS MODIFIED

Mr. KOSTMAYER. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment, as modified.

The Clerk read as follows:

Amendment offered by Mr. KOSTMAYER to the amendment offered by Mr. McCORMACK as a substitute for the amendment offered by Mr. KOSTMAYER, as modified: Page 79, insert after line 25, the following:

SMALL BUSINESSES

SEC. 814. (a) In order to carry out a policy that the Department maximizes procurements of research and development from small businesses, not less than 12 percent, determined on the basis of value, of research and development projects and services procured by the Department with funds authorized to be appropriated under this Act shall be procured from small businesses, except as provided in subsection (b).

(b) If the Secretary determines that compliance with the 12 percent requirement set forth in subsection (a) is impracticable, the Secretary shall transmit to the Committees on Science and Technology, Interstate and Foreign Commerce, Small Business, Interior and Insular Affairs, and Government Operations of the House of Representatives, and to the Committees on Energy and Natural Resources, Governmental Affairs, and Small Business of the Senate, a report which—

(1) appraises such Committees of the impracticability of compliance with such requirement, and

(2) lists the reasons for such determination of impracticability.

(c) For purposes of this section, the term "small business" shall have the meaning given such term under section 3 of the Small Business Act.

Mr. DINGELL. Mr. Chairman, I reserve a point of order on the amendment.

□ 1610

Mr. KOSTMAYER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the substitute amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. DINGELL. Mr. Chairman, I object. The CHAIRMAN pro tempore. Objection is heard.

The Clerk will continue to report the amendment to the substitute amendment.

The Clerk concluded the reading of the amendment to the substitute amendment.

The CHAIRMAN pro tempore. Does the gentleman from Michigan (Mr. DINGELL) insist upon a point of order?

Mr. DINGELL. Mr. Chairman, I do not insist upon my point of order.

Mr. KOSTMAYER. Mr. Chairman, very simply, I have amended the substitute offered by the gentleman from Washington (Mr. McCORMACK) by adding my original amendment as amended by the gentleman from Florida (Mr. FUQUA).

Mr. MITCHELL of Maryland. Will the gentleman yield, Mr. Chairman?

Mr. KOSTMAYER. I yield to the gentleman from Michigan.

Mr. MITCHELL of Maryland. Mr. Chairman, I rise in support of this gentleman's amendment. It is interesting whenever we in the Congress embark on a massive spending effort, which is required, we almost always overlook the matter of the role of small business in that effort.

Mr. Chairman, let me suggest I have been looking at the Department of En-

ergy since its inception and I think it has failed flagrantly in terms of involving small business. It simply has not done that.

By way of illustration I will refer to another agency of Government, Mr. Chairman, the Department of Defense. The Department of Defense insists upon using only the giant businesses to almost a total exclusion of small business. Mr. Chairman, I submit further there is a role for small businesses. They are capable and efficient. They can produce and they can help our country in this energy effort.

Mr. Chairman, the question is raised about the Department of Defense getting but 5 percent out to small business. I am surprised that it is that much.

My figures do not reveal that much. It is the practice, pattern, and policies of our agencies to support the larger businesses and not the smaller ones.

Mr. Chairman, I heard my friend, the gentleman from Michigan (Mr. DINGELL) raise a point about the problem of defining a small business, indicating that American Motors is defined as a small business and I think my colleague, the gentleman from California (Mr. ROUSSELOT) addressed that problem last year. American Motors is not defined as a small business. It is a subsidiary of American Motors which was defined as a small business, so there are limitations imposed.

Mr. Chairman, I like the gentleman's amendment because it says, where it is really impractical to meet the 12-percent goal, then there is a waiver provision, there is an out. The Secretary can come in and say, "Well, look, we really, really tried but we just cannot do it."

Mr. Chairman, it is my argument that without establishing a hard target, there will be no maximum effort on the part of the Department of Energy to help small business. I would urge the total support of this House for the gentleman's amendment.

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

Mr. KOSTMAYER. I yield to the gentleman from Florida.

Mr. FUQUA. I appreciate the gentleman yielding. I do not have a copy of the amendment but am I assured by the gentleman it does incorporate the language I suggested to his previous amendment, in this amendment?

Mr. KOSTMAYER. The gentleman from Florida is assured, this substitute as amended by the gentleman from Pennsylvania does include the amendment as offered by the gentleman from Florida.

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

Mr. KOSTMAYER. I yield to my friend from California.

Mr. LEWIS. Mr. Chairman, I thank my colleague for yielding.

I would like to commend my colleague for his amendment. At a time when the rate of productivity growth in the United States lags behind most of our competitors in the world economy, and our country is suffering from unemployment, inflation and a large negative balance of payments, it is imperative that we en-

courage productivity in our Nation's most productive sector, that of small business.

Small businesses creates the vast majority of new jobs in our Nation. In fact, studies show that of the major innovations introduced into the marketplace in the past 25 years, small firms were found to produce about 24 times more per R. & D. dollar than large firms, and 4 times as many as medium-sized firms. In this time of fiscal austerity, it is necessary that the Congress realize this and spend its money in the most productive manner.

One of my concerns has been this body's apparent lack of assertiveness in setting criteria for Federal agencies. Our rules and authorizations have been too lax, especially in the area of small business. The agencies know small business is more cost efficient and has a greater per dollar rate of productivity than large firms. However, they continually show a lack of confidence in small firms' ability to produce, by awarding their money to the less effective larger firms. This is not to downgrade the importance of the large company, but it is essential that my colleagues realize the important role played by small business.

It is time we let the agencies know that the Congress is concerned how our tax dollars are located and that we want the most from every R. & D. dollar that is spent. This amendment is an attempt to do this and I urge my colleagues to support it.

I thank the gentleman for yielding.

Mr. KOSTMAYER. Mr. Chairman, I ask unanimous consent that the language offered by the gentleman from Florida (Mr. FUQUA) earlier be considered as part of this amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. BAUMAN. Mr. Chairman, reserving the right to object, what kind of parliamentary request is that, that the language offered formerly be considered part of what is pending now? I mean, if we are going to offer amendments, let us offer them.

The CHAIRMAN pro tempore. The Clerk will report the modification requested by the gentleman from Pennsylvania.

The Clerk read as follows:

In line 11 of the Kostmayer amendment to the substitute McCormack amendment, following the word "impracticable," add the words, "in the case of any such project and service."

In subsection (b) (2), add at the end the following, "Nothing in this section precludes the secretary from proceeding with such project or service upon transmittal of such report."

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania (Mr. KOSTMAYER)?

Mr. BAUMAN. Mr. Chairman, has that been reduced to writing?

The CHAIRMAN pro tempore. The Clerk read it.

Mr. BAUMAN. Yes, I think the Clerk did an excellent job under the circum-

stances, but I demand that it be reduced to writing.

The CHAIRMAN pro tempore. The Chair will observe that it appears to the Chair that the Clerk was reading writing.

Mr. BAUMAN. The reading was not written.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania (Mr. KOSTMAYER)?

There was no objection.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

(By unanimous consent, Mr. KOSTMAYER was allowed to proceed for 2 additional minutes.)

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

Mr. KOSTMAYER. I yield to the gentleman from Iowa.

Mr. BEDELL. Mr. Chairman, in the Dannemeyer amendment passed just previously, there is a possibility for misunderstanding and I would appreciate an opportunity to clarify the intent of the gentleman who offered the amendment. The amendment says it will produce an amount of energy, which is a certain amount. The problem exists in the fact that alcohol contains somewhat less energy than gasoline when it is mixed with gasoline but as gasohol it produces an equivalent amount of energy. I would like to hear from the author of the amendment. It is my understanding he means for it to consider the amount of energy which is produced from the fuel that is consumed.

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

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

Mr. DANNEMEYER. This is precisely the meaning the gentleman from Iowa should take from the language. We will note on line 14 it specifies that whatever quantity of the alternative fuel that is forthcoming, that quantity shall equal the quantity of energy that is in 200,000 gallons of gasoline. That if the quantity of the alternative fuel could differ, the Btu content of the constituent part of the alternative fuel could differ. It is just that it must meet the total energy count of 200,000 gallons of gas.

Mr. BEDELL. As it is used in a vehicle?

Mr. DANNEMEYER. That is correct.

Mr. BEDELL. I thank the gentleman. I thank the gentleman very much for yielding so we could clarify that matter.

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

Mr. KOSTMAYER. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, I have served on this committee for a while. I have become convinced in the energy business we have a little thing like we have in the military where President Eisenhower warned us of the military-industrial complex. To some extent we have that same kind of complex involved in the energy field, with the Gulf Oil's and the ARCO's and the Boeing's. I have nothing against that. I just think that a lot of very, very innovative technology comes out of small business and never

gets an opportunity in a lot of these very, very large contracts.

Mr. Chairman, I think the amendment of the gentleman from Pennsylvania reflects on the fact that there needs to be a greater focus on that kind of technology without completely eliminating the Boeing's, the ARCO's and the Gulf Oil's.

The CHAIRMAN pro tempore. The time of the gentleman from Pennsylvania (Mr. KOSTMAYER) has expired.

(At the request of Mr. GLICKMAN and by unanimous consent, Mr. KOSTMAYER was allowed to proceed for 1 additional minute.)

□ 1620

Mr. GLICKMAN. Mr. Chairman, if the gentleman will yield further, I think this amendment gives the Secretary of Energy the kind of flexibility he needs.

The CHAIRMAN pro tempore. Does the gentleman from Pennsylvania yield the floor?

Mr. KOSTMAYER. I do, Mr. Chairman.

Mr. GLICKMAN. Mr. Chairman, this amendment gives a kind of flexibility. There is a cult out there, a group of very large businesses who are getting a large, at least in aggregate numbers, a large percentage of these contracts.

I think that in essence, to try to get a good comprehensive balanced energy policy, we ought to do our best, not so much for social purposes, but as from the gentleman from Ohio (Mr. LUKENS) said, for good sound energy development purposes, insuring that there is balance to these contracts.

So for that reason, I urge adoption of the Kostmayer amendment.

Mr. McCORMACK. Mr. Chairman, I rise in opposition to the Kostmayer amendment to the McCormack substitute.

Mr. Chairman, I want to make clear what we are talking about, and draw a distinction between the amendment to the substitute of the gentleman from Pennsylvania and to the substitute itself that I submitted.

The gentleman from Pennsylvania says that the Department of Energy must grant 12 percent of all its contracts to small business or it must explain why. It must do it if practical, but if impractical, it must explain why.

Now, there are two critically important problems associated with that provision. The first is that we are at about 5 percent today of the DOE contracts with small business.

Most of the projects are ongoing projects, some of them running into hundreds of millions of dollars. What we are saying to them is that, "You go from 5 percent now to 12 percent. In other words, you go from about \$200 million to about \$500 million and do it right now, or you explain why to the Congress, and what is more, you explain it to the court." We can be certain that under the substitute of the gentleman from Pennsylvania, the moment that some small business is not given a contract, as soon as it loses a contract, it will be running to court and saying, "We are protected. They aren't spending 12 percent for small business. Therefore, they have to

prove to the court that it isn't practical to grant a contract to us."

I want to point out the kind of problems that we build ourselves into in trying to provide social reform, superimpose it on a piece of legislation that is designed to provide energy research for this country. Here we are dealing with huge pieces of ultra-sophisticated equipment for which contracts are already let, and we are saying that, effective with the beginning of this fiscal year, these must be changed.

I want to remind you that the McCORMACK substitute says that the Secretary shall assure that small business concerns will have realistic and adequate opportunities to participate and to protect them and to report to us; but setting quotas is destructive. Putting limitations on is creating invitations to go to court, and that is destructive.

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

Mr. McCORMACK. I would be glad to yield.

Mr. KOSTMAYER. Mr. Chairman, I thank the gentleman for yielding.

I just wanted to say that the gentleman from Florida added language to allow the Secretary to exempt an individual project if he found it was impossible or impractical that 12 percent of the funds necessary to pay for that project could not go to small businesses; so I think that objection has been met.

Second, the Secretary can waive in individual circumstances or in collective circumstances this requirement at any time.

Mr. McCORMACK. Mr. Chairman, I thank the gentleman for his point.

I want to remind the gentleman that every time the Secretary tries to do that, he is going to wind up in court, and we will be suffering further delays in our attempts to try to solve our energy problems.

Mr. EMERY. Mr. Chairman, will the gentleman from Washington yield?

Mr. McCORMACK. I would be glad to yield to the gentleman from Maine.

Mr. EMERY. Mr. Chairman, I wonder if the gentleman can tell me what the usual procedure is at this point in time for a small business or any business to win one of these contracts. Does he have to go to a competitive bid and prove that he is able to do it?

Mr. McCORMACK. There are a number of procedures, including competitive bids, including nonsolicited applications, solicited applications; there is a spectrum of mechanisms.

Mr. EMERY. Well, the point I am getting at, as I understand the system, if, in fact, small business has the technology, has the expertise and has the capability to bid on a research and development project or any portion of the project or any components or materials of the project, he is not prohibited from doing it; is that correct?

Mr. McCORMACK. That is correct. Small business has a complete opportunity to compete, but we are dealing in high technology and in many cases the larger corporation will obviously win out, because what we want to do is accomplish a certain goal or gain certain information.

Mr. EMERY. Is there, in fact, a provision in the law now that requires that small businesses have an opportunity to compete on winning a portion of these contracts or on the purchase, and things like that?

Mr. McCORMACK. I am sorry, Mr. Chairman, I cannot hear the gentleman's question.

Will the gentleman restate his question?

Mr. EMERY. Under the present law, is there a provision that either guarantees or requires that small businesses have an opportunity to bid competitively on the projects or on the sale of components or materials for a project?

The CHAIRMAN pro tempore. The time of the gentleman from Washington, (Mr. McCORMACK) has expired.

(At the request of Mr. EMERY and by unanimous consent, Mr. McCORMACK was allowed to proceed for 3 additional minutes.)

Mr. McCORMACK. Mr. Chairman, I think I can answer the question of the gentleman by saying that small businesses are not precluded in bidding on any contract because they are small. I think that answers the gentleman's question.

Mr. EMERY. My concern at this point is that I feel that the wording of the Kostmayer amendment and most of the language that I have seen is sufficiently cumbersome so that it may, in fact, preclude an opportunity for a high technology business, be it large or small, from providing the material and the expertise and the highly technological and complicated material that it might have when the Government actually needs it; but on the other hand, if there is some way that we can provide in the law that small businesses have an equal opportunity to offer their expertise with a reasonable assurance that they are not going to be overlooked, that might be desirable.

Mr. McCORMACK. Mr. Chairman, the gentleman is completely correct.

I think the gentleman's point is well taken. The McCORMACK substitute says that the Secretary shall assure that small business concerns will have realistic and adequate opportunities to participate in the programs authorized in these acts, and then it says that they shall be protected in their proprietary information and that every 6 months the department will report to us on this.

It seems to me this is the most we can realistically do without tying our own hands.

Mr. EMERY. Mr. Chairman, I feel that the gentleman from Washington has made a very valuable contribution to this debate. I support the language that the gentleman offers, because I feel that it does afford small business a reasonable opportunity to enter into these procedures whereby they may offer their services and have a reasonable opportunity of being accepted, without placing necessary encumbrances on the highly technological research and development programs that the Government is involved in.

Mr. McCORMACK. Mr. Chairman, I thank the gentleman for his comments.

Mr. GRAMM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I oppose the Kostmayer amendment. I oppose it basically because I think the gentleman from Washington has given us a good intermediate step. The gentleman requires the Department of Energy to look at small business proposals. He requires the Department of Energy to give information to this Congress, to the relevant committees, as to the extent to which small businesses are getting contracts, where those contracts are being made; that gives us the facts to assess whether or not small businesses are being treated fairly.

At its very best, the Kostmayer amendment is a quota amendment. It is a quota amendment in the same sense that every other amendment which seeks to set a numerical number in the decisionmaking process is a quota amendment. It simply says that the burden of proof is on the Department of Energy if it does not give a specific quota to businesses that are qualified as small businesses. It seems to me that while I support small business and I view small business in the same vein as the flag and motherhood and apple pie, as everyone else does here, and the farmer, that it is important to remember that we are talking about big dollars. The President is talking about \$88 billion for synthetic fuel.

Now, what I think the gentleman from Washington has said far more eloquently than I can say it is that we ought not to be playing politics here.

□ 1630

The gentleman has given us the vehicle to assure that small business is fairly treated, and to be sure the Congress gets information as to what extent they are getting contracts. I think it is very important that we not impose this quota on programs that are vitally important to the energy consumer in this country and indeed to the whole leadership position of the American economy.

So, Mr. Chairman, I urge my colleagues to vote down the Kostmayer amendment and to vote for the substitute offered by the gentleman from Washington (Mr. McCORMACK).

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

Mr. GRAMM. I am happy to yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, in listening to the debate awhile ago, I think I recall my colleague, the gentleman from Illinois (Mr. HYDE), asking if there were set-asides—and I think he may have done it facetiously—but he received an answer that indicated there were already in the law requirements for set-asides as they relate to minority and unemployment areas.

Would my colleague tell me if that is correct as far as the Department of Energy is concerned?

Mr. GRAMM. I do not know.

Mr. ASHBROOK. Mr. Chairman, some Member at that table responded and said they were already in the law, and that is why I wondered.

The point in asking the question is that I wondered how it is working if that is already in the law now, and if it is causing some problems, probably we should vote this amendment down. But if it is in the law and it is not causing

problems, if the Department of Energy operates under those constraints or those restraints, whatever we want to call them, and they do not cause any problems, then there is nothing we should be concerned about.

Mr. GRAMM. Mr. Chairman, I will reclaim my time, and I wish to reemphasize the point that I made and the gentleman from Washington (Mr. McCORMACK) made that this should not be considered a social engineering bill; this is a bill to make our Nation more energy-independent and more energy-efficient.

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

Mr. GRAMM. I yield to the gentleman from New Mexico.

Mr. LUJAN. Mr. Chairman, let me just make a comment along those lines.

I think some pressure has to be put on some of these agencies to go out and contract with small business. I remember some time ago we had some problems with some of the small machine shops in Albuquerque because the laboratories were not being very fair in putting out bids into the local area.

We had a meeting with all the machine shops; there were about 30 or 40 of them. The result was that within a month the amount of business that was going to these small machine shops had increased something like 300 or 400 percent, and it has gone up and it has enhanced the business of the laboratory.

I just think that we have to make some effort to go to the agencies and say, "You are not doing enough. We don't think you are doing enough, and we are going to set some guidelines for you."

Therefore, Mr. Chairman, in this particular instance I am going to have to support the amendment offered by the gentleman.

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

Mr. GRAMM. I yield to the gentleman from Ohio.

Mr. LUKEN. Mr. Chairman, I would like to address the points of the gentleman from Texas (Mr. GRAMM) on the question that has been developed about the effectiveness of the existing program.

I think actually what the amendment offered by the gentleman from Washington (Mr. McCORMACK) would do is basically to continue the existing program, and those of us who are in favor of the amendment offered by the gentleman from Pennsylvania (Mr. KOSTMAYER) believe we have to take more concrete action. We believe that the record shows that we must.

I, as chairman of the Subcommittee on the Impact of Energy Programs, Environment and Safety Requirements, and Government Research on Small Business, asked the General Accounting Office for a report and an investigation, and they went into it in some detail. They reviewed the effectiveness of these efforts, and their conclusion was concentrated on the contracting practices of the Department.

The CHAIRMAN pro tempore. The time of the gentleman from Texas (Mr. GRAMM) has expired.

(On request of Mr. LUKEN, and by unanimous consent, Mr. GRAMM was al-

lowed to proceed for 3 additional minutes.)

Mr. LUKEN. Mr. Chairman, will the gentleman yield further?

Mr. GRAMM. I am happy to yield to the gentleman from Ohio.

Mr. LUKEN. Mr. Chairman, the General Accounting Office reviewed the small business contracting practices in the solar research and development area, and they found problems applicable to the Department's overall effort to encourage small businesses.

They made these points: Department goals for awarding contracts to small businesses appear to be based on incomplete information. Guidance for maximizing small business contract awards is insufficient. Information necessary to monitor and evaluate efforts to maximize small business contract awards is lacking. And finally, the Department's office which is responsible for maximizing participation of small business in department programs lacks the needed independence the Congress mandated.

Mr. Chairman, I think that this will be the inevitable result, that there will be a failure in this area. There will be a failure to carry out the encouragement of the general standards suggested by the gentleman from Washington (Mr. McCORMACK), and that even though there are outs in this program, as suggested by the gentleman from Pennsylvania (Mr. KOSTMAYER)—and the quota is not accurate; it is not a complete and hard and fast quota—it will at least strengthen the program and will improve the development of energy in our programs.

Mr. GRAMM. Mr. Chairman, I am reclaiming my time, and I would just like to respond by saying that I do not object to the conclusions that come out of the gentleman's subcommittee in dealing with all those problems. What I object to is that in this program which involves great expenditures and sets standards for the long-term security of the United States, we are playing politics by setting a quota which is designed to carry out social engineering in a program that I feel should be above that.

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

Mr. GRAMM. I yield to the gentleman from Indiana.

Mr. SHARP. Mr. Chairman, I am sorry, but I must disagree with the gentleman. I think we ought to move ahead on this matter of the awarding of contracts and put pressure on the Department to treat the problems of small business more seriously.

Admittedly, the Kostmayer amendment is imperfect, but let us pass it and let us get the attention of the Department of Energy.

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

Mr. GRAMM. I yield to the gentleman from Iowa.

Mr. BEDELL. Mr. Chairman, very quickly I should point out that we checked last year to see how well they were trying to accede to some of these contract awards to small business, and it was unbelievable how ineffective they were in trying to see that some of this went to small business.

It appears to me that if we accept the amendment offered by the gentleman from Washington (Mr. McCORMACK), we are going to be right where we were then. If we are going to go by past experience, at least we had better realize that we are bound to repeat what happened in the past.

Mr. GRAMM. Mr. Chairman, I yield back the balance of my time.

Mr. RITTER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it is with reluctance and with regret that I rise to oppose the amendment of my good colleague and friend, the gentleman from Pennsylvania (Mr. KOSTMAYER).

I would like to say a few words first about the kind of projects that we, this Congress, and our committee, have asked the Department of Energy to carry out. Many of these projects are enormous. We, the Congress and the committee, have asked the Department of Energy to come up with synfuel projects, fission projects, fusion projects, very large scale photovoltaic projects, and so forth. We have not, as a Congress put any quotas on who would carry out these projects.

We are all—all of us who are sitting here—in favor of small business. As the gentleman from Texas (Mr. GRAMM) said, it is like apple pie, it is like motherhood, and is like the flag and we want to see it flourish. But scientific R. & D. is not amenable to quotas.

We are dealing with energy projects which have been designed and designated by the respective committees involved in promoting energy development in this country. The project mix was not developed for any particular constituency, large or small.

To the extent that we establish a quota of 12 percent, 7 percent higher than the present access of small business to DOE R. & D. and try to stick hard and fast to it so that the Department of Energy and its Secretary are going to spend every other day on Capitol Hill explaining why such and such a project cannot fit into this quota, puts us in for one enormous bureaucratic snafu. We are further bureaucratizing a Department of Energy that is already overbureaucratized, and we are creating a new kind of political hassle which can only stifle productive research and development.

Mr. Chairman, if we are serious about stimulating small business in this U.S. Congress, we would do well to start doing something about the incredible level of regulations that Congress and the bureaucracy are, in increasing amounts, saddling small business with.

We have, of course, in the name of apple pie and motherhood and health and safety, which are all wonderful goals—and none of us disagree with these goals—created a bureaucratic hell for those involved in or wanting to be involved in small business. We have established a climate where small business is becoming an endangered species. If we were serious about helping small business instead of hindering it on the major fronts—and I refer to regulations, taxes, and our inflationary climate—we would do something in this Congress along those lines, and we would then help small business. This amendment promises a

chunk of the DOE pie that really does not exist and will only create greater confusion and havoc in our energy program.

Mr. JOHN L. BURTON. Mr. Chairman, will the gentleman yield?

Mr. RITTER. In a moment, after I have finished, I will be glad to yield.

Mr. Chairman, what we are essentially doing here is establishing a new kind of quota system.

I ask, Why do we not begin to have a quota now for those small businesses or those big businesses doing the Government's contracting that have a certain percentage of handicapped or that have a certain percentage of the blind? These are certainly positive social goals. It is simply not relevant to our energy R. & D. programs.

□ 1640

They are tangent to the point of developing liquid fuels in this country, or fusion or, in general developing the domestic American energy that small business needs to survive.

I urge my colleagues in their wisdom and in their strong support of the small business community in this country to support the McCormack substitute.

Mr. JOHN L. BURTON. Mr. Chairman, will the gentleman yield?

Mr. RITTER. I yield to my colleague, the gentleman from California.

Mr. JOHN L. BURTON. I thank the gentleman for yielding.

Mr. Chairman, first of all, this is not a social purpose; this is an energy purpose. The most innovative things done, especially in the area of solar energy, have been done by small companies who then, as they get close to really doing something, find the contracts going to the larger corporations who really have enough venture capital to do their own R. & D. We find, at least in my district, that small solar companies find out that there are grants given to large corporations to reinvent something they have already done.

Second of all, I would view this not as a quota, but as a target which can be waived.

The CHAIRMAN pro tempore. The time of the gentleman from Pennsylvania (Mr. RITTER) has expired.

(On request of Mr. JOHN L. BURTON and by unanimous consent, Mr. RITTER was allowed to proceed for 1 additional minute.)

Mr. JOHN L. BURTON. If the gentleman will yield further, it is not a social purpose. It is an energy-related purpose. In our State and, I am sure, in the State of Florida, in the Midwest and in other areas, in solar energy they are really doing the innovative work because they are not tied to anything, they are not going to burst into atomic energy, they are not going to burst into oil shale. They are going to do the most esoteric stuff, and it is a target that can be waived. I do not think it ties hands.

Mr. RITTER. Let me say, Mr. Chairman, that there is a program in the Energy Development and Applications Subcommittee on which I serve which deals with so-called appropriate technology, which is largely pitched toward small business, the individual inventor and in-

novator. That program has received substantial increases in budget this year. Last year, in its first and primary year of operation, it could not handle effectively the amount of volume of activity that was going on.

The CHAIRMAN pro tempore. The time of the gentleman from Pennsylvania (Mr. RITTER) has again expired.

(On request of Mr. BROWN of Ohio and by unanimous consent, Mr. RITTER was allowed to proceed for 4 additional minutes.)

Mr. RITTER. In the face of information coming down from the Department that they were just not prepared to deal with the flood of proposals and that they really had not gotten their act together from that first year of operation, we nevertheless felt that stimulating small energy businesses—and, yes, stimulating those kinds of California innovative companies which are just getting off of the ground—we virtually tripled their budget. We did it knowing that there would be increased bureaucratic snafu, but we felt that it was important to move forward. By coming in and simply establishing a quota, which has no real basis we are hurting the overall program. The Department of Energy has sufficient problems with congressional pork barreling. To be forced to, in all of those cases where it, indeed, may be "impracticable," as the language stated, to come back to the Committee on Science and Technology, and have to argue under all kinds of political pressures, the "impracticable," as the language stated, we are further submerging the capability of that Department to begin to get its act together as it is trying to do today.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. RITTER. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, the gentleman in the well is a distinguished metallurgist. He comes from the faculty of Lehigh University and, as I understand, has done research in a number of different scientific fields and now heads, or did, before he came to the Congress, the research operation of that university.

This whole debate has bothered me a good deal. I have an interest in a small business back in Ohio. I know that the Congress frowns on that sort of thing, but it is what I do in real life. I have been a little concerned that we are now turning scientific effort into a social effort here. I am surprised by some of my colleagues on my side of the aisle where I thought there was a sort of standard rejection of the idea of quotas. I am put in mind of the story about the difference between scientists such as the gentleman in the well and economists and politicians. The story goes that, for a scientist, 2 plus 2 equals 4, at least somewhere between 3 and 5 with an allowance for error in Government work; for economists, 2 plus 2 equals either 4 or 22 or 12, if one of your premises is wrong; and for politicians, 2 plus 2 equals whatever the majority votes for it to equal that day.

It seems to me that if we are going to run our energy policy on the basis of

whatever the majority votes for it to equal that day, we are not going to help many small businesses by resolving the energy crisis. I know the gentleman in the well is one of the few scientists here, along with the gentleman from Washington, and others, but I cannot think of very many others. Most of us are liberal arts graduates, with a little over-larding in law. But the thing that concerns me is that we are saying we want to solve the energy crisis, a scientific problem, to a great extent, but in order to do it we want to have 12 percent for somebody here and 12 percent for somebody there. Why do we not go it on a geographic basis? Every State should have one-fiftieth of the research projects. The reason we do not is because many institutions in various States, perhaps including the one from which the gentleman in the well comes, are better scientific research institutions than others in the energy field.

I would just say to the gentleman that I think he makes a very persuasive argument as a scientist for sticking to scientific fact and not trying to put these quotas in for where research is done. Who do you want to do your research? Who do you want to do your brain surgery? You do not take your brain surgery to somebody on a quota basis. You do not take your brain work in the scientific area to somebody who, because they meet some kind of a requirement other than scientific skill, would be asked to do the job. We want people to do the job who will solve the job. Of course, we want to help small business, but can we not figure out a way to do it in some area that is a little less technical than this?

Mr. RITTER. We are talking about scientific research and development, and to establish quotas here is something akin to establishing quotas for distribution of the world's food resources simply because it is theoretically just.

The CHAIRMAN pro tempore. The time of the gentleman from Pennsylvania (Mr. RITTER) has again expired.

(On request of Mr. EMERY and by unanimous consent, Mr. RITTER was allowed to proceed for 2 additional minutes.)

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

Mr. RITTER. I yield to my good friend and colleague, the gentleman from Maine.

Mr. EMERY. I thank the gentleman for yielding.

Mr. Chairman, I guess I have to agree very much with what our colleague, the gentleman from Ohio (Mr. BROWN), mentioned a few minutes ago. I guess the thing that really bothers me is if we are going to talk about the purchase of wrenches or piping or if we are going to talk about services that can be provided as efficiently by small business as anyone else, that is exactly where the contract ought to go, it ought to go to the small businessman, it ought to go to those suppliers closest to the need. It ought to be a project that takes into account the availability of goods and services at the lowest possible rate and takes advantage of the small business

community every time, so far as I am concerned. But if we try to write into the law a provision which talks about research and development activities and try to put a quota on those activities of some percent, then ultimately we are going to get a situation where the best technology and the best minds and the best equipment and the most experience is going to be counted out because of the bureaucratic percentage. I think that is wrong.

If we really want to correct the problem which I think in some cases does exist, we ought to go back and do the job a little differently, that is, to differentiate and distinguish between research and development, high technology versus low technology research and development, and, more importantly, differentiate between the purchase of equipment and services, of goods as opposed to the development of expensive, complicated high-technology devices, all of which seem to be covered under the language that has been offered. I think that is a flaw. I agree with the gentleman's point. I agree with the gentleman from Ohio. I think we ought to defeat this attempt, try to rewrite the law in a different section and try to address the point.

Mr. RITTER. I might add that the gentleman from Maine happens to have a strong background in electrical engineering and has worked with computers professionally.

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

Mr. RITTER. I yield to the gentleman from Pennsylvania.

The CHAIRMAN pro tempore. The time of the gentleman from Pennsylvania (Mr. RITTER) has again expired.

Mr. WALKER. Mr. Chairman, I ask unanimous consent that the gentleman from Pennsylvania (Mr. RITTER) be allowed to proceed for 2 additional minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. GLICKMAN. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Objection is heard.

Mr. CONTE. Mr. Chairman, this body has mandated that the Department of Energy encourage and accelerate small business participation in this country's energy research and development efforts. However, DOE's actions to date continue to show the same bias in favor of the large corporations and technology firms. The result is that technological innovation has suffered, research money wasted and many creative areas ignored.

In a recently conducted study by GAO, it was determined that while DOE's goals for awarding contracts to small businesses were based on incomplete information, past goals have been too low. DOE has not even begun to develop a goal for small businesses in the coming year.

Small firms have compiled a striking record of innovation and technological leadership. Firms with less than 1,000 employees accounted for almost one-half of major U.S. innovations since 1953. At the same time, the cost for employing

research and development scientists and engineers is almost twice as great in firms of over 1,000 employees.

However, while small businesses represent 98 percent of all the businesses in the country, DOE has set a goal of just 15 percent of all DOE contracts for small business procurement.

Mr. Chairman, this country cannot afford to maintain procurement policies that virtually exclude small science and technology-oriented firms, and further stifle the contribution that small business can make to a national energy program. I urge the support of the entire body on this amendment.

Mr. FUQUA. Mr. Chairman, we have been debating this amendment and amendments thereto for way over an hour. We have been very lenient with every Member and we have been very well educated and informed about the merits of the various amendments. I would hope that we could get some resolution and vote.

Mr. Chairman, I ask unanimous consent that all debate on the original Kostmayer amendment and all amendments thereto end in 5 minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. SOLOMON. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Objection is heard.

Mr. FUQUA. Mr. Chairman, I move that all debate on the original Kostmayer amendment and all amendments thereto terminate at 5 o'clock.

The CHAIRMAN pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. FUQUA).

□ 1650

The question was taken; and on a division (demanded by Mr. WALKER) there were—ayes 30, noes 17.

Mr. BAUMAN. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

□ 1700

QUORUM CALL VACATED

The CHAIRMAN pro tempore. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN pro tempore. The pending business is the demand of the gentleman from Maryland (Mr. BAUMAN) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 252, noes 133,

answered "present" 1, not voting 47, as follows:

[Roll No. 581]

AYES—252

Addabbo	Gaydos	Nolan
Akaka	Gephardt	Nowak
Albosta	Gialmo	Oberstar
Alexander	Gibbons	Obey
Andrews, N.C.	Gingrich	Ottinger
Annunzio	Ginn	Panetta
Anthony	Glickman	Pashayan
Ashley	Gonzalez	Patten
Aspin	Goodling	Patterson
Baldus	Gore	Pepper
Barnard	Gramm	Perkins
Barnes	Guarini	Peyser
Beard, R.I.	Gudger	Preyer
Bedell	Guyer	Price
Bellenson	Hall, Ohio	Pritchard
Benjamin	Hall, Tex.	Quillen
Bennett	Hamilton	Rahall
Beyll	Hance	Railsback
Bingham	Hanley	Rangel
Blanchard	Harris	Ratchford
Boland	Hawkins	Reuss
Boner	Hefner	Richmond
Bonior	Heftel	Roberts
Bouquard	Hightower	Roe
Bowen	Hollenbeck	Rose
Brademas	Holt	Rostenkowski
Breaux	Holtzman	Roth
Brinkley	Howard	Roybal
Brodhead	Hubbard	Runnels
Brooks	Huckaby	Russo
Broomfield	Hutto	Sabo
Brown, Ohio	Ichord	Santini
Broyhill	Jenkins	Sawyer
Burlison	Jenrette	Sebelius
Burton, John	Johnson, Calif.	Selberling
Burton, Phillip	Jones, Okla.	Shannon
Byron	Jones, Tenn.	Sharp
Carter	Kastenmeier	Shelby
Cavanaugh	Kazen	Simon
Chappell	Kildee	Skelton
Clay	Kogovsek	Slack
Cleveland	Kostmayer	Smith, Iowa
Clinger	LaFalce	Snyder
Conyers	Leath, Tex.	Solarz
Corman	Lehman	Spellman
Cotter	Leland	St Germain
D'Amours	Lloyd	Stack
Daniel, R. W.	Long, La.	Staggers
Danielson	Long, Md.	Stanton
Dannemeyer	Lowry	Stenholm
Daschle	Luken	Stewart
Davis, S.C.	McCloskey	Stokes
de la Garza	McCormack	Stratton
Delhums	McHugh	Studds
Derrick	McKay	Stump
Dicks	McKinney	Swift
Dingell	Maguire	Synar
Dodd	Markey	Taylor
Donnelly	Marks	Traxler
Downey	Marlenee	Trible
Duncan, Tenn.	Matsui	Udall
Early	Mattox	Ullman
Eckhardt	Mavroules	Van Deerin
Edgar	Mazzoli	Vento
English	Mica	Watkins
Ertel	Michel	Waxman
Evans, Ga.	Mikulski	Weaver
Evans, Ind.	Miller, Calif.	Weiss
Fary	Mineta	White
Fascell	Minish	Whitehurst
Fenwick	Moakley	Whitley
Ferraro	Moffett	Whitten
Fisher	Mollohan	Williams, Ohio
Fithian	Montgomery	Wilson, Tex.
Flippo	Moorhead, Pa.	Wolf
Florio	Mottl	Wolpe
Foley	Murphy, Ill.	Wright
Ford, Mich.	Murphy, N.Y.	Wyatt
Ford, Tenn.	Murphy, Pa.	Yates
Forsythe	Murtha	Yatron
Fountain	Natcher	Young, Alaska
Fowler	Nedzi	Young, Mo.
Frost	Nelson	Zablocki
Fuqua	Nichols	Zerfretti

NOES—133

Abdnor	Badham	Carney
Ambro	Bafalis	Cheney
Anderson, Calif.	Bailey	Clausen
Andrews, N. Dak.	Bauman	Coleman
Applegate	Bereuter	Coleman, Tex.
Archer	Bethune	Conte
Ashbrook	Buchanan	Corcoran
Atkinson	Burgener	Coughlin
	Butler	Courter
	Campbell	Crane, Daniel

Daniel, Dan	Jeffries	Fursell
Davis, Mich.	Johnson, Colo.	Quayle
Deckard	Kelly	Regula
Derwinski	Kemp	Rhodes
Dervine	Kindness	Rinaldo
Dickinson	Kramer	Ritter
Dornan	Lagomarsino	Robinson
Dougherty	Latta	Rousselot
Edwards, Ala.	Leach, Iowa	Royer
Edwards, Calif.	Lederer	Rudd
Edwards, Okla.	Lent	Satterfield
Emery	Levitas	Schroeder
Erdahl	Lewis	Schulze
Erlenborn	Livingston	Sensenbrenner
Evans, Del.	Loeffler	Shumway
Findley	Lott	Shuster
Fish	Lujan	Smith, Nebr.
Frenzel	Lungren	Snowe
Gilman	McClory	Solomon
Goldwater	McDade	Spence
Gradison	McDonald	Stangeland
Grassley	Madigan	Stockman
Green	Marriott	Symms
Grisham	Martin	Tauke
Hagedorn	Mathis	Thomas
Hammer-	Miller, Ohio	Vander Jagt
schmidt	Mitchell, N.Y.	Vanik
Hansen	Moore	Walgren
Harkin	Moorhead,	Walker
Heckler	Calif.	Wampler
Hinson	Myers, Ind.	Whittaker
Hopkins	Neal	Williams, Mont.
Hughes	O'Brien	Wilson, Bob
Hyde	Paul	Wylie
Jacobs	Pease	Young, Fla.
Jeffords	Petri	

ANSWERED "PRESENT"—1

Mitchell, Md.

NOT VOTING—47

Anderson, Ill.	Drinan	Myers, Pa.
AuCoin	Duncan, Ore.	Oakar
Beard, Tenn.	Fazio	Pickle
Blaggi	Flood	Rodino
Boggs	Garcia	Rosenthal
Bolling	Gray	Scheuer
Bonker	Harsha	Stark
Brown, Calif.	Hillis	Steed
Carr	Holland	Thompson
Chisholm	Horton	Treen
Coelho	Ireland	Volkmer
Collins, Ill.	Jones, N.C.	Wilson, C. H.
Conable	Leach, La.	Winn
Crane, Philip	Lee	Wirth
Diggs	Lundine	Wyder
Dixon	McEwen	

□ 1710

Mr. LATTI changed his vote from "aye" to "no."

So the motion was agreed to.

The result of the vote was announced as above recorded.

□ 1720

PARLIAMENTARY INQUIRY

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

The CHAIRMAN pro tempore. The Chair will advise the Members that there is a reasonably complex situation before the Committee. To attempt to elucidate it, we must have order. The Chair will advise the gentleman from Florida the order in which the questions will be put.

The gentleman from Florida (Mr. FUQUA) will state his parliamentary inquiry.

Mr. FUQUA. Mr. Chairman, prior to the recent vote there was an amendment offered by the gentleman from Pennsylvania (Mr. KOSTMAYER) to the amendment offered by the gentleman from Washington (Mr. McCORMACK) as a substitute for the amendment offered by the gentleman from Pennsylvania (Mr. KOSTMAYER), as modified. Somewhere along the line I had an amendment to the Kostmayer amendment. Could the Chair state the parliamentary situation and the sequence in which the votes will occur?

CXXV—1812—Part 22

The CHAIRMAN pro tempore. The Chair will attempt to do so. The Chair will inform the Committee that all time has expired. The order in which the votes will be put is as follows: The first vote will occur on the amendment offered by the gentleman from Florida (Mr. FUQUA) to the amendment offered by the gentleman from Pennsylvania (Mr. KOSTMAYER), as modified. The second vote will occur on the amendment offered by the gentleman from Pennsylvania (Mr. KOSTMAYER) to the amendment offered by the gentleman from Washington (Mr. McCORMACK) as a substitute for the amendment offered by the gentleman from Pennsylvania (Mr. KOSTMAYER), as modified. The third vote will occur on the amendment offered by the gentleman from Washington (Mr. McCORMACK) as a substitute for the amendment offered by the gentleman from Pennsylvania (Mr. KOSTMAYER), as modified and the final vote will be on the original Kostmayer amendment as amended. The Chair will now put the question.

The question is on the amendment offered by the gentleman from Florida (Mr. FUQUA) to the amendment offered by the gentleman from Pennsylvania (Mr. KOSTMAYER), as modified.

The amendment to the amendment, as modified, was agreed to.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. KOSTMAYER), as modified, to the amendment offered by the gentleman from Washington (Mr. McCORMACK) as a substitute for the amendment offered by the gentleman from Pennsylvania (Mr. KOSTMAYER), as modified, as amended.

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. KOSTMAYER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 220, noes 168, not voting 45, as follows:

[Roll No. 582]

AYES—220

Abdnor	Burton, Phillip	Edwards, Okla.
Addabbo	Byron	English
Akaka	Campbell	Ertel
Albosta	Carney	Evans, Del.
Ambro	Cavanaugh	Evans, Ga.
Anderson,	Claussen	Evans, Ind.
Calif.	Clay	Fascell
Applegate	Coelho	Fisher
Ashbrook	Conte	Fithian
Ashley	Conyers	Florio
Aspin	Corman	Ford, Tenn.
Baldus	Coughlin	Fowler
Barnes	D'Amours	Frost
Bauman	Daschle	Fuqua
Beard, R.I.	Davis, Mich.	Gaydos
Bedell	Davis, S.C.	Gephardt
Bellenson	de la Garza	Gilman
Benjamin	Deckard	Glickman
Bennett	Dellums	Gonzalez
Bereuter	Derrick	Gore
Bingham	Derwinski	Grassley
Blanchard	Dicks	Gray
Boland	Dodd	Guarini
Boner	Donnelly	Guyer
Bonior	Dougherty	Hagedorn
Brinkley	Downey	Hall, Ohio
Brodhead	Eckhardt	Hamilton
Broomfield	Edgar	Hance
Buchanan	Edwards, Ala.	Hanley
Burton, John	Edwards, Calif.	Harkin

Harris	Hawkins	Heckler	Hollenbeck	Holtzman	Hopkins	Howard	Hughes	Hutto	Ichord	Jacobs	Jeffords	Jenkins	Jenrette	Jones, Okla.	Jones, Tenn.	Kastenmeier	Kazen	Kildee	Kogovsek	Kostmayer	Kramer	LaFalce	Leach, Iowa	Lederer	Lehman	Leland	Levitas	Lewis	Long, Md.	Lujan	Luken	McHugh	Maguire	Markey	Marks	Marlenee	Marriott	Roybal	Mathis	Runnels	Russo	Sabo	Mattox	Mavroules	Mica	Mikulski
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Miller, Calif.	Mineta	Mitchell, Md.	Mitchell, N.Y.	Moakley	Moffett	Moorhead, Pa.	Mottl	Murphy, N.Y.	Murphy, Pa.	Natcher	Nelson	Nichols	Nolan	Nowak	Oberstar	Obey	Ottinger	Panetta	Patten	Patterson	Paul	Pease	Pepper	Perkins	Petri	Peyster	Quayle	Rahall	Rangel	Reuss	Richmond	Rinaldo	Roe	Rostenkowski	Roth	Rousselot	Roybal	Mathis	Runnels	Russo	Sabo	Santini	Scheuer	Schroeder
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NOES—168

Alexander	Andrews, N.C.	Andrews,	N. Dak.	Annunzio	Anthony	Archer	Atkinson	Badham	Bafalis	Bailey	Barnard	Bethune	Bouquard	Bowen	Breaux	Brooks	Brown, Ohio	Broyhill	Burgener	Burlison	Butler	Carter	Chappell	Cheney	Cleveland	Coleman	Clinger	Collins, Tex.	Corcoran	Cotter	Courter	Crane, Daniel	Daniel, Dan	Daniel, R. W.	Danielson	Dannemeyer	Devine	Dickinson	Dingell	Dornan	Duncan, Ore.	Duncan, Tenn.	Early	Emery	Erdahl	Erlenborn	Fary	Fenwick	Ferraro	Findley	Fish	Foley	Forsythe	Fountain	Frenzel	Gialmo	Gibbons
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Gingrich	Ginn	Goldwater	Goodling	Gradison	Gramm	Green	Grisham	Gudger	Hall, Tex.	Hammer-	schmidt	Hansen	Hefner	Heftel	Hightower	Hinson	Holt	Hubbard	Huckaby	Hyde	Ireland	Jeffries	Johnson, Calif.	Johnson, Colo.	Kelly	Kemp	Kindness	Lagomarsino	Latta	Leath, Tex.	Lent	Livingston	Lloyd	Loeffler	Long, La.	Lott	Lowry	Lungren	McClory	McCloskey	McCormack	McDade	McDonald	McEwen	McKay	McKinney	Madigan	Martin	Mazzoli	Michel	Miller, Ohio	Minish	Mollohan	Montgomery	Moore	Moorhead,	Calif.
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Schulze	Seiberling	Sensenbrenner	Shannon	Sharp	Simon	Smith, Iowa	Smith, Nebr.	Snyder	Solarz	Solomon	Spellman	Spence	St Germain	Stack	Staggers	Stangeland	Stewart	Stokes	Studds	Synar	Tauke	Thomas	Thompson	Traxler	Petri	Udall	Ullman	Vanik	Vento	Walgren	Watkins	Waxman	Weaver	Weiss	Williams, Mont.	Williams, Ohio	Wilson, Bob	Wilson, Tex.	Wolf	Wolpe	Yates	Yatron
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Murtha	Myers, Ind.	Neal	Nedzi	O'Brien	Pashayan	Preyer	Price	Pritchard	Pursell	Quillen	Rallsback	Ratchford	Regula	Rhodes	Ritter	Roberts	Robinson	Rose	Royer	Rudd	Satterfield	Sawyer	Sebelius	Shelby	Shumway	Shuster	Skelton	Slack	Snowe	Stanton	Stenholm	Stockman	Stratton	Stump	Swift	Symms	Taylor	Van Deerin	Vander Jagt	Walker	Wampler	White	Whitehurst	Whitley	Whittaker	Whitten	Wright	Wyatt	Wylie	Young, Alaska	Young, Fla.	Young, Mo.	Zablocki	Zefereetti
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NOT VOTING—45

Anderson, Ill.	Diggs	Lundine
AuCoin	Dixon	Murphy, Ill.
Beard, Tenn.	Drinan	Myers, Pa.
Bevill	Fazio	Oakar
Blaggi	Filippo	Pickle
Boggs	Flood	Rodino
Bolling	Ford, Mich.	Rosenthal
Bonker	Garcia	Stark
Brademas	Harsha	Steed
Brown, Calif.	Hillis	Treen
Carr	Holland	Volkmer
Chisholm	Horton	Wilson, C. H.
Collins, Ill.	Jones, N.C.	Winn
Conable	Leach, La.	Wirth
Crane, Philip	Lee	Wydler

□ 1730

The Clerk announced the following pairs:

On this vote:

Mr. Drinan for, with Mr. Jones of North Carolina against.

Messrs. ULLMAN, DE LA GARZA, EDWARDS of Alabama, and NICHOLS changed their votes from "no" to "aye."

Mr. DANIEL B. CRANE changed his vote from "aye" to "no."

So the amendment, as modified, to the amendment offered as a substitute for the amendment, as modified, as amended, was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Washington (Mr. McCORMACK) as a substitute for the amendment offered by the gentleman from Pennsylvania (Mr. KOSTMAYER), as modified, as amended.

□ 1740

The question was taken; and on a division (demanded by Mr. BAUMAN) there were—ayes 112, noes 15.

So the amendment offered as a substitute for the amendment, as modified, as amended was agreed to.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. KOSTMAYER), as modified, as amended.

The question was taken; and on a division (demanded by Mr. BAUMAN) there were—ayes 101, noes 35.

So the amendment, as modified, as amended, was agreed to.

The CHAIRMAN pro tempore. Are there further amendments to title VIII?

Mr. FUQUA. Mr. Chairman, I ask unanimous consent that all debate on the bill and all amendments thereto close in 20 minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. BAUMAN. Reserving the right to object, Mr. Chairman, the leadership has consistently told us that the House would conclude its business at certain hours and in the last 2 weeks we have repeatedly been unable to depend upon that commitment.

I am told that there are two amendments, one of which may be accepted, the other may go out on a point of order.

The last experience we had with a minor amendment involved an hour and a half of debate. We just concluded that.

Now, if we are going to be here for another 2 or 3 hours of debate, it could be very difficult.

Mr. FUQUA. Well, Mr. Chairman, let me say to the gentleman that we would at some point like to close the amendments to the bill.

Mr. BAUMAN. Well, but 5:30 has come and gone and we should have risen.

Mr. FUQUA. Once this agreement is reached, it could be the intention for the Committee to rise and reconsider the bill on Tuesday, if that is agreeable with the leadership.

Mr. BAUMAN. If the debate is limited now, we will rise immediately?

Mr. FUQUA. We would rise as soon as we could dispose of the amendments, if that were possible.

Mr. BAUMAN. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Objection is heard.

Mr. FUQUA. Mr. Chairman, I move to strike the last word.

I yield to the distinguished majority leader.

Mr. WRIGHT. Mr. Chairman, I think all of us realize that every Member has had ample opportunity to offer, to debate, to consider, and to vote upon amendments to this bill. Some 23 amendments have been adopted.

We have been advised by some of the Members that they intend to demand rollcall votes on each of these amendments when we go back into the Whole House.

Now, that is their privilege, if a sufficient number should arise and demand it, and I would not deny that privilege to the House; but obviously, tonight is not the time to do that and tomorrow is Friday and we have given a commitment as to an hour of adjournment and it would be in the nature of breaking good faith with Members if we were to have an interminably long series of votes tomorrow, putting off that period of adjournment when there are other things that are scheduled to come up tomorrow.

For that reason, as suggested by the gentleman from Florida, I think it would serve everybody's purpose, there being only two amendments remaining, one against which a point of order probably lies and the other which probably would be accepted, that we should conclude debate in 20 minutes. It would be our purpose, for that reason, to ask unanimous consent again that debate might be concluded in 20 minutes or 30 minutes, if that is more satisfactory, to any of the Members, so that we could get to the point that this debate would be terminated. We would know what we could do and what we would know would be that we will come back in on Tuesday and all Members may have whatever opportunity they wished to demand rollcall votes and we would have those rollcall votes on Tuesday when all the membership would expect to be present and it would be fair to all Members.

Mr. RHODES. Mr. Chairman, will the gentleman from Florida yield?

Mr. FUQUA. I would be happy to yield to the distinguished minority leader.

Mr. RHODES. Mr. Chairman, it is my understanding that there are only two amendments pending. I wonder why we do not go ahead and dispose of them.

It is my further understanding that

one of them may be accepted. I think we would probably make haste faster if we went ahead in the ordinary course of the business of the House and not worry about it.

Mr. FUQUA. Mr. Chairman, I yield to the gentleman from California (Mr. LAGOMARSINO), for the purpose of offering his amendment.

The CHAIRMAN pro tempore. The Chair will advise the gentleman from Florida that the gentleman from California must seek his own time for the purpose of offering an amendment.

Does the gentleman from Florida yield back his time?

Mr. FUQUA. Mr. Chairman, I yield to the majority leader.

Mr. WRIGHT. Mr. Chairman, the reason that it is going to be necessary at some point for us to establish a time certain upon the completion of debate and not an hour, like 6 o'clock or 6:15, but rather a certain number of minutes, is that it would be the purpose of the managers of the bill to rise with the matter unresolved, so that we could come back and we would know that when we came back, then the votes would come.

On the other hand, if we were to report the bill back, having completed action on all amendments and report the bill back to the House, under the rule we would have to begin voting now and there would be no alternative for us, except to stay tonight until we completed action on the entire bill, including all the amendments which lie between this point and final passage.

So, Mr. Chairman, I would ask unanimous consent that all debate on this bill and all amendments thereto may close in 20 minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. PEYSER. Mr. Chairman, reserving the right to object, and I would not like to object, but I would like to question something.

I have been waiting on this floor for 4 hours to offer an amendment that I think is critical to this bill. I would just like an assurance that I would have at least 5 minutes to present this amendment.

Now, if there are only two amendments and we are talking about 20 minutes, then there should be the opportunity of 5 minutes and I want an assurance of that.

I do not want to get shut out in 40 seconds.

Mr. FUQUA. Mr. Chairman, I yield to the majority leader.

Mr. WRIGHT. Mr. Chairman, I ask unanimous consent that all debate on this bill and all amendments thereto shall conclude in 20 minutes, with 5 of those minutes reserved for the gentleman from New York (Mr. PEYSER) and 5 reserved for the gentleman from California (Mr. LAGOMARSINO).

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. BAUMAN. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Objection is heard.

AMENDMENT OFFERED BY MR. LAGOMARSINO

Mr. LAGOMARSINO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LAGOMARSINO: Page 78, after line 9, insert the following new section and renumber subsequent sections accordingly:

LIMITATIONS ON STORAGE OF SPENT NUCLEAR FUEL IN THE TERRITORIES AND POSSESSIONS OF THE UNITED STATES OF AMERICA

SEC. 810. No funds authorized to be appropriated pursuant to this Act may be used for the transportation to or the interim, long-term, or permanent storage of spent nuclear fuel or high-level radioactive waste on any territory or possession of the United States or the Trust Territory of the Pacific Islands unless—

(1) the President submits to the Congress a report on the transfer at least 30 days before such transfer and on a day during which both Houses of the Congress are in session or either or both Houses are not in session because of an adjournment of three days or less to a day certain; or

(2) the President determines that an emergency situation exists with respect to such transfer and that it is in the national interest to make such transfer and the President notifies as soon as possible the Speaker of the House of Representatives and the President of the Senate of such transfer.

The provisions of this section shall not apply to the cleanup and rehabilitation of Bikini and Enewetak Atolls.

□ 1750

Mr. LAGOMARSINO. Mr. Chairman, this amendment requires the President to submit a report to Congress if he authorizes the transfer of spent nuclear fuel to U.S. territories or insular possessions.

As you may know, a specific island in the Pacific Basin is being considered for the interim storage of spent nuclear fuel. Except for a story that appeared in the Washington Post, however, we in Congress might not yet have known of the proposal. Even the Secretary of the Interior, who is specifically responsible for these territories and possessions, apparently did not know of the proposal.

For this reason, I decided to sponsor this amendment, which specifically requires the President to notify Congress 30 days before authorizing a policy of transferring the spent fuel.

The Congress has a special commitment to U.S. territories and possessions. The residents of the various States have the protection of two Senators, several Representatives, a Governor, and State and local legislators. The inhabitants of the territories have only the Secretary of Interior and the Congress and in some cases, nonvoting delegates. We have a unique and special responsibility for the welfare of those who live in the territories and possessions of the United States, and for the protection of the many uninhabited islands. This amendment fulfills part of the responsibility to these territories.

As I have stated, my primary concern in introducing this amendment is to insure that Congress is kept fully informed of the administration's policy toward the interim or permanent storage of spent nuclear fuel in U.S. territories or insular possessions. The Congress has a

unique responsibility to our territories and possessions, and cannot properly fulfill this responsibility without the cooperation of the executive branch.

In drafting this amendment, the transfer of nuclear spent fuel refers to the policy of transferring spent nuclear fuel to U.S. territories or possessions. It is not intended to require the President to submit a report to Congress on every single transfer of spent fuel that might take place. However, it is intended to include any change in the policy of transferring spent nuclear fuel to U.S. territories or possessions. For example, such changes would include, but not be limited to, changes in location, significant changes in quantity, or changes in the source of the spent fuel.

The transfer itself refers to the interim storage of spent nuclear fuel, and is intended to exclude incidental military transfers that might occur.

I urge adoption of the amendment.

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

Mr. LAGOMARSINO. I yield to the gentleman from Indiana.

Mr. SHARP. Mr. Chairman, on behalf of the Committee on Interior and Insular Affairs, I would like to indicate that the committee has no objection to this amendment.

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

Mr. LAGOMARSINO. I yield to the gentleman from New Mexico.

Mr. LUJAN. Mr. Chairman, I am a little concerned with this amendment. Does this mean that no kind of nuclear fuel can be transferred to any of the territories at any time unless the President declares an emergency? Is that the intent of the amendment?

Mr. LAGOMARSINO. No. No, it is only that if the President is going to transfer spent nuclear fuels to one of the territories, he has to advise Congress 30 days before he does it so we will be aware of that.

Mr. LUJAN. Mr. Chairman, may I ask, does that kind of protection hold true for any particular State? Suppose they want to take it out to California. Notwithstanding the California law, suppose they want to take it to California; does the President then have to give notification?

Mr. LAGOMARSINO. Mr. Chairman, my understanding is that under the present law that is the situation.

In any event, this amendment would not interfere with any law that would relate to the storage of nuclear fuel one way or another on lands other than the ones to which we are referring in the amendment.

Mr. LUJAN. So this is a prohibition against the storage of any nuclear fuels in the territories, so now by this amendment we are limiting storage to the 50 States?

Mr. LAGOMARSINO. No. Mr. Chairman, if I may reclaim my time, it is not a prohibition; it is merely a requirement that the President advise us that he is going to do so.

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

Mr. LAGOMARSINO. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, the gentleman from California (Mr. LAGOMARSINO) knows of course from his work as ranking minority member of the International Economic Policy and Trade Subcommittee of the important role that multinational storage facilities can play in reducing nonproliferation and security problems. I know the gentleman, who has labored long and hard on behalf of an effective nonproliferation policy, shares with me a concern about the slow pace of our efforts to provide meaningful alternatives to reprocessing. I simply wanted, then, to establish for the record that the gentleman's amendment is not intended to impede serious research and evaluation of promising multinational sites?

Mr. LAGOMARSINO. Mr. Chairman, the gentleman from New York is correct. Multinational storage can provide a secure interim resting place for fuel that might otherwise be prematurely reprocessed and available for explosive devices. I look forward then to an expeditious but careful evaluation of alternative storage sites, and I intend and the gentleman from New York intends to monitor such work closely. My amendment simply assures that the Congress be properly consulted on this matter, so that interests of the Pacific territories can be properly and fully taken into account.

Mr. BINGHAM. Mr. Chairman, I thank the gentleman from California (Mr. LAGOMARSINO) for his statement, and on that basis I support the amendment.

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

Mr. LAGOMARSINO. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, on behalf of the Committee on Interstate and Foreign Commerce, I am happy to support the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California (Mr. LAGOMARSINO).

The question was taken; and on a division (demanded by Mr. BAUMAN) there were—ayes 89, noes 11.

Mr. BAUMAN. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. The Chair will inform the gentleman that he has just counted for a division. A quorum is present.

Mr. BAUMAN. Mr. Chairman, I renew my demand for a recorded vote.

A recorded vote was refused.

So the amendment was agreed to.

AMENDMENT OFFERED BY MR. PEYSER

Mr. PEYSER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PEYSER: Page 79, after line 25, insert the following new title:

TITLE IX—REPORTS

PETROLEUM SUPPLY REPORTS

Sec. 901. During the period covered by this Authorization, Energy Information Administration shall obtain them from each oil company not later than the third day (excluding Saturdays, Sundays, and legal public holidays as specified in section 6103 of title 5, United States Code) of each calendar month beginning after the date of the enactment of this title a report specifying—

- (1) the total refining capacity of such company on the last day of the last previous calendar month;
- (2) the percentage of the total refining capacity of such company used during the last previous calendar month;
- (3) the estimated total refining capacity of such company during the calendar month during which the report is submitted;
- (4) the percentage of such estimated total refining capacity of such company estimated to be used during the calendar month during which the report is submitted;
- (5) the amount and location of all crude oil held or stored by such company, or under contract to such company, on the last day of the last previous calendar month;
- (6) the estimated amount and location of all crude oil to be held or stored by such company, or under contract to such company, during the calendar month during which the report is submitted;
- (7) the inventory of refined petroleum products of such company, by category of products, and the location of such products, on the last day of the last previous calendar month; and
- (8) the estimated inventory of refined petroleum products of such company, by category of products and the estimated location of such products, during the calendar month during which the report is submitted.

PUBLISHING AND MAKING PUBLIC REPORTS

Sec. 902. Notwithstanding section 552 of title 5, United States Code (known as the Freedom of Information Act), the Administrator of the Energy Information Administration shall publish, and make available to the public, each report submitted pursuant to section 901 not later than the sixth day (excluding Saturday, Sundays, and legal public holidays as specified in section 6103 of title 5, United States Code) of each calendar month during which such report is submitted.

DEFINITIONS

- Sec. 903. For purposes of this title—
- (1) the term "oil company" means—
 - (A) any importer into the United States of any crude oil or refined petroleum product; or
 - (B) any refiner in the United States; or
 - (C) any first purchaser of crude oil of more than 150,000 barrels per year who is incorporated in the United States, resides in the United States, or does business in the United States; and
 - (2) the term "United States" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and all other territories and possessions of the United States.

Mr. PEYSER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

Mr. BAUMAN, Mr. Chairman, I object. The CHAIRMAN pro tempore. Objection is heard.

The Clerk will continue to report the amendment.

The Clerk concluded the reading of the amendment.

POINT OF ORDER

Mr. LOEFFLER, Mr. Chairman, I make a point of order on the amendment.

The CHAIRMAN pro tempore. The Chair will hear the gentleman.

Mr. LOEFFLER, Mr. Chairman, this amendment is not germane. The amendment imposes new comprehensive mandatory information reporting requirements on oil companies, not the Department of Energy.

The bill which we are considering would merely authorize appropriations for the Department of Energy. The bill does not institute any new requirements directly on individuals.

Number two, Mr. Chairman, the amendment is also nongermane because it permanently changes the purpose, coverage, and extent of the Freedom of Information Act by making the Freedom of Information Act inapplicable to information gathered in reporting pursuant to proposed new comprehensive programs.

For these two reasons, Mr. Chairman, this amendment is not germane and should be ruled out of order.

The CHAIRMAN pro tempore. Does the gentleman from New York (Mr. PEYSER) wish to be heard on the point of order?

Mr. PEYSER. Yes, I do, Mr. Chairman.

The CHAIRMAN pro tempore. The Chair will hear the gentleman.

□ 1800

Mr. PEYSER, Mr. Chairman, I think the gentleman does not know that the amendment does not bring about any new requirement. I believe what he has read is the old amendment, which is the reason we had the amendment read now. It no longer says that it requires the oil companies to report. It simply says that the Energy Information Agency shall obtain the information from the oil companies, which is a perfectly legitimate and germane action to take.

On the question of violation of the Information Act, Mr. Chairman, I think that is something that the Congress is going to have to decide, whether this is appropriate or not, because what this amendment is doing is saying that the information from now on will be obtained by the Department of Energy from the oil companies so the Department of Energy is the source of the information to the Congress and not the American Petroleum Institute. So it would seem to me that this is a totally germane amendment as long as we no longer have the oil companies involved in the opening of this amendment to report, and the Information Act is something that the Members here have to vote on. It certainly is not a question of germaneness, and for that reason I believe the amendment should stand, Mr. Chairman.

The CHAIRMAN pro tempore. Does the gentleman from Ohio (Mr. BROWN) wish to be heard on the point of order?

Mr. BROWN of Ohio. I do, Mr. Chairman.

The CHAIRMAN pro tempore. The

gentleman from Ohio (Mr. BROWN) is recognized.

Mr. BROWN of Ohio, Mr. Chairman, there is some confusion at our desk because we are not clear about the precise language of the amendment being offered, since we did not have a copy of the amendment. We have two different copies that have been given to us at different times. But there is another point with reference to germaneness that appears to be in at least one or the other of these, and perhaps both, and that is the requirement in this authorization legislation that goes beyond the calendar year for which the authorization legislation is drawn.

If I read correctly, the first paragraph of the amendment says section 901, and it says the Administrator of the Energy Information Administration shall obtain from each oil company no later than the third day, excluding Saturdays, Sundays and holidays, of each calendar month beginning after the date of the enactment of this title, a report specifying, and leaves no terminal date for which this amendment would be applicable.

Mr. PEYSER, Mr. Chairman, I would ask the Clerk to read the opening again on this, because I think the gentleman is absolutely right in what he is saying. But that is not what the amendment says. If the Clerk would read that opening part, it would answer his question.

The CHAIRMAN pro tempore. Without objection, the first two lines of the amendment will be reread by the Clerk.

There was no objection.

The Clerk read as follows:

Sec. 901. During the period covered by this authorization, the Energy Information Administration shall obtain from each oil company not later than the third day . . .

Mr. BROWN of Ohio, Mr. Chairman, let me just observe that it is very difficult for us to attend to the germaneness problems of the amendments when we are not given the amendment so that we can understand what it is. I would appreciate in the future if the gentleman would follow the proper form.

Mr. PEYSER, Mr. Chairman, I appreciate the problem and I apologize to the gentleman for that inconvenience.

Mr. BROWN of Ohio, Mr. Chairman, the point of order is still appropriate because of the direction of the amendment to the Freedom of Information Act and the modification of that act, which is not a subject of this authorization.

The CHAIRMAN pro tempore (Mr. STUBBS). The Chair is prepared to rule.

The first point made by the gentleman from Texas is mooted by the change in wording, as noted by the gentleman from New York and the gentleman from Ohio, since the amendment addresses conduct of the Department and does not directly regulate the activities of others.

The amendment is prefaced by the words "During the period covered by this authorization * * *"

In the opinion of the Chair, it covers activities of the Department during the fiscal year in question and does not constitute a permanent change in law.

The reference to the Freedom of Information Act does constitute an indirect

waiver of its provisions, but it does not constitute a permanent change in that act. It refers only to public access to information obtained pursuant to section 901, which is a 1-year requirement.

The Chair, therefore, feels that the amendment is germane and overrules the point of order.

The gentleman from New York (Mr. PEYSER) is recognized for 5 minutes in support of his amendment.

Mr. PEYSER. Mr. Chairman, I again apologize for any inconvenience that was brought about by a change in the amendment before the gentleman had an opportunity to see it.

Mr. BROWN of Ohio. If the gentleman will yield, the inconvenience is not here; the inconvenience is for all of the Members in the Chamber because we now have four versions of the amendment as it was reputedly offered.

Mr. PEYSER. I thank the gentleman. I did specifically ask and had the Clerk read that portion of the amendment so that it would be clearly understood, even prior to asking unanimous consent. However, to come to the amendment—because I do not want to take any more time on this than anyone else—it seems to me that this amendment comes to the very heart of every problem we are facing in this country on the oil crisis. The people of this country have not believed the condition that exists in the oil industry in this country for the simple reason that no arm of the Federal Government has been directly responsible for gaining this information. Consequently, the information has been continually provided to us by the American Petroleum Institute, which makes absolutely no sense, plus the fact, Mr. Chairman, as has happened to the gentleman from Michigan, in the committee which he chairs, when he has requested information from the Department of Energy he has gotten information that is 2 or 3 months old by the time he has received it. I know, incidentally, after talking to the oil companies, that everything I am asking for they can comply with, in fact, they are complying with today, and it just seems to me that we ought to have that information available to the Congress of the United States immediately and not 3 months late.

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

Mr. PEYSER. I yield to the gentleman from South Carolina.

Mr. CAMPBELL. Mr. Chairman, I have listened with interest and, as I understand it, the gentleman is trying to get information. I am deeply concerned with the time schedule that the gentleman has in his amendment. I have looked at it. The 3-day period and the reporting thing in 6 days seems unreasonable, in that they could not comply with it. Although I am in some sympathy with what we are trying to do to get the proper information, I am deeply concerned that it is an undue restriction, and I have put an amendment at the desk to the gentleman's amendment that would lengthen this time period considerably. I hope that when that amendment is considered that the gentleman will be in favor of it.

Mr. PEYSER. What is the time limit in the gentleman's amendment?

Mr. CAMPBELL. I changed the gentleman's amendment, where the gentleman has the 3d day, to the 10th of the month, and I changed the gentleman's 6 days to 15.

Mr. PEYSER. Mr. Chairman, basically I would have no objection to that if it is a reasonable request and a reasonable time. I think the important thing is that this is going to be the first opportunity that the Members of the House of Representatives are going to have to vote on an issue that says that the oil companies basically have to be responding to the Department of Energy itself to provide the information on a monthly basis that tells them how much oil has been refined, how much crude is on hand, where this is, and by company, so we are no longer in the dark on this entire situation. I trust that this amendment will be passed and accepted.

Mr. FUQUA. Mr. Chairman, I renew my unanimous consent request.

I ask unanimous consent that all debate on the bill and all amendments thereto close in 15 minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. BAUMAN. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Objection is heard.

Mr. FUQUA. Mr. Chairman, I move that all debate on the bill and all amendments thereto conclude in 15 minutes.

The CHAIRMAN pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. FUQUA).

The question was taken; and on a division (demanded by Mr. BAUMAN) there were—ayes 93, noes 36.

RECORDED VOTE

Mr. BAUMAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered. The vote was taken by electronic device, and there were—ayes 267, noes 107, answered "present" 1, not voting 58, as follows:

[Roll No. 583]

AYES—267

Addabbo	Brown, Ohio	Duncan, Ore.
Akaka	Broyhill	Duncan, Tenn.
Albosta	Burgener	Early
Alexander	Burlison	Eckhardt
Ambro	Burton, John	Edgar
Andrews, N.C.	Burton, Phillip	Edwards, Ala.
Annunzio	Byron	English
Anthony	Carter	Ertel
Applegate	Cavanaugh	Evans, Ga.
Ashley	Chappell	Evans, Ind.
Aspin	Clay	Fary
Balley	Cleveland	Fascell
Baldus	Clinger	Fenwick
Barnard	Coelho	Ferraro
Barnes	Conyers	Fisher
Beard, R.I.	Corman	Fithian
Bedell	Cotter	Florio
Bellenson	D'Amours	Foley
Benjamin	Daniel, R. W.	Ford, Mich.
Bennett	Danielson	Ford, Tenn.
Bingham	Daschle	Forsythe
Blanchard	Davis, Mich.	Fountain
Boland	Davis, S.C.	Fowler
Boner	Dellums	Frost
Bonior	Derrick	Fuqua
Bouquard	Devine	Gaydos
Bowen	Dickinson	Gephardt
Brademas	Dicks	Gialmo
Breaux	Dingell	Gibbons
Brinkley	Dodd	Ginn
Brodhead	Donnelly	Glickman
Brooks	Dougherty	Gonzalez

Goodling	Marks	Sebelius
Gore	Marlenee	Seiberling
Gramm	Matsui	Shannon
Gray	Mattox	Sharp
Guarini	Mavroules	Shelby
Gudger	Mazzoli	Simon
Hall, Ohio	Mica	Skelton
Hall, Tex.	Michel	Slack
Hamilton	Mikulski	Smith, Iowa
Hance	Mineta	Smith, Nebr.
Hanley	Minish	Snyder
Harkin	Mitchell, Md.	Solarz
Harris	Moak, ey	Spellman
Hawkins	Mollohan	St Germain
Hefner	Montgomery	Stack
Heftel	Moorhead, Pa.	Staggers
Hightower	Mottl	Stanton
Hinson	Murphy, Pa.	Stenholm
Holt	Murtha	Stewart
Holtzman	Natcher	Stokes
Howard	Nedzi	Stratton
Hubbard	Nelson	Studds
Huckaby	Nolan	Stump
Hughes	Nowak	Swift
Hutto	O'Brien	Synar
Ichord	Oberstar	Taylor
Ireland	Obey	Thompson
Jenkins	Panetta	Traxler
Jenrette	Pashayan	Tribble
Johnson, Calif.	Patten	Udall
Johnson, Colo.	Patterson	Ullman
Jones, Okla.	Pease	Van Deulin
Jones, Tenn.	Pepper	Vanik
Kastenmeier	Perkins	Vento
Kazen	Peysers	Walgren
Kildee	Preyer	Watkins
Kogovsek	Price	Weaver
Kostmayer	Pritchard	Weiss
LaFalce	Quillen	White
Lagomarsino	Rahall	Whitehurst
Latta	Rallsback	Whitley
Leath, Tex.	Rangel	Whittaker
Lederer	Ratchford	Whitten
Lehman	Reuss	Williams, Ohio
Leland	Rhodes	Wilson, Bob
Lloyd	Richmond	Wilson, Tex.
Long, La.	Roberts	Wolf
Long, Md.	Roe	Wolpe
Lott	Rostenkowski	Wright
Lowry	Roybal	Wyatt
Luken	Rudd	Wyllie
McCloskey	Runnels	Yates
McCormack	Russo	Yatron
McHugh	Sabo	Young, Alaska
McKay	Santini	Young, Mo.
McKinney	Sawyer	Zablocki
Maguire	Scheuer	Zerfetti

NOES—107

Abdnor	Fish	Moore
Anderson, Calif.	Frenzel	Moorhead, Calif.
Andrews, N. Dak.	Gilman	Myers, Ind.
Archer	Gingrich	Neal
Ashbrook	Goldwater	Nichols
Atkinson	Gradison	Paul
Badham	Grassley	Petri
Bafalis	Grisham	Pursell
Bauman	Guyer	Quayle
Bereuter	Hammer-	Regula
Bethune	schmidt	Rinaldo
Buchanan	Hansen	Ritter
Butler	Heckler	Robinson
Campbell	Hollenbeck	Roth
Carny	Hopkins	Rousselot
Cheney	Hyde	Royer
Clausen	Jacobs	Schroeder
Coleman	Jeffords	Schulze
Collins, Tex.	Jeffries	Sensenbrenner
Conte	Kelly	Shumway
Corcoran	Kindness	Snowe
Coughlin	Kramer	Solomon
Courter	Leach, Iowa	Spence
Crane, Daniel	Lent	Stangeland
Daniel, Dan	Levitas	Stockman
Dannemeyer	Lewis	Symms
Deckard	Livingston	Tauke
Derwinski	Loeffler	Thomas
Dornan	Lujan	Vander Jagt
Edwards, Calif.	Lungren	Walker
Edwards, Okla.	McClory	Wampler
Emery	McDade	Williams, Mont.
Erdahl	McDonald	Young, Fla.
Erlenborn	Marriott	
Evans, Del.	Martin	
Findley	Mathis	
	Miller, Ohio	
	Mitchell, N.Y.	

ANSWERED "PRESENT"—1

de la Garza

NOT VOTING—58

Anderson, Ill.	Flippo	Murphy, N.Y.
AuCoin	Flood	Myers, Pa.
Beard, Tenn.	Garcia	Oakar
Bevill	Green	Oettinger
Biaggi	Hagedorn	Pickle
Boggs	Harsha	Rodino
Bolling	Hillis	Rose
Bonker	Holland	Rosenthal
Broomfield	Horton	Satterfield
Brown, Calif.	Jones, N.C.	Stark
Carr	Kemp	Steed
Chisholm	Leach, La.	Treen
Collins, Ill.	Lee	Volkmer
Conable	Lundine	Waxman
Crane, Phillip	McEwen	Wilson, C. H.
Diggs	Madigan	Winn
Dixon	Markey	Wirth
Dcwney	Miller, Calif.	Wydler
Drinan	Moffett	
Fazio	Murphy, Ill.	

□ 1820

So the motion was agreed to.

The result of the vote was announced as above recorded.

● Mr. LIVINGSTON. Mr. Chairman, one critic of last week's vote to decontrol gasoline complained that this Congress was becoming known as the decontrol Congress. I hope he is right, because our economy—and our energy situation—is showing us the results of bureaucratic tampering with market forces. We can try to fool the law of supply and demand, but that is like trying to fool the law of gravity. Sooner or later it catches up with us. In the energy field, it caught up with us in the form of gasoline lines, dependence on OPEC oil, and unpredictable price increases. The tragedy is that so many of us saw it coming. As Nobel Prize winner Milton Friedman states:

Do you want to produce a shortage of any product? Simply have government fix and enforce a maximum price on the product which is less than the price which would otherwise prevail.

Some of my colleagues claim to champion consumers by advocating controls on crude oil, heating oil, or gasoline. But controls on domestic petroleum products mean shortages of those products. And domestic shortages must be made up by imports—at whatever price the sheiks wish to charge. And when the sheiks—or the shah—have political troubles, the consumer gets the worst of both worlds—skyrocketing prices and gasoline lines.

In the long run, consumers and producers will be better off in an energy market where supplies and prices are determined by the market. Doing away with the DOE gasoline allocation system will be a much more effective move to eliminate gasoline lines than any elaborate rationing plan we can dream up. As a matter of fact, it is now fairly common knowledge that the allocation system—with its constantly changing set-asides, priorities, and base periods—actually caused the gasoline lines. It was the regulations, not the oil companies, which allocated gasoline according to places where the demand existed in 1977 or 1978, instead of where it was needed in the spring of 1979.

Decontrol will mean higher prices—although nothing even approaching the instant \$2 per gallon scare stories. As for its inflationary impact, I call your attention to the fact that both Germany

and Japan have been paying world market prices for years. And their inflation rates are one-third to one-half of ours. Decontrol of crude oil will also mean millions more barrels per day of crude oil, produced by Americans in America. Decontrol of gasoline will mean that refiners can afford to invest in unleaded refining capacity to alleviate a pending shortage. Decontrol of gasoline means that gasohol and substitute fuels will be more competitive, both in the marketplace and for investment capital. And decontrol will mean real conservation. Consumers conserve when it is in their best economic interest to do so, not because Jimmy Carter or anyone else politely asks them to do so.

In closing, I wish to make one point that is not often heard. And that is that in the energy industry, it is the little guy who really feels the brunt of the bureaucratic maze. The big integrated companies and multinationals can cope. They simply shift their investments overseas. Or they hire swarms of attorneys and accountants to combat the swarms of Government attorneys and accountants. But what about the independent producers who drill 80 to 90 percent of the exploratory wells in this country—the guys who try to run one or two rigs on a shoestring without a 30-man corporate legal staff? Or what about the independent service station dealer who is required to comply with the DOE regulations on calculating ceiling prices, a regulation that has changed more than 100 times since August 19, 1973?

To be sure, decontrol of crude oil and petroleum products is no instant cure for an energy market suffering from decades of Federal manipulation. But we need to give it a chance to work. In the long run, it is our only chance.●

● Mr. DRINAN. Mr. Chairman, I wish to commend the gentleman from Pennsylvania (Mr. KOSTMAYER) and the gentleman from my home State of Massachusetts (Mr. CONTE) for offering this amendment which would require the Energy Department to procure at least 25 percent of research and development projects and services from small businesses.

It is appropriate that small businesses, which often face discriminatory rates by power utilities, be given the opportunity to assist this country in solving its energy problems. And it is only fair that small businesses, which employ 58 percent of our work force and account for 43 percent of our gross national product, be guaranteed access to Department of Energy research, development, and demonstration contracts.

I became aware of the necessity of guaranteeing this access through my sponsorship with the gentleman from Iowa (Mr. BEDELL) and the gentleman from Wisconsin (Mr. REUSS) of H.R. 2447, the Small Business Procurement Reform Act. Standing between a small business and any Federal contract on which it wishes to bid is a mountain of paperwork. Large firms often have large staffs well versed with bid specifications and who have early and complete notification about prospective contracts. The

interests of small businesses need to be protected by legislation such as this amendment.

In the 95th Congress I joined with the gentleman from Iowa (Mr. BEDELL) and 85 other Members of the House in sponsoring H.R. 3984, a bill to guarantee a substantial role for small businesses in the development, demonstration, and marketing of solar energy equipment and energy-related inventions. I found that the changing distribution of solar R.D. & D. funds pointed toward favored treatment of large corporations which are already dominating the solar energy field.

The General Accounting Office has found that DOE's structure and function unfortunately results in large corporations being the recipients of most DOE contracts. This amendment would assure that small businesses have a fair share of the remaining contracts.

Finally, Mr. Chairman, I would like to cite a National Science Foundation study that found that small businesses produce 24 times more major innovations per research and development dollar expended than do large firms. This amendment can lead not only to a better investment of Federal R.D. & D. funds, but also to the energy innovations that we desperately need and that small businesses will gladly provide if they are provided adequate funding.●

● Mr. GORE. Mr. Chairman, not many years ago, the idea of controlled nuclear fusion seemed a distant dream, a wish of grand dimensions and little likelihood of success. Today all that is changed. Today we can say with confidence that the work of laboratories around the world—including our own National Laboratory at Oak Ridge—will make possible a day in which many of us will see the lamps which light this Chamber powered by the force which kindles the stars.

Or, rather, we could confidently say so except for one little problem, a problem so foolish in so many ways that it would be funny were the need for a secure and plentiful energy course not so vital for our Nation's future. The problem? We cannot have controlled fusion without helium, and this Nation is squandering its reserves of helium at an alarming rate.

We will need helium to cool the giant lasers and power the magnets which will generate the fields to contain fusion reactions. We will need liquid helium to cool the reacting core and carry the heat from the chamber to the turbines. But our helium reserves are mixed with natural gas. And therein lies our problem.

Helium can be separated from natural gas by a relatively simple procedure, and today nearly 1 billion cubic feet are extracted and sold each year to be used in jobs as diverse as lifting blimps and filling divers' air tanks. But far more helium is extracted and simply vented into the atmosphere because it cannot be sold or not extracted at all and left in the gas stream to dissipate when the gas is burned for fuel. What goes into the atmosphere is lost to us and what remains is a steadily shrinking pool.

By the beginning of the next century

this Nation will have spent more than \$15 billion to learn how to build a prototype of a commercial fusion reactor. We will be near the end of the long road toward true energy independence for millenia to come. But at just that time, if we do not change our course, we will be nearing the end of our reserve supply of the helium necessary to let fusion happen. Fifteen billion taxpayer dollars will have been wasted. Worse still, we will have squandered a vital resource, virtually foreclosed a crucial energy technology, and guaranteed the next generation of Americans a power crisis more hopeless and unnecessary than the one we struggle against today.

Beginning with the passage of the Helium Act in 1960, the Federal Government purchased and stockpiled available helium. But in 1973 the Nixon administration quietly terminated the program, calling the termination an economy measure. If ever there was a false economy, this is it.

We can correct that mistake and preserve the possibility of a secure energy future for this Nation. But we must act soon. As many of my colleagues know, the distinguished chairman of the Energy and Power Subcommittee has introduced legislation to establish a Federal helium stockpiling program on a new and sounder basis. I am happy to have the opportunity today to urge my colleagues to join me in support of that effort.

Too often, as we all well know, this House acts only when the crisis is upon us, and too often action taken in the midst of a crisis comes too late to help. Such will be the case with helium. If we wait until the problem has become obvious to all, the solution will be floating unreachable in the atmosphere above our heads. By acting now we can leave the next generation a more secure and stable future. They will not forgive us if we fail. ●

Mr. DINGELL. Mr. Chairman, I move that the Committee do now rise.

The CHAIRMAN pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. DINGELL).

The question was taken; and on a division (demanded by Mr. BAUMAN) there were—ayes 82, noes 23.

So the motion was agreed to.

PARLIAMENTARY INQUIRY

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

The CHAIRMAN pro tempore. The gentleman will state his parliamentary inquiry.

Mr. BAUMAN. Mr. Chairman, how many responded to that division?

The CHAIRMAN pro tempore. One hundred and five.

Mr. BAUMAN. I thank the Chairman. Accordingly the Committee rose; and the Speaker pro tempore (Mr. NATCHER) having assumed the Chair, Mr. STUDDS, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3000) to authorize appropriations to the Department of Energy for civilian programs for fiscal year 1980 and fiscal

year 1981, and for other purposes, had come to no resolution thereon.

LEGISLATIVE PROGRAM FOR FRIDAY, OCTOBER 19, 1979

Mr. MYERS of Indiana. Mr. Speaker, I would ask to address the House for the purpose of inquiring what the program will be tomorrow, and I yield to one of the leadership of the majority side for the purpose of inquiring about the program for tomorrow.

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. MYERS of Indiana. I yield to the gentleman from Washington.

Mr. FOLEY. Mr. Speaker, tomorrow the House will meet at 10 a.m. and take up H.R. 2172, the International Sugar Stabilization Act. It is an open rule, and the rule has already been adopted. It will be for general debate only, general debate of 2 hours. We will not proceed to any consideration of amendments.

□ 1830

The House will consider H.R. 3683, Consolidated Farm and Rural Development Act, with an open rule and 1 hour of debate. We will attempt to finish that bill.

If possible, the House will consider H.R. 2218, Endangered Species Act authorizations. We will consider the rule only.

Following that, we will consider H.R. 4955, supplemental refugee assistance authorization, with an open rule and 1 hour of debate. We will consider the rule only.

Mr. MYERS of Indiana. The program provides that we would adjourn by 3 p.m. The past two Fridays, as we all remember, went into the late hours on Friday evening, which caused many problems for those who were trying to catch planes.

Is there any expectation or possibility that we will go beyond 3 o'clock tomorrow?

Mr. FOLEY. As the majority leader, the gentleman from Texas (Mr. WRIGHT) indicated earlier, it is the intention of the leadership to adhere to the 3 o'clock adjournment on tomorrow.

Mr. MYERS of Indiana. It was the intention to adjourn at 5:30 today, and it is now 6:30. I hope that will be the case, because I think everyone is willing to stay here and work if there is something important, but as the gentleman described the program tomorrow, it does not seem to have anything too pressing.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. MYERS of Indiana. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, can the gentleman tell us when it is the intention to bring up the sugar bill for amendment?

Mr. FOLEY. It is the present intention to bring it up on Tuesday.

Mr. ROUSSELOT. I thank the gentleman.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2727, MODIFYING METHOD OF ESTABLISHING QUOTAS ON IMPORTATION OF CERTAIN MEAT

Mr. ZEFERETTI, from the Committee on Rules, submitted a privileged report (Rept. No. 96-525) on the resolution (H. Res. 454) providing for the consideration of the bill (H.R. 2727) to modify the method of establishing quotas on the importation of certain meat, to include within such quotas certain meat products, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT S. 1030, AUTHORIZING PRESIDENT TO CREATE EMERGENCY PROGRAM TO CONSERVE ENERGY

Mr. ZEFERETTI, from the Committee on Rules, submitted a privileged report (Rept. No. 96-528) on the resolution (H. Res. 457) waiving certain points of order against the conference report on the Senate bill (S. 1030) to authorize the President to create an emergency program to conserve energy, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2313, AMENDING FEDERAL TRADE COMMISSION ACT

Mr. ZEFERETTI, from the Committee on Rules, submitted a privileged report (Rept. No. 96-527) on the resolution (H. Res. 456) providing for the consideration of the bill (H.R. 2313) to amend the Federal Trade Commission Act to extend the authorization of appropriations contained in such act, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3948, AMENDING FEDERAL AVIATION ACT OF 1958

Mr. ZEFERETTI, from the Committee on Rules, submitted a privileged report (Rept. No. 96-526) on the resolution (H. Res. 455) providing for the consideration of the bill (H.R. 3948) to amend the Federal Aviation Act of 1958 to eliminate the age limitation presently imposed on certain pilots of aircraft, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2335, PROVIDING FOR RESEARCH, DEVELOPMENT, AND EVALUATION PROGRAM TO DETERMINE FEASIBILITY OF COLLECTING IN SPACE SOLAR ENERGY

Mr. ZEFERETTI, from the Committee on Rules, submitted a privileged report

(Rept. No. 96-529) on the resolution (H. Res. 458) providing for consideration of the bill (H.R. 2335) to provide for a research, development, and evaluation program to determine the feasibility of collecting in space solar energy to be transmitted to Earth and to generate electricity for domestic purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR PRINTING OF HOUSE DOCUMENT ENTITLED "THE CELLER-KEFAUVER ACT: THE FIRST 27 YEARS"

Mr. HAWKINS, from the Committee on House Administration, submitted a privileged report (Rept. No. 96-530) on the resolution (H. Res. 196) to provide for the printing as a House document of the publication entitled "The Celler-Kefauver Act: The First 27 Years," which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION AUTHORIZING PRINTING OF PROCEEDINGS INCIDENT TO PRESENTATION OF PORTRAIT OF THE HONORABLE ROBERT N. GIAIMO

Mr. HAWKINS, from the Committee on House Administration, submitted a privileged report (Rept. No. 96-531) on the resolution (H. Res. 235) to provide for the printing of the proceedings incident to the presentation of a portrait of the Honorable ROBERT N. GIAIMO, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION AUTHORIZING PRINTING AS HOUSE DOCUMENT STAFF REPORT TO COMMITTEE ON FOREIGN AFFAIRS ENTITLED "THE ASSASSINATION OF REPRESENTATIVE LEO J. RYAN AND THE JONESTOWN, GUYANA TRAGEDY"

Mr. HAWKINS, from the Committee on House Administration, submitted a privileged report (Rept. No. 96-532) on the resolution (H. Res. 349) providing for the printing as a House document of the staff report to the Committee on Foreign Affairs entitled "The Assassination of Representative Leo J. Ryan and the Jonestown, Guyana Tragedy," which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION APPROVING PRINTING OF ADDITIONAL COPIES OF REPORT ACCOMPANYING DEFENSE PRODUCTION ACT AMENDMENT AND EXTENSION

Mr. HAWKINS, from the Committee on House Administration, submitted a privileged report (Rept. No. 96-533) on the resolution (H. Res. 396) approving the printing of additional copies of the report accompanying the Defense Pro-

duction Act Amendment and Extension, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION AUTHORIZING PRINTING OF REPORT OF OFFICIAL VISIT BY SPEAKER'S DELEGATION TO UNION OF SOVIET SOCIALIST REPUBLICS

Mr. HAWKINS, from the Committee on House Administration, submitted a privileged report (Rept. No. 96-534) on the resolution (H. Res. 397) providing for the printing of the report of the official visit by the Speaker's delegation to the Union of Soviet Socialist Republics, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION APPROVING PRINTING OF ADDITIONAL COPIES OF PUBLICATION ENTITLED "A GUIDELINES HANDBOOK ON FEDERAL LOAN GUARANTEE PROGRAMS"

Mr. HAWKINS, from the Committee on House Administration, submitted a privileged report (Rept. No. 96-535) on the resolution (H. Res. 402) approving the printing of additional copies of the publication entitled "A Guidelines Handbook on Federal Loan Guarantee Programs," which was referred to the House Calendar and ordered to be printed.

REPORT ON CONCURRENT RESOLUTION PROVIDING FOR PRINTING ADDITIONAL COPIES OF COMMITTEE PRINT ENTITLED "7TH EDITION OF THE IMMIGRATION AND NATIONALITY ACT WITH AMENDMENTS AND NOTES ON RELATED LAWS"

Mr. HAWKINS, from the Committee on House Administration, submitted a privileged report (Rept. No. 96-536) on the concurrent resolution (H. Con. Res. 184) providing for printing additional copies of the committee print entitled "7th Edition of the Immigration and Nationality Act with Amendments and Notes on Related Laws," which was referred to the House Calendar and ordered to be printed.

CO-OP MONTH

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

Mr. DASCHLE. Mr. Speaker, in this day when Government programs have lost the confidence of the American people, it is worthwhile to reflect on a program which is an outstanding example of how Government dollars can work to directly benefit people. The Rural Electric Cooperative system is a self-help program which has done exactly what it was expected to do—provide high quality electric service to rural Americans at a price they can afford.

In the mid 1930's, as few as 1 out of every 10 homes in rural America was served with electricity. In fact, in several European countries, barns were served with electricity before millions of rural American families had a light bulb in their homes.

I am pleased that South Dakotans were among the pioneers in the rural electrification movement. President Franklin D. Roosevelt created the Rural Electrification Administration in 1935, and in 1936 the Congress passed the rural electrification program to assist rural Americans in obtaining affordable electrical service by providing low-interest, long-term Government-backed loans. On November 29, 1935 the first South Dakota rural electric cooperative was filed with the Secretary of State in Pierre for the Clay-Union Rural Electric Cooperative by E. J. Manning, Leonard Sudger and K. C. Strong. Six months later they received their first loan from the Rural Electrification Administration, and on October 3, 1937 the first line was energized. They and countless others have spurred the rural electric movement forward in South Dakota and the Nation.

My parents still talk about the day when their farms in Faulk and Edmunds Counties were hooked up by REA. In the thirties when the rural electrification system began, fewer than 10 percent of the rural areas were served with electricity. Now, in South Dakota alone, there are 33 rural electric cooperatives serving 79,000 consumer-members, and nationwide 25 million consumer-members are served by the rural electric systems. The co-ops have shown outstanding success in reaching rural individuals and communities in isolated areas, and I want to take this opportunity to commend the rural electric cooperatives for their outreach.

The most outstanding feature of the rural electric cooperatives is that they provide high quality electric service to the consumer-members at cost. The co-ops are owned and operated by the people they serve, and every consumer-member has a voice in the operation of the co-op through his vote at the annual meeting of his rural electric cooperative.

Just as commendable is the community service and information which rural electrics provide to keep their consumer-members, as well as others in the communities they serve, abreast of the latest developments in the energy field. Programs on winterization and energy conservation benefit us all.

The rural electrics, with their fingers on the pulse of the people, are also a step ahead of the Federal Government in their willingness to pursue alternative means of generating electrical and other forms of energy.

October is co-op month. I join the South Dakota rural electric cooperatives in their observance of co-op month, and commend them for their grassroots involvement which has developed the rural electric systems and continues to make them pioneers in the field of energy service to consumers.

U.S. ARMED FORCES: SILENT PARTNERS IN DISASTER RELIEF

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

Mr. LAGOMARSINO. Mr. Speaker, the combined effects of Hurricanes David and Frederic during August of this year has resulted in a major catastrophe for the island nations of Dominica and the Dominican Republic. The resulting losses in both human and economic terms total several thousand dead and injured, hundreds of thousands homeless and extensive damages exceeding \$1 billion.

In response to this catastrophe, which has been described as one of this Century's most devastating hurricane disasters, elements of the United States Army, Air Force, Navy, including the Seabees, Marines and Coast Guard undertook a major humanitarian role in providing disaster relief to the affected Caribbean area. Under adverse conditions they rescued victims, delivered food and medical supplies, repaired vital highways and hospitals and helped restore communications and utilities to the victims of this disaster.

Working hand-in-hand with host countries, these forces use their training and equipment to provide the all important initial relief assistance which enables the more traditional disaster relief agencies to respond. Often arriving on the scene even before the disaster has ended, their heroics should not go unrecognized. To this end, at least one American serviceman gave his life with many others injured in an attempt to airlift emergency aid during hazardous weather.

This important public service aspect of our Nation's defense forces often goes on unnoticed. These men and women are a part of the continuing tradition of this nation's proud history of unselfish humanitarian relief and rescue efforts.

At a time when the United States is seeking to reassure its neighbors and allies throughout the region of our continued commitment and concern, the magnificent contributions of our Armed Forces speak louder than any words. In stark contrast to the recent increase of militarisms by other nations in the area, the United States has once again demonstrated its resolve to protect the independence and viability of our allies in the Caribbean.

I urge my colleagues to join with me in recognition of the invaluable contribution being made by our Armed Forces in disaster assistance and in encouraging their increased participation in the future.

EXECUTIVE ORDER ON COORDINATION OF FEDERAL CONSUMER PROGRAMS

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

● Mr. HORTON. Mr. Speaker, the creation of an independent consumer agency

has long been a goal of mine. I fought hard for such an agency in the 95th Congress and preceding Congresses. My efforts, and those of my colleagues who supported and support the concept, were thwarted by a combination of powerful business lobbying and congressional disinclination to establish another agency. I believed, and continue to believe, that such an agency would greatly enhance the responsiveness of Government agencies to the needs of ordinary citizens.

After the consumer agency bill was defeated last year, President Carter asked his Special Assistant for Consumer Affairs, Esther Peterson, to review agency consumer affairs activities throughout the Government and to develop recommendations for their improvement. Mrs. Peterson convened an 80-member Federal task force to conduct that analysis, and solicited the views of hundreds of consumer, farm, labor, and business groups. On Wednesday, September 26 in a ceremony at the White House, President Carter signed the embodiment of those recommendations: An Executive order to improve the effectiveness, management, and coordination of Federal consumer programs.

In my view, this order is a major step forward. I should add, however, that the order is not—and indeed, is not intended to be—a substitute for an independent consumer agency. Such an agency would have powers that could not be included in the Executive order, such as the authority to seek judicial review of agency actions.

I would like to commend Esther Peterson for her efforts in developing the Executive order, and to ask that Mrs. Peterson's statement at the signing ceremony be placed in the RECORD. The text follows:

REMARKS OF ESTHER PETERSON AT THE SIGNING OF THE EXECUTIVE ORDER ON FEDERAL CONSUMER PROGRAMS

As many of you know, I have been a part of the American consumer movement since its very early days. I have seen it grow in size and influence, and I would like to think that I have contributed to that growth. There is no doubt in my mind, and I'm sure no doubt in yours, that the consumer movement has improved the quality of American life and has helped to reorder our national priorities. All around us we can see evidence of the consumer movement's impact: recalls and bans of dangerous and defective products, a national commitment to preservation of a liveable environment, an increasing accountability of corporations for the social consequences of their actions. A great deal of progress has been made by and because of the consumer movement.

But until April of last year, no President had ever made the consumer interest an explicit and a regular component of White House decision-making. And until today, no President had ever directed Federal agencies to assure that the consumer interest is an integral part of their decision-making.

By issuing the Executive Order on Consumer Affairs, President Carter has given those of us in the consumer movement a tremendous opportunity. He has created a framework for us to use to work with and within the agencies of the Executive Branch on behalf of consumer needs.

I am hopeful that in the years to come, today will be looked upon as something of

a turning point in the history of the American consumer movement. For today the consumer interest has been recognized for what we always knew it was, or should be—a vital component in the making of domestic policy. And it has been recognized in the best of ways—in an order that requires agencies to act on that recognition, and that spells out the steps needed to assure that the consumer viewpoint is effectively integrated into the structures and processes of government.

The Order requires each agency to develop a consumer program that includes the following five elements:

First, a professional consumer affairs staff authorized to participate on behalf of consumer interests in the development and review of all agency rules, policies, programs, and legislation;

Second, effective procedures for participation by consumers themselves in the development and review of all agency rules, policies, and programs, including provisions to assure that consumer concerns are adequately analyzed and considered in agency decision-making;

Third, development of informational materials for consumers;

Fourth, consumer affairs training for agency staff members and, where appropriate, technical assistance to consumers and their organizations; and,

Fifth, procedures for systematically investigating and responding to consumer complaints, and for incorporating analysis of those complaints into the development of agency policies.

Standards for each of these elements are briefly set out in the Order.

The head of each agency is required under the Order to designate a senior-level official to work full-time on policy direction and oversight of the agency's consumer affairs activities. The designated official will report directly to the head of the agency, and will advise the agency head of the potential consumer impact of policies under consideration within the agency.

Each agency is to prepare a draft program for complying with the requirements of the Order. These draft consumer programs are to be published in the Federal Register by November 25. After the plans have been revised in light of public comment, they are to be submitted to me for final approval before they go into effect.

Within the next week, I will be sending to the heads of Executive agencies guidelines for the preparation of these consumer programs. The guidelines will indicate in some detail the types of information that must be set forth in the agency consumer programs in order to permit effective review by the public and by my staff.

The Order also requires each agency to submit, as part of its annual budget proposal, a separate statement of the level of funding to be allocated to each of the five major categories of consumer affairs activities identified in the Order. For the first time, consumer affairs expenditures will be broken out of an agency's overall budget proposal, so that the adequacy of these expenditures can be evaluated. I and my staff will review the proposed funding levels for these activities, and will forward our assessments to the Director of the Office of Management and Budget.

The Order will also set into motion the development of a separate job series for consumer affairs personnel, and special programs for their recruitment and training. This will enhance opportunities for professional development and career advancement in the consumer affairs field, and will assure that consumer affairs personnel are accorded the recognition and the opportunities that they deserve.

Finally, the Order creates a Consumer Affairs Council—an interagency body to develop new consumer affairs initiatives and to coordinate government activity under the Order. President Carter has asked me to chair the Council.

This Order is based on the work of an 80-member Federal task force that I convened to analyze consumer affairs activities throughout the government and to develop options for their improvement. The task force consulted with literally hundreds of consumer, labor, farm, and business groups, and with Federal consumer affairs employees. I'd like to thank the members of the task force for their hard work and for the quality of their analysis. I look forward to working with them in the months ahead on the implementation of this Order.

I'd especially like to express my appreciation to the director of the task force, Lee Gray of the consumer affairs office of the Department of Transportation. She did an exceptional job of organizing and running this very large undertaking, and I am grateful to her.

As the President noted in his remarks, this Administration has fought for the creation of an independent consumer agency to represent consumer interests before other agencies and in the courts. This is still one of our priorities. We believe that the Order being issued today would complement an independent consumer agency.

I'd like to say just a few words about how the Order differs from the Ford Consumer Representation Plans issued several years ago. The most fundamental difference is that the Executive Order establishes government-wide standards of performance that agencies must comply with; in many cases this will require substantial changes in agency procedures, and an upgrading and expansion of agency consumer affairs activities. By contrast, the so-called Ford plans were essentially just statements of what agencies were already doing. There are other significant differences as well:

The Executive Order requires that each agency have a senior official working full-time on oversight of consumer affairs activities and reporting directly to the head of the agency; the Ford venture did not require this or any other structural change.

The Order sets up a mechanism for continuous monitoring and evaluation of agency performance; the Ford plans did not.

The Order requires the submission of separate budget data for consumer affairs activities so that the adequacy of expenditures for these activities can be assessed; the Ford plans did not provide for budget reviews.

In short, unlike the Ford plans, the Executive Order is a genuine step, and a major step, toward making government more responsive to consumer needs. ●

THIRD DISTRICT OF NEBRASKA FIGHTS TO KEEP ITS DOCTORS

The SPEAKER pro tempore (Mr. ANTHONY). Under a previous order of the House, the gentlewoman from Nebraska (Mrs. SMITH) is recognized for 30 minutes.

Mrs. SMITH of Nebraska. Mr. Speaker, I rise today to bring to the attention of the entire House, a matter of the utmost urgency to many thousands of citizens in the Third District of Nebraska.

Three counties in Nebraska, facing chronic and critical physician shortages, have acquired the services of five foreign

doctors to meet their needs. One by one, as their student visa status drew near expiration, these doctors, together with their hospital administrators and the people of the communities, came to me to ask for my assistance that they might be able to stay in the areas and develop a practice. These are not physicians who have made a quick jump to Nebraska to get their hands on a permanent visa. Four of the five are married with children born in the United States. Two of the five have made arrangements to purchase the medical clinic in town, which had been closed since 1977, when the town's last doctor retired. Four of the five have made arrangements to purchase homes in town. All of the five belong to parishes and civic groups. They are well-respected and deeply cared for by the people they wish to serve. Two of the doctors, a husband and wife team, are the only people in town who can communicate with some 50 migrant Nicaraguan workers.

All of these five physicians have been scheduled deportation hearings. Three of the five have been given orders to voluntarily depart by mid-December of this year. The other two, the couple in Rushville, have their hearing set for October 23. The most they can hope for is a 90-day period, at the end of which they, too, will have to depart.

Mr. Speaker, on behalf of these fine communities in my Third District of Nebraska, I have introduced private bills to make it possible for these five physicians to serve these areas where their knowledge and skill are so desperately needed.

I speak of H.R. 1892—for the relief of Dr. and Mrs. Teodoro Ando; H.R. 5068—for the relief of Dr. and Mrs. Samuel K. K. Chung; H.R. 5455—for the relief of Dr. Estela Chan; and H.R. 5456—for the relief of Dr. Rogelio Narvaez and Dr. Perlita Acuna Narvaez.

I am gratified that the distinguished Judiciary Subcommittee on Immigration, Refugees, and International Law, will be holding hearings on these doctors and other meritorious bills at 10 a.m. Wednesday.

If in its wisdom the subcommittee requests a report on my bills from the Department of Justice, a stay of deportation can be issued on the doctor's behalf. In turn, while the report is pending, these doctors can obtain permission from the Immigration and Naturalization Service to begin their practice. I have letters and petitions with thousands of signatures of support from each of these communities, from each of these areas' medical boards and hospital administrators, from professionals in each of these communities, and requests from the State health systems agency and even from the Governor of Nebraska to do all that I can to insure the stay of these fine doctors.

Each of these doctors has a permanent Nebraska medical license—a State in which one must pass all medical exams with a 75 percent, or above, average and which issues no temporary licenses to

foreign doctors. All five of these doctors have passed all medical exams and have taken the VQE and are awaiting the results. Of the five, all are certified general practitioners, two are also anesthesiologists, one has trained as a radiologist/urologist, and the fifth has trained in pediatrics and obstetrics/gynecology.

The communities these doctors will serve are not interested in being used as havens by foreign medical graduates to provide them with quick access to a permanent residency visa. These are areas in critical need of quality, primary medical care. There is substantial evidence available to support this claim. To highlight some of the most significant facts regarding these areas, the following statistics have been provided by the Greater Nebraska Health Systems Agency and by HEW—Health Resources Administration. A word of caution should be stated in regard to the designation of an area by HEW, that it is or is not a physician shortage area. The ratio for such designation is at least 3,500 people to every 1 primary care physician. While in New York City, that many people can be found within perhaps a few city blocks, in Nebraska it is quite another story. For example, Cherry County, mentioned below in connection with the doctors. Narvaez, has a population of 6,400 and 3 doctors, thus leaving it with a ratio of about 2,130 to every 1 doctor and therefore, not qualifying it as a physician shortage area. But Cherry County encompasses 6,846 square miles. Thus each of these doctors, theoretically, is responsible for an area encompassing approximately 2,282 square miles. I would hardly call that adequate medical care.

RE H.R. 5068—FOR THE RELIEF OF DR. AND MRS. SAMUEL K. K. CHUNG

According to HEW standards prepared by the Health Resources Administration, Dawes County is neither a physician shortage area, nor medically underserved. However, according to the Health Systems Agency of Nebraska for a population of 10,078, there are seven physicians, one of whom is the physician mentioned above that is considering moving back to Canada to be with his son, and the remaining six physicians are all located in Chadron, Neb., which has a population of over 6,000 and a 45-bed hospital which is about 30 miles east of Crawford, the community which Dr. Chung would serve.

The town of Crawford, in Dawes County has a population of about 1,300, a 21-bed hospital and a 54-bed nursing home. There is one physician in town, other than the doctor for whom I submitted a private bill, and this current physician is seriously considering leaving the area to return to Canada to live with his son who is severely mentally damaged from the Vietnam war and who cannot obtain a visa to live in the United States. The greater community of Dawes County has an infant mortality rate of 24.13 per every 1,000 live births, 13.8 percent of the population are over 65, and 16.2 percent of the area's families are under the poverty level.

RE H.R. 1892—FOR THE RELIEF OF DR. AND MRS. TEODORO ANDO AND H.R. 5445—FOR THE RELIEF OF DR. ESTELA CHAN

According to HEW standards prepared by the Health Resources Administration, Webster County is a medically underserved area, but not a physician shortage area. However, HEW lists Webster with a population of 4,812 and four physicians. According to the Nebraska Health System Agency, of these four physicians, one is now deceased, one is over 65 and semiretired, and another is Dr. Ando, for whom H.R. 1892 has been submitted.

The town of Red Cloud, in Webster County, has a population of about 1,600, but serves medically a population of about 7,000 because of its 45-bed county hospital. There is also a 54-bed nursing home in town, a complex for the elderly and another nursing home 6 miles outside of town. Other than the two doctors for whom I have submitted private bills, there is one elderly, semiretired physician. Webster County has an infant mortality rate of 41.52 per 1,000 live births, an average age of 41.8 years, 22.7 percent of the population are over 65, and 16.6 percent of the people are under the poverty level. Fifty miles away from Red Cloud is a 195-bed hospital for which these two doctors serve as the only anesthesiologists.

RE H.R. 5456—FOR THE RELIEF OF DR. ROGELIO NARVAEZ AND DR. PERLITA ACUNA NARVAEZ

According to HEW standards prepared by the Health Resources Administration, Sheridan County is medically underserved, but not a physician shortage area. However, HEW lists Sheridan with a population of 6,790 and six physicians. According to the Nebraska Health Systems Agency, of these six, the one listed in Rushville, Dr. Francisco Dozon has moved out of the State, and the other five are in Gordon, a town of approximately 2,200 people and a 40-bed hospital. In addition to Gordon, these five doctors, two of whom serve only as surgeons, provide service to nearby Martin, S. Dak., population about 1,000 and also to Cherry County in Nebraska, located in range country, which has a population of about 6,400 spread out across an area encompassing 6,846 square miles and only three other doctors, all of whom are located at one end of the county in Valentine, Nebr.

The town of Rushville, in Sheridan County, has a population of about 1,100, a 19-bed hospital, a 42-bed nursing home, and serves medically, a community of about 5,000 throughout the county. The husband and wife doctor team for whom I have submitted a private bill are the only doctors in the area. 20 miles away from Rushville is the Pine Ridge Indian Reservation in Wounded Knee, S. Dak. The total population of the reservation is about 15,000. Of these people, about 9,000 travel to Rushville for medical needs, both routine and emergency, because they feel they receive better treatment there than they do from the reservation's own public service hospital. The people of Rushville desperately want a physician. The community raised

nearly \$40,000 for the services of an American doctor in California, in addition to agreeing to furnish temporary housing, travel expenses, a car, transporting expenses for his property and fees for malpractice insurance, only to be turned down at the last minute.

On October 23, several members of the community are traveling over 350 miles to testify on behalf of the doctors at their deportation hearing in Omaha. They know that a permanent stay is hopeless—they are merely trying to get an extra 30 days. The infant mortality rate in Sheridan is 21.04 per 1,000 live births, there are 18.2 percent of the population over 65, with an average age of 35.2, and 14.3 percent of the population under the poverty level.

In closing, I assure my colleagues that these bills for the medical relief of these communities in my district are of such unquestionable merit that any objective analyses of them would find them deserving of the most substantive and expeditious of actions.

I am confident that the subcommittee will review these bills in a swift and just manner. At such subsequent time as these bills are considered by the full Judiciary Committee and eventually by the whole House, I respectfully urge my colleagues to follow the most sincere and responsible course of action this most honorable of legislative bodies can pursue and pass these bills in the name of justice and mercy, and with humanitarian concern for the people of the Third District.

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RESOLUTION TO PROHIBIT FUNDING OF MR. DIGGS' FOREIGN TRAVEL UNTIL RESOLUTION OF APPEAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. SENSENBRENNER) is recognized for 15 minutes.

Mr. SENSENBRENNER. Mr. Speaker, late yesterday the U.S. District Court for the District of Columbia granted permission to the gentleman from Michigan (Mr. Diggs) to leave the country for a trip, which was reported in the press as a junket, between October 24 and November 12 to European and African countries. I believe that this trip is inappropriate at this time, and I also believe that Mr. Diggs should not be granted permission to travel abroad at taxpayers' expense while the appeal from his conviction of 29 counts of mail fraud and salary kickbacks is pending.

Today I have introduced a resolution prohibiting the use of contingent funds or other official funds for foreign travel for this gentleman until such time as his appeal is resolved. I would like to see the Members of this House cast a vote for or against this trip. While I recognize that foreign travel is important to give Members of Congress some insight into problems in foreign countries, under these circumstances the trip would be inappropriate. I would hope

that the chairman of the House Committee on Foreign Affairs, my colleague, the gentleman from Wisconsin (Mr. ZABLOCKI) would deny the gentleman from Michigan (Mr. Diggs) permission to travel abroad until such time as the appeal has been resolved either in affirming the conviction or reversing the conviction. If not, I would hope that the House would approve the resolution which I have introduced, because I do believe that it would be important for the integrity of the proceedings of this House that such a trip not occur under these circumstances.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding. I want to thank the gentleman for his leadership on this matter because I think when we considered the matter of Mr. Diggs' expulsion here some weeks ago, one of the reasons given for a censure action rather than the expulsion action was that Mr. Diggs' case was still under appeal, and the censure of the House is a very serious matter that was undertaken at that point. One of the provisions of that was that the Member was going to continue to serve in his capacities in the House, but I think this goes far beyond that because in this particular case, as I understood the court ruling and would have understood from the press reports, what was being talked about doing was he was going to represent the country in these nations. I think that we have a very serious matter when a man who is under conviction and is appealing a conviction that has not been settled yet is going out of the country to represent us in some nations that evidently have not been visited by an American Representative in some time. So I think the gentleman is absolutely right that at this time this trip seems entirely inappropriate, and I would hope that the House would follow the gentleman's suggestion.

Mr. SENSENBRENNER. I thank the gentleman for his remarks. They are right on target.

Mr. LUNGREN. Mr. Speaker, will the gentleman yield?

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

Mr. LUNGREN. I thank the gentleman for yielding. I would also like to compliment the gentleman for bringing this matter to the attention of this body. I intend to offer a resolution tomorrow which will state that no Member of the House convicted of a felony shall, prior to the completion of his sentence or the successful appeal of his sentence, travel outside the United States at taxpayer expense without the prior approval of the majority of the Members of the House by a recorded vote. The reason I do this is that I have been informed at this moment that the trip which was announced in the newspaper is now not going to take place. A newspaper reporter indicated to my office that the chairman of the committee said that the trip was canceled, but that the gentleman from Michigan

(Mr. DIGGS) has indicated that the trip is not canceled, but merely postponed. It seems to me that during this period of time when we have been discussing the questions of ethics as they were argued on the floor very forcefully and with much emotion yesterday by our Speaker and by others, that it behooves us to consider how the American people really look at this House. The whole question of how we can discipline our Members goes to the power that we have under the Constitution to really uphold the esteem and the integrity of this House. In my judgment, the House was not correct in merely censuring Mr. DIGGS. I thought that the appropriate action was one of expulsion, but the House did not go along with that. However, in voting for censure, I do not believe that Members of this House thought that the offenses for which Mr. DIGGS was convicted and the actions for which he was recommended to be censured by the Committee on Ethics would allow him to therefore go on and represent the United States in other countries.

The other thing is that it appears to me the reason why we have Members go overseas is not only to represent this country, but to gather some experience that will allow that to be utilized in further consideration of legislation in this House, and I would think that when one is under a sentence of 3 years in prison, there is some question about whether that experience would be readily available to the members of the committee when he returned.

We should also be very, very careful to note that we are not dealing here with a situation where one has merely been accused, where the presumption of innocence is appropriate. We are talking about a situation where one has been convicted by a jury of his peers involving the question of the misuse of funds, taxpayers' funds, while in office and as a result of his position in office, and as such once one is convicted and is sentenced, even though one has an appeal pending, the presumption of innocence is no longer appropriate and the doubt is actually in favor of the sentence itself. I think we could do nothing less than bring this to the attention of the Members of this body and to insist that this House go on record on this particular question if in fact the trip is not canceled and would be considered at a later date.

Mr. SENSENBRENNER. I thank the gentleman from California for his statement. The information which he has imparted that the gentleman from Michigan (Mr. DIGGS) has stated that the trip has not been canceled but has merely been postponed indicates very clearly that this House should take action prior to the recess that has been announced for the 2d of November, lest Mr. DIGGS stealthily go off to Africa at taxpayers' expense when the Congress of the United States has been adjourned until January of next year. So I thank the gentleman for his research work. I believe that the resolution which he is proposing to apply to all convicted felons is good legislation, but that does not obviate the necessity for the Members of this House to deal with the trip proposed

by the gentleman from Michigan (Mr. DIGGS) either next week or at some time in the future before his appeal is resolved by the U.S. Court of Appeals for the District of Columbia Circuit.

NONFUEL MINERAL POLICY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Utah (Mr. MARRIOTT) is recognized for 5 minutes.

Mr. MARRIOTT. Mr. Speaker, our Nation is facing a resource crisis potentially more devastating than any that could arise from a shortage of petroleum. The approaching crisis is over non-fuel minerals, and it is the result of the absence of a national nonfuel minerals policy. Of the 32 minerals on which we rely, we import 23 of them by 50 percent or more. The most vital of these resources are cobalt, chromium, and manganese, of which we import over 90 percent. More realistically we import about 100 percent. The absence or restriction of just these three minerals could severely damage our aerospace industry, our communications systems, and our steelmaking and heat-resistant alloys industries. In fact, we heard in committee today, Mr. Speaker, that if the Soviet Union in their efforts in southern Africa would team up with those nations in southern Africa in terms of these three minerals, we could well have the entire Western World shut down in approximately 6 months.

I found it quite appalling that we relied so much on South Africa and the Soviet Union and Rhodesia for these three minerals. In the meanwhile, the Soviet Union imports only six minerals of which but two approach 50 percent. Yet they are wasting no time in positioning themselves to buy great quantities of minerals from our supplies in Southern Africa, the Persian Gulf of metals.

□ 1850

In fact I understand now that the Soviets are in Rhodesia negotiating to buy up minerals of which they already have great supplies. I have also heard, Mr. Speaker, if we continue to push around South Africa and Rhodesia and do nothing in terms of our foreign policy decision with Zaire that we may very well find ourselves in a very precarious position in the next 6 months.

Our chaotic and absurd resource diplomacy toward Rhodesia, Nigeria, and Zaire strongly dictate the need for a national policy. We must immediately begin to reexamine our action in the light of our needs for these essential minerals. If we do not start now with a nonfuel minerals policy by the late 1980's and early 1990's the problem will make the Arab oil embargo of 1973 look like a walk through the park.

I yield back the balance of my time.

KING CRIME

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 15 minutes.

Mr. GONZALEZ. Mr. Speaker, on May 30, Federal District Judge John Wood was murdered as he left his San Antonio home to drive to the courthouse. He was the first Federal judge ever murdered. It could have been a crime of insanity, or one committed by someone aggrieved by Judge Wood, or it could have been the deliberate act of criminals who seek to show their contempt for the law, and to prove that they are beyond its reach, as I believe. It was too well planned to have been fortuitous.

No one knows, because the crime has not been solved.

The usual kinds of response have sprung up in the wake of Judge Wood's death. The Federal Bureau of Investigation assigned a number of agents to the case, and accorded it a high priority. Local lawyers banded together to offer a huge cash reward for information leading to the arrest and conviction of the person or persons responsible. A Federal building may be named in his honor. The FBI continues to investigate leads of all kinds, and routinely questions anyone arrested for drug offenses about their possible knowledge of the case.

Unhappily, the investigations have produced no arrests, no charges.

Even more unhappily, there has been no one charged with an earlier assault, a vicious shooting attack against an assistant U.S. attorney, James Kerr. Just as in the attack on Judge Wood, Kerr was assaulted as he left home for work.

Each one of these cases was an assault upon law itself. Each one was an attack that told the prosecutors not to be too diligent, and the judges not to be too severe. No matter how much we might vow that these terroristic tactics will not deter the forces of law, they cannot help but have their effect: the assailants have not, after all, been charged in either case. Every judge, every district attorney in the western judicial district is under Federal marshal protective custody.

No one knows when or whether either of these cases will be resolved. No one knows whether either one of these cases had anything to do with the drug traffic that Kerr was investigating and Wood was hearing cases upon. Most people, though, believe that the drug business had everything to do with each case.

No one knows whether these assaults was connected with a case that Kerr was about to prosecute before Judge Wood; whether they related to something more far reaching than that; or whether the mysterious death in the Bexar County Jail of Sante Barrio, a top Drug Enforcement Administration agent who had been arrested on bribery charges, was related in any way. The circumstances in each of these three cases leave much to be explained. Nothing has been explained, and life in the community has returned more or less to normal.

But the impact of the assault on Jim Kerr and the murder of Judge Wood has not faded. Law enforcement remains a joke if it cannot solve cases as flagrant as these. The judicial system remains

open to threats as long as these crimes go unsolved.

It is time, I think, for Congress to evaluate just how these assaults have affected law enforcement, just how they have affected the courts. I do not think we can pretend that the Federal investigative agencies, the Federal prosecutors or the Federal judges do not feel the weight and burden of these unsolved crimes. I do not think we can pretend that the investigators are not frustrated, the prosecutors feeling that it could happen again, and the judges at least touched by the hand of fear.

The House may not be able to solve these crimes; certainly it does not have the resources for that. But it can focus on what has been done so far, on how the situation affects the administration of justice, and on what might be done to better protect those who must prosecute Federal cases and sit in judgment upon them. If we cannot solve these matters, we can at least seek to protect the people whom we have asked to enforce and administer our laws.

With that in mind, I am asking the Committee on Judiciary to review these matters and offer such recommendations as may be fitting and appropriate.

I offer for the RECORD a letter I have today directed to the Honorable ROBERT KASTENMEIER, chairman of the Subcommittee on Courts, Civil Liberties, and Administration of Justice:

WASHINGTON, D.C., October 18, 1979.

File Ref.: BB:lg1

HON. ROBERT W. KASTENMEIER,
Chairman, Subcommittee on Courts, Civil Liberties, and the Administration of Justice, Washington, D.C.

DEAR MR. CHAIRMAN: I am greatly concerned about the impact of two unresolved crimes in San Antonio upon the functioning of the courts in my area, and the administration of justice, in general.

The first case involves a shooting assault upon Assistant United States Attorney James Kerr, who was shot at by gunmen as he sat in his car. Mr. Kerr's car was shot up considerably, but he escaped serious harm. Mr. Kerr was, and is, responsible for investigation and prosecution of drug offenses in the Western District of Texas, and was at the time of the assault preparing a major case.

The second case involves the murder of U.S. District Judge John Wood. Judge Wood was shot outside his car as he was preparing to leave for the courthouse. As you know, this is the first time in history that a United States Judge has been murdered.

Judge Wood presided over many drug cases, and James Kerr prosecuted many cases before his court. There are many who believe that both assaults were related to drug cases, even though the assaults might not have been related themselves.

Neither case has been closed; no one has been arrested for the assault upon Kerr, or the murder of Wood.

Clearly, these unresolved cases have had their effect upon courts and law enforcement in the Western District of Texas, and perhaps elsewhere as well. Certainly no prosecutor can now feel safe, and judges themselves cannot feel completely free of intimidation. Kerr is under the protection of marshals. Judge Wood had been, before his murder, protected by marshals, but he had asked that the surveillance be dropped. Judges in the Western District now receive protection.

The fact that protection must be extended is intimidating. The fact that neither of

these cases has been solved is even more intimidating. The basic processes of law enforcement are very much threatened.

With that in mind, I suggest that it would be appropriate, and I believe it is necessary, for the Congress to examine the effect of these incidents upon law enforcement and the administration of justice. It would be appropriate to determine what might be done that has not already been done to solve these cases. It would be appropriate to determine what might be done, while these cases are open, to assure that no one connected with the investigation, prosecution or adjudication of Federal laws need feel threatened.

Above all, Congress should express its sense of outrage and concern over these matters, and insist that no stone be left unturned in these cases. Terrorism cannot be tolerated; it undermines confidence in government, and in this case threatens the whole basis of law. I hope very much that your Subcommittee will take cognizance of this, and undertake to do everything possible to counter the chilling effect these incidents have had upon all law enforcement, particularly in the Western District of Texas.

With best wishes, I am
Sincerely yours,

HENRY B. GONZALEZ,
Member of Congress.

SEVEN EASY WAYS TO CHARGE BANK CUSTOMERS MORE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, while reading the October 15, 1979, issue of Bank Letter, I came across an interesting insert. Under "Highlights of the American Bankers Association 1979 Annual Convention" there was a presentation made on "A List of Easy Ways to Charge Your Customers More." I can only assume that the Speakers had a very attentive audience.

Here are some of their suggestions:

First. Impose service charges on checking accounts;

Second. Do not pay interest on savings accounts with low balances, and impose service charges on those with excessive withdrawals, excessive withdrawals were defined as more than one or two a month;

Third. Increase charges for nonsufficient fund checks, it was suggested that \$8 a bounce might be good;

Fourth. Increase charges for stop payments, \$8 looked like a good figure here, too;

Fifth. Impose a service charge for cashing a check for a noncustomer;

Sixth. Charge for reconciling a customer's account; and

Seventh. Impose commitment and computer fees on all loans, computer fees and charges for simply putting the loan on the books. One of the speakers' bank charges \$25 for this burden.

I found this to be a very interesting topic for a discussion group. The ABA may have broken new ground in the field of seminars, opening all kinds of possibilities for other professions. For example:

First. The next American Medical Association convention could include "Seven Easy Ways of Performing Unnecessary Surgery";

Second. The American Petroleum Institute could present a discussion entitled "Five Easy Ways to Contribute a Gasoline Shortage";

Third. The National Gas Association could sponsor a seminar on "Six Easy Ways to Withhold Gas from Consumers";

Fourth. And, the American Bar Association could present "Ten Easy Ways to Rip-off Your Client Through Hopeless Litigation."

The possibilities are endless.●

ENERGY CONSERVATION BLOCK GRANTS FOR LOCAL GOVERNMENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. AuCOIN) is recognized for 5 minutes.

Mr. AuCOIN. Mr. Speaker, all of us are concerned about the energy crisis. And each of us has our own approach to solving our energy problems. If there is any common element to any of those approaches it is that conservation has the greatest potential for reducing our reliance on scarce fossil fuels—and doing so at the least cost. It is our cheapest source of new energy.

One difficulty with the Federal Government's approach to energy conservation is that it relies on the application of a Federal standard in local areas, without the participation of local residents in the development of those standards. More often than not the Federal standards are inappropriate and lack general community acceptance. One need only look at energy conservation standards for federally assisted housing to see the truth in that statement.

It seems to me that the best approach to energy conservation is to rely on local decisionmaking. By doing so, conservation can be achieved through community consensus rather than through Federal mandates.

Because I believe our best hope for conservation lies at the local level, I am introducing today legislation designed to encourage our Nation's communities to develop and implement comprehensive energy conservation plans.

Many Members read in Monday's Washington Post about Portland, Ore.'s trend-setting efforts to achieve significant energy savings through a multifaceted energy conservation program. I represent Portland and I am proud of the innovative approach it has taken to saving energy. No small part of the credit for that program belongs to Portland's former mayor—and now Secretary of Transportation—Neil Goldschmidt.

The program that Portland has adopted and is preparing to implement would give homeowners 5 years to weatherize their homes. After that, if the homes did not meet city conservation standards, the homes could not be sold. A similar restriction would be applied to multifamily and commercial buildings.

The program also would revise zoning laws to promote higher population density near main public transit routes and

place on the 1980 ballot a 1 cent per gallon gasoline tax to finance traffic flow improvements. In addition the city would provide information to builders and homeowners on solar energy systems and require trash haulers to offer customers without charge the option of separating their recyclable garbage.

The legislation I am introducing would encourage local governments to develop plans similar to Portland's. In addition my legislation would provide grants to cities for the development of proven alternative energy systems such as geothermal projects, industrial cogeneration, solid waste heat recovery and other systems that will conserve scarce fossil fuels.

My legislation—actually two separate bills—would expand HUD's existing authority to provide community development block grants and urban development action grants to eligible communities. One advantage of this approach is that it simplifies administration by providing that new initiatives are implemented through existing federal programs. In addition, energy conservation programs can be directly linked at the local level with other community and economic development programs designed to benefit low-income persons.

Mr. Speaker, let me briefly summarize each of the bills.

The first bill would encourage units of local government to adopt and implement community development energy plans and programs designed to achieve significant energy savings within their jurisdiction. To fulfill this objective, the Secretary of HUD would be authorized to expand the existing community development block grant program and make available to local governments energy conservation block grants. Local governments receiving the energy block grants would be expected to: develop and implement a local energy conservation plan; enact or modify local ordinances, such as building codes and zoning laws, to encourage or mandate conservation; encourage energy conservation improvements in public buildings and provide financial or other assistance to effect energy conserving improvements of residential structures, primarily for low- and moderate-income tenants and homeowners.

Grants would be awarded to local governments based on funding criteria for the community development block grant program. The structure of entitlement and discretionary applicants would be maintained. However, in allocating funds to local governments, the Secretary would be authorized to take into account the potential energy savings possible as a result of the energy block grant program.

The second bill would establish a new program similar to the urban development action grant program. This program, entitled the energy development and conservation action grant program, would provide grants to local governments to assist in the expansion and development of feasible energy supply or conservation systems of proven technology.

The purpose of this program is to provide capital grants to local governments

for alternative energy systems that may be technically feasible, but not yet economically feasible. The grants would provide only that subsidy necessary to lower the capital cost to the point of economic feasibility. This approach recognizes that most alternative energy systems have not developed the cost efficiencies that result from widespread use and higher levels of energy output. In addition, alternative energy systems that offset the use of scarce fossil fuels have a social value that may not be reflected in the cost savings from reduced consumption of fossil fuels.

The most exciting aspect of the energy action grant program is that it could provide a vehicle for one or more neighborhoods in a community to cooperatively tap into an alternative energy system. It is not farfetched to imagine that the solid waste collected from residences in one area of town could be hauled a short distance to a neighborhood solid waste heat recovery plant.

The electricity generated by such a plant would provide for some of the energy needs of the neighborhood. Scarce fossil fuels would be saved through solid waste recovery as well as through reduced fuel consumption by trash haulers.

Mr. Speaker, I want to emphasize that I am not offering these proposals in the expectation that they will be adopted by the Congress exactly as written. Instead, I hope that these two proposals will be the catalyst for further discussion.

The bills do embody concepts that are fundamental to the success of any energy conservation program.

It is imperative, for example, that Federal efforts to promote community energy conservation be directed through existing administrative structures. It would be confusing to local governments—and counterproductive for conservation efforts—to require that they deal with yet one more Federal agency for funding of activities that are directly linked with other community development efforts. There is no reason to duplicate in another agency of the Government, the housing and community development expertise that HUD has now. Moreover, HUD is structured to deal with local governments through area and regional offices that are already staffed to handle housing and community development programs.

Another reason for linking the energy conservation programs to community development and housing is that the greatest energy savings will be obtained through improvements in existing residential and commercial buildings. For that reason, it makes sense to tie the energy conservation block grants and action grants to ongoing housing and community development efforts.

By linking inducements for energy conservation plans and programs to the existing community development block grant program, which relies on local decisionmaking, we would also recognize the importance of citizen participation and local decisionmaking in energy conservation efforts. Local control is important. When the Washington Post editorialized not long ago on Portland's innovative program, it noted that the program would not work in every com-

munity in the country because a program of that type must have community support. I agree with that statement. Indeed, the Portland program's greatest strength is that it was developed only after a long series of public hearings and is based upon the community consensus that emerged from those hearings.

With the exception of fiscal year 1980, the bills do not call for a specific authorization level. For fiscal 1980, \$600 million would be authorized for the energy block grant program and \$200 million for the Energy Action Grant program. I would expect that authorization levels for subsequent years would rise with increased demand and proven benefits from the program. However, I want to stress that in determining the appropriate level of funding we must give proper and careful consideration to the impact on the Federal budget, particularly on other housing, community development, and energy programs.

I strongly believe, however, that the benefit from these proposals will be worth a strong funding commitment from the Federal Government. It is estimated that in the energy conservation block grant program, a \$2 billion expenditure over 3 years would yield energy savings which are the equivalent of 26.4 million barrels of oil annually after the third year.

Energy savings for the energy action grant program are more difficult to estimate because of the innovative nature of alternative energy projects. Energy savings will be determined on a case-by-case basis.

The resolution of our energy problems requires a grassroots commitment from all Americans. The proposals I am making today move the emphasis of our Federal efforts in that direction. There are many refinements of these proposals that can and should be made. However, the fundamental concepts are sound. I hope they will earn the support of the House next year when it considers the reauthorization of the community development block grant programs and the urban development action grant program. ●

"T'WAS THE EVE OF THE HEATING SEASON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. WOLFF) is recognized for 10 minutes.

● Mr. WOLFF. Mr. Speaker, I believe this little parody of one of the famous Christmas poems expresses the feelings of many Americans. I know that this is a major concern of the citizens in the Sixth District of New York.

*T'was the eve of the heating season,
And all through this land;
Many Americans are worried,
About their home heating demands.*

Mr. Speaker, I rise today to again call attention to a very serious situation. Just as soon as the Nation picks itself up from the havoc caused by long lines and high cost of automobile fuel costs, a new cloud of uncertainty appears on the horizon. The dark cloud is caused by the concern

over the price and availability of home heating oil. Even though the President and the administration are confident that adequate supplies will be available. I do not share their sense of optimism.

DOE has taken a number of actions which they feel will guard against supply shortfalls. One of the Department's actions includes establishing 240 million barrel stockpile by the end of October. I am encouraged by this action and the current success of the stockpile effort. More needs done, however, so that no American will have to make the cruel choice of deciding whether to eat or stay warm. Many consumers will again be asked to make sacrifices in their budget as the price of heating oil climbs and when budgets are already strained to the breaking point. The consumer has had enough.

Mr. Speaker, any disruption in supply will have a disastrous effect on the residents in my district as well as the entire State of New York. Approximately 83 percent of the Long Island consumers heat their homes with oil. With this high dependence on heating oil, Long Island is particularly vulnerable to any short-fall.

The State energy office in Albany estimated that for the month of September, the major oil companies reported that supplies to New York were about 8.4 percent below the levels of last year. This, of course, can be attributed to the stockpile target at the primary storage level. Major suppliers have not moved the product into the secondary and tertiary markets.

Not only is there some concern about the availability of oil, many citizens are worried about how much it will cost to heat their homes. The price of heating oil averages about 81 cents a gallon in New York with some areas reporting prices as high as 91 cents. There has been an increase from 41 cents a gallon in July of 1967 to over 81 cents in October of this year. The average statewide price of heating oil has increased 66 percent since last September. A \$1 per gallon price for home heating oil is fast becoming a reality.

Distributors have had their share of hardships, for there have been a number of changes in credit arrangements between the distributors and suppliers within New York. Dealers have had to secure additional loans at high interest rates to pay for higher priced oil. Some banks have become increasingly apprehensive about extending credit to dealers. To complicate matters, some suppliers have eliminated early payment discounts, thus forcing prompt payment.

I, along with many of my colleagues, recently addressed this body in an effort to bring attention to an action by Gulf Oil & Refining Co. Gulf Oil planned to eliminate the 1-percent-discount terms for dealers and institute a strictly enforced 10-day payment schedule on all accounts. The dealers were also informed of the termination of seasonal financing program for the 1979-80 heating season. I am pleased to report that this situation has partially been resolved. I call this to the attention of my colleagues, however, as an example of the kind of hardships

the oil distributors of my district have faced in obtaining credit.

Frankly, Mr. Speaker, I am very concerned about how this country will fare this winter. I am not as optimistic as the administration in its assessment of the supply situation. Finally, even if there is no substantial shortfall in supply, who will be able to afford to heat their homes with the price rising as it is. To help alleviate the serious consequences of this situation, I urge the Department of Energy to take the following actions to assure that no homes go cold this winter.

First, the Department of Energy should immediately issue regulations that would require refiners to operate at maximum production levels through the end of the heating season. It is within the current authority of the Department to require maximum distillate production. It is not sufficient to end the home heating oil supply buildup program upon the achievement of the 240-million-barrel target. It is imperative that DOE seek a maximization of heating oil supplies, through continued maximum production and distribution to marketers and homeowners.

DOE should also move to immediately require the refiners to start shipping their supplies into the secondary and tertiary ends of the distribution system where the oil can be used to heat homes and not to drive up prices. This action is imperative to New York for much of the heating oil supply is delivered over waterways which freeze during parts of the winter months. I applaud the administration for establishing the 240-million-barrel target. By all indications, this target will be met. It is now time to get the oil into the retail market so that temporary or spot shortfalls do not materialize.

Finally, price controls on middle distillates should be reimposed by the administration. The American people are tired of having their income diminished by higher energy costs while many of the oil companies reap enormous and unjustified profits. I call your attention to a recent Congressional Research Service report on increases in price of distillate fuel. The report concluded that the home heating oil industry had realized large increases in their profit margin during an 8-month survey period. Furthermore, I would like to insert into the RECORD a recent New York Times article concerning the price of heating oil. The article raises some serious questions about the profits of many of the oil companies.

PRICE OF HOME HEATING OIL JUMPED TWICE AS FAST AS THE COST OF CRUDE
(By Matthew L. Wald)

The retail price of home heating oil rose nearly twice as fast as the price of crude oil from January 1977 to May 1979, according to statistics from the Federal Department of Energy. And industry analysts say growing refinery and dealer profit margins are continuing to add heavily to prices.

In contrast to a public perception that increases imposed by oil exporting countries is the overwhelming factor in the rise in home heating oil costs this winter, the figures show that the percentage increase in refinery, wholesale and retail margins was at least as rapid.

The industry has reported sharp rises in profits, but spokesmen say high interest rates and rising costs for labor and other components of production also contributed to a rise in heating oil prices above the increases mandated by the higher costs of crude set by the Organization of Petroleum Exporting Countries.

Spokesmen for the major oil companies were reluctant to provide figures that would show whether their profit margins had changed. They said there were too many factors, including a changing mix of crude oil types and refined products, to allow such a calculation. Other industry sources agreed that the calculation would differ for each refinery, but said the figures did show strong growth in the average profit margin.

INQUIRY BY U.S. PRICE COUNCIL

The refinery profit margins are now the subject of an inquiry by the Council on Wage and Price Stability. According to the council's chairman, Alfred E. Kahn, the panel was found "a fair number" of companies, mainly small refiners, to be out of compliance with the voluntary standard of a 6.5 percent annual growth in profit margin. Earlier this year, Amerada Hess was found to be exceeding the standard, but it has since come back into compliance, according to a spokesman for the council.

The price increases from domestic sources come at a time of growing concern about how the poor will keep warm this winter, and even how some lower-middle-income families will stay out of poverty.

Connecticut has set a special legislative session to deal with the problem, and New York may do the same. Concurrently, Congress is debating special fuel aid, a "wind-fall profits" tax on oil companies and the reimposition of price controls on oil products. Heating oil controls were ended in June 1976.

Energy Department figures show that the average of a gallon of home heating oil rose 58.1 percent between January 1977 and May 1979, from 40.6 to 64.2 cents, while the cost of the crude oil from which it is made rose 32.3 percent, from \$11.64 a barrel to \$15.40, with the refiners' margin increasing the most.

CRITICS POINT TO PROFIT MARGIN

Comparable figures for months later than May are not available from the Federal agency, but according to a study by the Congressional Research Service, retail prices for home heating oil rose 50.1 percent (from 53.7 to 81 cents a gallon, on average) while the price of crude oil rose 47.4 percent, from 31.2 to 46 cents a gallon from January to August of this year.

Critics of the oil industry say that the profit motive, not higher costs, is the reason for the greater markups.

"These are businessmen and they're going to make as much money as they possibly can," said Representative Toby Moffett, Democrat of Connecticut, who is chairman of the Energy Subcommittee of the Government Operations Committee. "The fact that this is a necessity people can't do without is not something that is going to affect their behavior."

Representative Moffett, whose proposal to reinstate price controls on refineries was defeated 2 to 1 in the House on Thursday, said his subcommittee had heard testimony over the last few weeks showing increases in gross refiner margins of up to 100 percent.

Explaining how some factors of the cost increased even faster than crude oil, William Harlow, a spokesman for the Department of Energy, said: "It's not going to be a one-to-one correlation. The rate is going to go up for any kind of product, because of the pipping that costs more, the refineries, and the shipping that costs more."

FIGURING THE MATHEMATICS

Mathematically, however, the correlation would be less than one to one unless other factors were increasing as fast or even faster than crude oil. For example, if heating oil was selling for 40 cents a gallon and the cost of crude oil accounted for 60 percent of that, a 30 percent increase in the cost of crude would add only 7.2 cents, or 18 percent.

"What's in there is inflation, higher labor cost and higher fuel cost," said John Buckley of Northeast Petroleum Corporation, a Boston-area fuel oil wholesaler and retailer. "And then I think there's higher profit. That will vary from refiner to refiner, but they're making more money."

Wholesalers and retailers, as well as the major oil companies, are also operating on higher margins, according to the figures. From January 1977 to May 1979, for example, the wholesale margin rose from 8.4 to 12.1 cents a gallon, or 44 percent, according to the Department of Energy figures.

One result is that, according to Government figures, crude oil, which in 1976 accounted for 63.8 percent of the cost of heating oil, accounted for only 58.6 in June.

Industry sources differ as to the reasons for the higher margins. All note that when home heating oil was decontrolled in June 1976, the action allowed the price level to be dictated by market conditions, instead of the Government's reckoning of costs and fair profit margins.

VARIED FACTORS NOTED

But beyond that, the major oil companies say it is not possible to break down the costs of producing home heating oil.

First, they note, crude oil is sold in a variety of different grades, requiring different refining processes. In addition, transportation costs for getting the crude to the refineries differ. Some refiners have relatively cheap long-term contracts, while others must buy on the expensive spot market.

The Government figures are for the composite refiner acquisition cost of crude oil, a weighted average including foreign and domestic sources, including transportation costs to the refinery.

A bigger problem, oil industry representatives say, is apportioning the cost of production between the different products.

"The analogy that's always used is with the cow," said Earl Ross, of the American Petroleum Institute. "What's the cost of the lesser type cuts as against the prime rib?" While the cost of raising the cow may be known, he went on, there is no logical division between the cost of hamburger and the cost of steak.

"There is no generally accepted procedure for allocating total operating and investment costs among the hundreds of coproduced products of a refinery," said an Exxon spokesman. He added, however, that the company's American subsidiary, Exxon USA, reported "refining/marketing" profits that were 48 percent lower this year than last.

HOW COMPANIES CAN RECOUP

However, with one of the petroleum products—gasoline—still controlled, there are financial incentives to looking at the costs in certain ways.

"Refiners have been allowed because of the lack of controls to pump more of the costs into middle distillates instead of gasoline, in an effort to recoup more of their investment," said Allan Darrow, public affairs director of the National Oil Jobbers Council. If they feel they are not earning enough on gasoline, he suggested, oil companies can try to make up the difference in a product for which the market is very strong, and on which there are no controls, such as home heating oil.

Some oil companies, however, say that at least part of the increases in margins are

eaten up by increases in costs for components of production other than oil. Texaco, for example, listed "rising manufacturing and labor expenses, taxes and inflation."

Interest rates have become a major concern, with many OPEC nations now requiring payment for expensive oil within 30 days, which leaves refiners borrowing money to pay for a tanker-load while it is still at sea.

Interest is also a major concern for wholesalers and retailers, who to purchase the same number of gallons they did last year may have to borrow twice as much money, and at higher interest rates.

"You've gone in one year from 9 percent to 14 percent," said Mr. Buckley of Northwest Petroleum. "We've had to borrow way out of line, disproportionately to earlier years."

Financing one gallon of home heating fuel cost roughly half a penny a month last year he said, but it is now "pushing past a penny a month" because of higher interest rates and product price. "If we buy it in August and sell it in December, that's 5 cents," he said.

Other retailers said that the cost of fuel to run their delivery trucks, the cost of the trucks themselves, and everything else a small business buys, including insurance, labor, and electricity, had risen in costs.

Mr. Speaker, the long term solution to our heating oil problems, of course, depends on the actions taken to solve our entire energy crisis. This includes the development and use of safe alternative sources of energy, production of synthetic fuels, and increased conservation. To provide some stability in the international arena, the oil-importing nations should band together to negotiate from strength with OPEC on the price of oil.

The time has come to act now so that homes do not go cold as we approach "the eve of the heating season." ●

TAXATION OF FOREIGN REAL ESTATE INVESTMENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. FASCELL) is recognized for 10 minutes.

● Mr. FASCELL. Mr. Speaker, in recent years, we have witnessed increasing numbers of large-scale purchases of American real estate by foreigners. Foreign investors view American real estate as a sound investment and a strong hedge against inflation. American real estate may also offer foreigners predictable annual income, long-term appreciation potential, and overall investment security. In addition, the current tax system provides further incentives for such foreign investment by giving foreigners a significant advantage over Americans in purchasing this Nation's land.

Under current tax law, a foreign investor or corporation is not required to pay capital gains taxes on the gain attributable to appreciated real estate, provided that the investment is not effectively connected with the conduct of American trade or business. The critical test is whether the investment is effectively connected with the conduct of American trade or business. If a foreign investor or corporation were engaged in an American trade or business, then the real estate would be taxable in the United States. As such, the present

law allows the foreign investor several ways of reclassifying the real estate gain as not effectively connected with American trade or business, and thus, the profit is exempt from American capital gains taxes. For example, foreign investors engaged in American trade may sell their real estate on an installment basis, postponing real estate payments until subsequent years when the investors are no longer engaged in American trade. A capital gain attributed to the payments received in the years after the sale is treated as not effectively connected with American trade and, therefore, not taxed. In this manner, the present tax law gives an undue tax advantage to foreign investors as compared with Americans.

The tax advantage provided to foreign investors allows them a sizable edge over domestic investors in bidding for American real estate. Foreign investors may buy real estate for more money than an American and still make the same or higher profit. As a result, we may see a continuing trend toward foreign ownership of the most desirable holdings of American real estate.

In addition, the tax advantage encourages a favorable climate for foreign investment in American real estate. Increased demand in the saturated American real estate market pushes up prices at an abnormally high rate, thereby increasing the rate of inflation.

To remove the tax advantage and the associated harmful effects, I am introducing legislation today to close the loopholes in our tax laws. The legislation would impose capital gains taxes on non-resident alien individuals and foreign corporations which sell or exchange real property located in the United States.

This measure goes beyond legislative proposals to tax the sales of foreign-owned rural and farm lands. It applies equal treatment to all real estate, whether office buildings, apartments, shopping centers, factories, undeveloped land, or other property. Agricultural and rural lands comprise only a small portion of the total amount of real estate purchased by foreigners. It is important to note that in Department of Commerce statistics compiled from public sources, only 24 percent of the \$360 million spent by foreigners on American real estate in the first half of 1978 involved rural or farmlands. This is but one indication of the considerable size of foreign purchases of real estate not used for agricultural purposes.

This legislation follows the approach advocated by the Department of the Treasury to impose capital gains taxes on foreign sales of all real estate, not just farmlands. The Treasury estimates that taxing the capital gains on the sale of American farmlands alone would raise Treasury revenues by \$22 million in 1979. By extending the tax coverage to include all real estate, the Treasury predicts that revenues in 1979 would rise by an additional \$120 million to a total of \$142 million.

In short, we should recognize that the tax treatment of sales of American real estate is not equitable. Why should a foreign investor be granted a tax advantage

denied to American investors? In addition, removing the current tax advantage would help reduce the rate of inflation and increase Treasury revenues.

I hope that this legislation will receive prompt attention and urge that it be approved as soon as possible. The text of my bill follows:

H.R. 5633

A bill to amend the Internal Revenue Code of 1954 to provide that the nonresident alien individuals and foreign corporations shall be taxed at capital gain rates on gain from the sale or exchange of real property located in the United States

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

SECTION 1. TAXATION OF NONRESIDENT ALIEN INDIVIDUALS AND FOREIGN CORPORATIONS ON GAINS FROM THE SALE OF REAL PROPERTY LOCATED IN THE UNITED STATES.

(a) GAINS FROM SALE OF REAL PROPERTY.—

(1) NONRESIDENT ALIEN INDIVIDUALS.—Section 871 of the Internal Revenue Code of 1954 is amended by redesignating subsection (g) as subsection (h), and by inserting after subsection (f) the following new subsection:

"(g) **GAINS FROM SALE OR EXCHANGE OF REAL PROPERTY.**—In the case of a nonresident alien individual, there shall be treated as gross income which is effectively connected with the conduct of a trade or business within the United States—

"(1) gain from the sale or exchange of real property located in the United States, and

"(2) that portion, in excess of \$3,000 for the taxable year, of the gain from the sale or exchange of stock in a corporation, or interest in a partnership, trust, or estate, determined by the Secretary to be properly attributable to—

"(A) the net unrealized appreciation in real property located in the United States which is held by such corporation, partnership, trust, or estate, and

"(B) in the case of the sale or exchange of stock in a corporation, an amount equal to the gain, if any, realized by such corporation on the sale of property described in paragraph (1) which was not recognized by that corporation under section 337.

Any such gain shall be taxable as provided in subsection (b)(1) whether or not such individual is engaged in trade or business within the United States during the taxable year."

(2) FOREIGN CORPORATIONS.—Section 882 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new subsection:

"(g) **GAINS FROM SALE OR EXCHANGE OF REAL PROPERTY.**—In the case of a foreign corporation, there shall be treated as gross income which is effectively connected with the conduct of a trade or business within the United States—

"(1) gain from the sale or exchange of real property located in the United States, and

"(2) that portion, in excess of \$3,000 for the taxable year, of the gain from the sale or exchange of stock in a corporation, or interest in a partnership, trust, or estate, determined by the Secretary to be properly attributable to—

"(A) the net unrealized appreciation in real property located in the United States which is held by such corporation, partnership, trust, or estate, and

"(B) in the case of the sale or exchange of stock in a corporation, an amount equal to the gain, if any, realized by such corporation on the sale of property described in paragraph (1) which was not recognized by that corporation under section 337.

Any such gain shall be taxable as provided in subsection (b)(1) whether or not such corporation is engaged in trade or business within the United States during the taxable year."

(3) CONFORMING AMENDMENTS.—

(A) Subparagraph (B) of section 864(c)(1) of such Code is amended by striking out "section 871(d) or sections 882(d) and (e)" and inserting in lieu thereof "sections 871(d) and (g) and sections 882(d), (e), and (g)".

(B) Paragraph (2) of section 871(a) of such Code is amended by striking out "paragraph (1) or subsection (b)" and inserting in lieu thereof "paragraph (1), subsection (b), or subsection (e)".

(C) Subparagraph (A) of section 871(d)(1) of such Code is amended to read as follows:

"(A) from real property held for the production of income and located in the United States, or from any interest in such real property (other than gains from the sales or exchange of such real property or an interest therein), including (1) rents or royalties from mines, wells, or other natural deposits, and (2) gains described in section 631(b) or (c), and"

(D) Subparagraph (A) of section 882(d)(1) of such Code is amended to read as follows:

"(A) from real property held for the production of income and located in the United States, or from any interest in such real property (other than gains from the sale or exchange of such real property or an interest therein), including (1) rents or royalties from mines, wells, or other natural deposits, and (2) gains described in section 631(b) or (c), and"

(b) WITHHOLDING OF TAX.—

(1) NONRESIDENT ALIEN INDIVIDUALS.—The first sentence of subsection (b) of section 1441 (relating to withholding of tax on nonresident aliens) is amended by striking out "or 631(b) or (c)", and inserting in lieu thereof "631(b) or (c), or 871(g)".

(2) FOREIGN CORPORATIONS.—Subsection (a) of section 1442 (relating to withholding of tax on foreign corporations) is amended by inserting "the reference in section 1441 (b) to section 871(g) shall be treated as referring to section 882(g)," after "sections 881(a)(3) and (4),".

SEC. 2. REPORTS BY FOREIGN CORPORATIONS HOLDING REAL PROPERTY IN THE UNITED STATES.

(a) Part III of subchapter A of chapter 61 of the Internal Revenue Code of 1954 (relating to information returns) is amended by adding at the end thereof the following new subpart:

"Subpart G—Information Concerning Certain Foreign Corporations With Real Property Holdings in the United States

"Sec. 6060A. Annual reports by certain foreign corporations with real property holdings in the United States.

"Every corporation having 20 percent or more of its assets in holdings in real property located in the United States at any time during the taxable year shall file an annual report with the Secretary at such time, in such manner, and setting forth such information relating to such real property as the Secretary may prescribe by regulation."

(b) Section 6652 of such Code (relating to failure to file certain information returns, registration statements, etc.) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following subsection:

"(g) **INFORMATION REQUIRED WITH RESPECT TO CERTAIN FOREIGN CORPORATIONS WITH REAL PROPERTY HOLDINGS IN THE UNITED STATES.**—In the case of a failure to file a report re-

quired under section 6060A (relating to annual reports by certain foreign corporations holding real property in the United States) on the date and in the manner prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause, there shall be paid (on notice and demand by the Secretary and in the same manner as tax) by the corporation failing so to file \$10 for each day during which such failure continues. The total amount imposed by this subsection for failure to file an annual report shall not exceed \$5,000."

SEC. 3. APPLICABILITY OF TAX TREATIES.

Sections 894 and 7852(d) of the Internal Revenue Code of 1954 shall not apply after the period which begins on the date of the enactment of this Act and ends 5 years after such date with respect to sales and exchanges of real property to which section 871(g) or 882(g) of such Code applies.

SEC. 4. EFFECTIVE DATES.

The amendments made by section 1 shall apply to sales and exchanges of real property on and after the date of the enactment of this Act. The amendments made by section 2 shall apply to taxable years beginning after the date of the enactment of this Act.●

LOCAL GOVERNMENT ENERGY CONSERVATION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Ms. HOLTZMAN), is recognized for 5 minutes.

● Ms. HOLTZMAN. Mr. Speaker, today I am introducing a bill titled the Local Government Energy Conservation Act, which would for the first time provide grants directly to local governments to undertake energy conservation activities.

My bill provides \$300 million for grants to localities to conserve energy. Any local government could submit an application to the Secretary, who would determine eligibility largely on the basis of the energy conservation potential and the number of people affected. Grants would be made for such conservation activities as establishing a local energy office or a mechanism for coordinating all energy-related activities, retrofitting street lights, generating power for local water sources or fuels, cogeneration of power, devising and implementing innovative heating and cooling systems; energy generated from biomass, wind, and wood stoves.

Under the bill, a central clearinghouse could be established by cities or counties to provide information on energy conservation to citizens including the establishment of an energy office or a citizen's advisory group to coordinate local energy-related activities. Local energy-conservation targets would be established; programs to encourage energy conservation by both local governmental units and the private sector would be promoted.

At present \$364 million has been provided to fund energy conservation measures by the States. While some of this money trickles down to local levels there is no broadbased program to provide local jurisdictions with funds to establish their own energy conservation offices. We need to provide localities with the tools to make their own decisions about energy conservation and to implement them. Energy conservation is by

nature a decentralized activity and can often be most effective at the local level.

Many communities have already implemented energy conservation programs. San Diego County enacted the first program in the Nation which required solar water heaters on new residential buildings which are not served by natural gas. Portland, Oreg., requires all homes and businesses to undergo an energy audit and to upgrade their insulation if necessary, and Davis, Calif., has long had a comprehensive plan. As a result, gas consumption in Davis has dropped by 38 percent since 1973 and the amount of electricity used by 14 percent.

Any effective national energy program must provide the tools and resources to all levels of government. While there is much that can be done at the State level, local communities must be thoroughly involved in the effort to save energy. This is what my bill does.

Conservation, clearly the safest, fastest way to reduce oil consumption, has not been given the priority it deserves. With OPEC nations cutting back on oil production and increasing oil prices, we have no time to waste.

I urge prompt adoption of this legislation. ●

LEAVE OF ABSENCE

(By unanimous consent, leave of absence was granted as follows to:)

Mrs. CHISHOLM (at the request of Mr. WRIGHT), for today, on account of illness.

Mr. BROWN of California (at the request of Mr. WRIGHT), for October 18, 19, and 22, on account of family illness.

Mr. RODINO (at the request of Mr. WRIGHT), for today, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the re-

quest of Mr. PASHAYAN) to revise and extend their remarks and include extraneous material:)

Mr. SENSENBRENNER, for 15 minutes, today.

Mr. MARRIOTT, for 5 minutes, today.

Mr. RITTER, for 5 minutes, today.

(The following Members (at the request of Mr. KOSTMAYER) to revise and extend their remarks and include extraneous material:)

Mr. GONZALEZ, for 15 minutes, today.

Mr. WEAVER, for 10 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. JONES of Oklahoma, for 5 minutes, today.

Mr. AU COIN, for 5 minutes, today.

Mr. WOLFF, for 10 minutes, today.

Mr. FASCELL, for 10 minutes, today.

Ms. HOLTZMAN, for 5 minutes, today.

Mr. NELSON, for 20 minutes, on October 22, 1979.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. BINGHAM, to follow the vote on the Sharp substitute amendment for the Wylder amendment to H.R. 3000 in the Committee of the Whole today.

Mr. CONTE, prior to the vote on the Kostmayer amendment to H.R. 3000 in the Committee of the Whole today.

(The following Members (at the request of Mr. PASHAYAN), and to include extraneous matter:)

Mr. GILMAN.

Mr. GOODLING.

Mr. DANIEL B. CRANE.

Mr. HARSHA.

Mr. ASHBROOK in three instances.

Mr. ABDNOR.

Mr. GRASSLEY in two instances.

Mr. VANDER JAGT.

Mr. LIVINGSTON.

Mr. DORNAN.

Mr. DERWINSKI.

Mr. LAGOMARSINO.

Mr. RITTER.

(The following Members (at the request of Mr. KOSTMAYER) and to include extraneous matter:)

Mr. DANIELSON.

Mr. BROWN of California.

Ms. MIKULSKI.

Mr. PATTERSON in two instances.

Mr. SOLARZ in three instances.

Mr. BENJAMIN.

Mr. AMBRO.

Ms. OAKAR.

Mr. BARNES.

Mr. GORE in two instances.

Mr. FASCELL.

Mr. RODINO in two instances.

Mr. EDGAR in two instances.

Mr. MAZZOLI in two instances.

Mr. MOTT.

Mr. BEDELL.

Mr. SKELTON.

Mr. UDALL.

Mr. NEAL.

Mr. DINGELL in two instances.

Mr. MURPHY of New York.

Mr. SABO.

Mr. LELAND.

Mr. MINETA.

Mr. GEPHARDT.

Mr. MOFFETT.

Mr. FISHER.

Mr. CONYERS.

Mr. McDONALD.

Mr. HAWKINS.

Mr. HARRIS.

Mrs. SCHROEDER.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 58 minutes p.m.), the House adjourned until Friday, October 19, 1979, at 10 a.m.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports of various House committees concerning the foreign currencies and U.S. dollars utilized by them during the first, second, and third quarter of calendar year 1979 in connection with foreign travel pursuant to Public Law 95-384 are as follows:

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON AGRICULTURE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1979 AND SEPTEMBER 1979

Name of Member or employee	Date		Country	Per diem ¹		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency ²	Foreign currency	U.S. dollar equivalent or U.S. currency ²	Foreign currency	U.S. dollar equivalent or U.S. currency ²	Foreign currency	U.S. dollar equivalent or U.S. currency ²
Hon. Alvin Baldus	7/4/79	7/6/79	Ottawa, Can.		75.00						75.00
	7/6/79	7/7/79	Toronto, Can.		75.00						75.00
	7/7/79	7/9/79	Quebec City		75.00						75.00
	7/9/79	7/9/79			75.00						75.00
Total transportation							180.36				180.36
Alan Zepp	7/4/79	7/6/79	Ottawa, Can.		75.00						75.00
	7/6/79	7/7/79	Toronto		75.00						75.00
	7/7/79	7/9/79	Quebec City		75.00						75.00
	7/9/79	7/9/79	Montreal		75.00						75.00
Total transportation								255.84			255.84
Committee total					600.00			436.20			1,036.20
George Dunsmore	7/4/79	7/6/79	Ottawa, Can.		75.00						75.00
	7/6/79	7/7/79	Toronto, Can.		75.00						75.00
	7/7/79	7/9/79	Quebec City		75.00						75.00
	7/9/79	7/9/79	Montreal		75.00						75.00
Total transportation								201.90			201.90
James Swiderski	7/9/79	7/23/79	Rome, Italy	805.350	975.00	847,095.76	1,035.00				2,010.00
Hon. Richard Nolan	7/20/79	7/21/79	Geneva, Switz.	313.35	192.00	(Military aircraft)					192.00
Hon. Thomas S. Foley	8/25/79	9/1/79	Peking, China	808.45	525.00	(Presidential aircraft)					525.00
	9/1/79	9/3/79	Hong Kong, PRC	1,198,548	234.00	(Presidential aircraft)					234.00
Hon. Kika de la Garza	9/12/79	9/16/79	Caracas, Ven.			Trip assigned by Speaker O'Neill with Interparliamentary Union Group and funded by Union					
Committee total					2,226.00		1,236.90				3,462.90

¹ Per diem constitutes lodging and meals.

² If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON GOVERNMENT OPERATIONS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1979

Name of Member or employee	Date			Per diem ¹		Transportation		Other purposes		Total	
	Arrival	Departure	Country	Foreign currency	U.S. dollar equivalent or U.S. currency ²	Foreign currency	U.S. dollar equivalent or U.S. currency ²	Foreign currency	U.S. dollar equivalent or U.S. currency ²	Foreign currency	U.S. dollar equivalent or U.S. currency ²
Hon. Cardiss Collins	8/5/79	8/7/79	Tokyo	42,068	194.00	Transportation provided				42,068	194.00
	8/7/79	8/10/79	Seoul	108,900	225.00	By Air Force carrier				108,900	225.00
	8/10/79	8/12/79	Hong Kong	803.10	156.00					803.10	156.00
	8/12/79	8/15/79	Bangkok	4,594.50	225.00					4,594.50	225.00
	8/15/79	8/18/79	Singapore	481.50	225.00					481.50	225.00
Hon. John Erlenborn	8/25/79	9/1/79	Colombo, Sri Lanka	2,325	150.00		3,451.00			2,325	3,601.00
	9/1/79	9/4/79	Paris, France	1,147.50	270.00					1,147.50	270.00
Committee total					1,445.00		3,451.00				4,896.00

¹ Per diem constitutes lodging and meals.

² If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

Oct. 10, 1979.

JACK BROOKS, Chairman.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON MERCHANT MARINE AND FISHERIES, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1, AND JUNE 30, 1979

Name of Member or employee	Date			Per diem ¹		Transportation		Other purposes		Total	
	Arrival	Departure	Country	Foreign currency	U.S. dollar equivalent or U.S. currency ²	Foreign currency	U.S. dollar equivalent or U.S. currency ²	Foreign currency	U.S. dollar equivalent or U.S. currency ²	Foreign currency	U.S. dollar equivalent or U.S. currency ²
Biaggi, Hon. Mario	5/20	5/24	Switzerland	865.60	500.00		1,509.00				2,009.00
Corrado, Ernest J.	4/13	4/21	United Kingdom	299.76	701.00		1,499.60				2,200.60
Corrado, Ernest J.	5/26	6/5	Philippines	4,431	600.00		2,319.00				2,919.00
de la Garza, Hon. E.	4/15	4/18	Columbia	12,582	300.00		1,369.63				1,669.63
Howell, Martin	5/2	5/4	Mexico	5,118.75	225.00		467.00				692.00
Kitso, Thomas	4/16	4/18	Switzerland	515.80	300.00		1,677.00				1,977.00
Losch, Ronald	4/13	4/21	Switzerland	1,545.30	900.00		757.00				1,657.00
McCloskey, Hon. Paul	4/11	4/17	Switzerland	1,032.90	600.00		723.00				1,323.00
Murphy, Hon. John M.	6/6	6/7	United Kingdom	47.08	98.87		605.23				704.11
Murphy, Hon. John M.	6/7	6/9	France	1,957.50	450.00		496.95				546.95
Smith, G. Wayne	4/16	4/18	Switzerland	515.80	300.00		1,677.00				1,977.00
Snyder, Hon. Gene	4/16	4/21	Switzerland	1,030.20	600.00		1,599.00				2,199.00
Wallace, Sidney	4/13	4/21	United Kingdom	299.76	627.73		1,499.00				2,126.73
Wallace, Sidney	5/25	6/9	United Kingdom	611.76	1,256.34		708.00				1,974.34
Wyman, Barbara	6/15	6/23	West Germany	168.08	704.00		969.00				1,673.00
Zaubrecher, Dusty	6/10	6/16	West Germany	144.00	480.00		969.00				1,449.00
Committee total					8,652.94		18,444.41		0		27,097.35

¹ Per diem constitutes lodging and meals.

² If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

³ Returned to State Department unused portion of ticket amounting to \$34.

⁴ Military transportation.

⁵ Traveler traded air ticket for coach class, receiving State Department credit of \$842.

⁶ Traveler has made written request to State Department for additional \$64 representing increased per diem rate for London effective June 1, 1979.

Note: All per diem paid by State Department.

Sept. 15, 1979.

JOHN M. MURPHY,
Chairman, Committee on Merchant Marine and Fisheries.

ADDENDUM TO REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON POST OFFICE AND CIVIL SERVICE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1979

Name of Member or employee	Date			Per diem ¹		Transportation		Other purposes		Total	
	Arrival	Departure	Country	Foreign currency	U.S. dollar equivalent or U.S. currency ²	Foreign currency	U.S. dollar equivalent or U.S. currency ²	Foreign currency	U.S. dollar equivalent or U.S. currency ²	Foreign currency	U.S. dollar equivalent or U.S. currency ²
James Pierce Myers	2/13	2/21	Panama		600.00						600.00
Commercial transportation from Washington to Panama							371.00				371.00
Transportation furnished by DOD from Panama to Washington							258.125				258.125
Anthony Raymond	2/13	2/21	Panama		600.00						600.00
Commercial transportation from Washington to Panama							371.00				371.00
Transportation furnished by DOD from Panama to Washington							258.125				258.125
Hon. James M. Hanley	2/15	2/21	Panama		450.00				21.60		471.60
Transportation furnished by DOD							516.25				516.25
Hon. Charles H. Wilson	2/15	2/21	Panama		450.00						450.00
Transportation furnished by DOD							516.25				516.25
Hon. Patricia Schroeder	2/15	2/21	Panama		450.00						450.00
Commercial transportation from Washington to Panama							371.00				371.00
Transportation furnished by DOD from Panama to Washington							258.125				258.125
Hon. Gladys Noon Spellman	2/15	2/21	Panama		450.00						450.00
Transportation furnished by DOD							516.25				516.25
Hon. Edward J. Derwinski	2/15	2/21	Panama		450.00						450.00
Transportation furnished by DOD							516.25				516.25
Hon. Tom Corcoran	2/15	2/21	Panama		450.00						450.00
Transportation furnished by DOD							516.25				516.25
E. David Minton	2/15	2/21	Panama		450.00						450.00
Transportation furnished by DOD							516.25				516.25

Footnotes at end of table.

Name of Member or employee	Date			Per diem ¹		Transportation		Other purposes		Total		
				Arrival	Departure	Country	Foreign currency	U.S. dollar equivalent or U.S. currency ²	Foreign currency	U.S. dollar equivalent or U.S. currency ²	Foreign currency	U.S. dollar equivalent or U.S. currency ²
Robert E. Lockhart	2/15	2/21	Panama		450.00		516.25				450.00	516.25
Transportation furnished by DOD												
Joseph Fisher	2/15	2/21	Panama		450.00		516.25				450.00	516.25
Transportation furnished by DOD												
Ronald McCluskey	2/15	2/21	Panama		450.00		516.25				450.00	516.25
Transportation furnished by DOD												
Nancy K. Desrochers	2/15	2/21	Panama		450.00		516.25				450.00	516.25
Transportation furnished by DOD												
Geraldine Rudolph	2/15	2/21	Panama		450.00		516.25				450.00	516.25
Transportation furnished by DOD												
Warren Guerin	2/15	2/21	Panama		450.00						450.00	
Transportation furnished by DOD												
Andrew Feinstein	2/15	2/21	Panama		450.00		516.25				450.00	516.25
Transportation furnished by DOD												
Rosemary Storey	2/15	2/21	Panama		450.00		516.25				450.00	516.25
Transportation furnished by DOD												
Hon. Gene Taylor	2/15	2/20	Panama		375.00						375.00	
Transportation from Washington to Panama furnished by DOD												
Commercial transportation from Panama to St. Louis, Mo.							258.125				258.125	
							434.63				434.61	
Committee total					8,325.00		9,807.63		21.60		18,154.23	

¹ Per diem constitutes lodging and meals.
Oct. 3, 1979.

² If foreign currency is used, enter U.S. dollars equivalent; if U.S. currency is used, enter amount expended.
JAMES M. HANLEY Chairman.

ADDENDUM TO REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON SCIENCE AND TECHNOLOGY, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1979

Name of Member or employee	Date			Per diem ¹		Transportation		Other purposes		Total	
				Arrival	Departure	Country	Foreign currency	U.S. dollar equivalent or U.S. currency ²	Foreign currency	U.S. dollar equivalent or U.S. currency ²	Foreign currency
Local in country expenses for CODEL Lloyd	5/3	5/7	Mexico			14,525	638.45	6,800	298.90	21,325	937.35
Local in country expenses for CODEL Fuqua	6/6	6/7	England			5,550	243.96			5,550	243.96
	6/7	6/12	France			522.74	1,099.66			522.74	1,099.66
						12,488.22	2,931.60	7,050	1,654.92	19,538.22	4,586.52
						8,442.82	1,981.88			8,442.82	1,981.88
Committee total							6,895.55		1,953.82		8,849.37

¹ Per diem constitutes lodging and meals.
Oct. 11, 1979.

² If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
DON FUQUA, Chairman, Committee on Science and Technology.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMISSION ON SECURITY AND COOPERATION IN EUROPE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1979

Name of Member or employee	Date			Per diem ¹		Transportation		Other purposes		Total	
				Arrival	Departure	Country	Foreign currency	U.S. dollar equivalent or U.S. currency ²	Foreign currency	U.S. dollar equivalent or U.S. currency ²	Foreign currency
Donovan	9/11	9/15	Brussels	12,453	428.00		885.00				
Sletzinger	9/11	9/15	Brussels	12,453	428.00		885.00				
Committee total				856.00			1,770.00				

¹ Per diem constitutes lodging and meals.
Oct. 2, 1979.

² If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
DANTE FASCELL, Chairman.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:
2664. A letter from the Principal Deputy Assistant Secretary of Defense (Comptroller), transmitting notice of various transfers of funds between categories of appropriations to the Department of Defense, pur-

suant to section 834 of the Department of Defense Appropriation Act, 1979; to the Committee on Appropriations.
2665. A letter from the Secretary of State, transmitting the fourth monthly report on development related to Zimbabwe-Rhodesia; to the Committee on Foreign Affairs.
2666. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Ambassador-designate Abelardo L.

Valdez and by members of his family, pursuant to section 6 of Public Law 93-126; to the Committee on Foreign Affairs.
2667. A letter from the General Counsel, Department of Energy, transmitting notice of a meeting relating to the international energy program to be held on October 24 and 25, 1979, in Pittsburgh, Pa.; to the Committee on Interstate and Foreign Commerce.
2668. A letter from the Deputy Assistant

Administrator for Noise Control Programs, U.S. Environmental Protection Agency, transmitting proposed standards limiting the noise levels emitted from garbage trucks; to the Committee on Interstate and Foreign Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. JOHNSON of California: Committee on Public Works and Transportation. H.R. 5228. A bill to designate the building known as the Federal Building in Wilmington, Del., as the "J. Caleb Boggs Building" (Rept. No. 96-522). Referred to the House Calendar.

Mr. JOHNSON of California: Committee on Public Works and Transportation. H.R. 5259. A bill to name a certain Federal building in Santa Fe, N. Mex., the "Joseph E. Montoya Federal Building-U.S. Courthouse"; with amendments (Rept. No. 96-523). Referred to the House Calendar.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 4320. A bill to consent to the amended Bear River compact between the States of Utah, Idaho, and Wyoming (Rept. No. 96-524). Referred to the House Calendar.

Mr. LONG of Louisiana: Committee on Rules. House Resolution 454. Resolution providing for the consideration of H.R. 2727. A bill to modify the method of establishing quotas on the importation of certain meat, to include within such quotas certain meat products, and for other purposes (Rept. No. 96-525). Referred to the House Calendar.

Mr. PEPPER: Committee on Rules. House Resolution 455. Resolution providing for the consideration of H.R. 3948. A bill to amend the Federal Aviation Act of 1958 to eliminate the age limitation presently imposed on certain pilots of aircraft, and for other purposes (Rept. No. 96-526). Referred to the House Calendar.

Mr. MOAKLEY: Committee on Rules. House Resolution 456. Resolution providing for the consideration of H.R. 2313. A bill to amend the Federal Trade Commission Act to extend the authorization of appropriations contained in such act (Rept. No. 96-527). Referred to the House Calendar.

Mr. BEILENSON: Committee on Rules. House Resolution 457. Resolution waiving certain points of order against the conference report on S. 1030. A bill to authorize the President to create an emergency program to conserve energy, and for other purposes (Rept. No. 96-528). Referred to the House Calendar.

Mr. FROST: Committee on Rules. House Resolution 458. Resolution providing for the consideration of H.R. 2335. A bill providing for a research, development, and evaluation program to determine the feasibility of collecting in space solar energy to be transmitted to Earth and to generate electricity for domestic purposes (Rept. No. 96-529). Referred to the House Calendar.

Mr. HAWKINS: Committee on House Administration. House Resolution 196. Resolution providing for the printing as a House document of the publication entitled "The Celler-Kefauver Act: The First 27 Years" (Rept. No. 96-530). Referred to the House Calendar.

Mr. HAWKINS: Committee on House Administration. House Resolution 235. Resolution providing for the printing of the proceedings incident to the presentation of a portrait of Hon. Robert N. Giaimo (Rept. No. 96-531). Referred to the House Calendar.

Mr. HAWKINS: Committee on House Administration. House Resolution 349. Resolution providing for the printing as a House

document of the staff report to the Committee on Foreign Affairs entitled "The Assassination of Representative Leo J. Ryan and the Jonestown, Guyana Tragedy" (Rept. No. 96-532). Referred to the House Calendar.

Mr. HAWKINS: Committee on House Administration. House Resolution 396. Resolution approving the printing of additional copies of the report accompanying the Defense Production Act Amendment and Extension (Rept. No. 96-533). Referred to the House Calendar.

Mr. HAWKINS: Committee on House Administration. House Resolution 397. Resolution providing for the printing of the report of the official visit by the Speaker's delegation to the Union of Soviet Socialist Republics (Rept. No. 96-534). Referred to the House Calendar.

Mr. HAWKINS: Committee on House Administration. House Resolution 402. Resolution approving the printing of additional copies of the publication entitled "A Guidelines Handbook on Federal Loan Guarantee Programs" (Rept. No. 96-535). Referred to the House Calendar.

Mr. HAWKINS: Committee on House Administration. House Concurrent Resolution 184. Concurrent resolution providing for printing additional copies of the committee print entitled "7th Edition of the Immigration and Nationality Act with Amendments and Notes on Related Laws" (Rept. No. 96-536). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BEARD of Rhode Island:

H.R. 5629. A bill to reduce the disability limitation and to eliminate the time limit imposed by the Vietnam Era Readjustment Assistance Act of 1974 so that more disabled veterans may benefit from affirmative action programs; to the Committee on Veterans' Affairs.

By Mr. BLANCHARD (for himself, Mr. WRIGHT, Mr. BROOMFIELD, Mr. NEDZI, Mr. ANNUNZIO, Mr. GARCIA, Mr. DINGELL, Mr. PURSELL, Mr. FORD of Michigan, Mr. BONIOR of Michigan, Mr. HILLIS, Mr. TRAXLER, Mr. BRODHEAD, Mr. CONYERS, Mr. DRIGGS, Mr. FAUNTROY, and Mr. HAWKINS):

H.R. 5630. A bill to authorize emergency loans and loan guarantees to the Chrysler Corp.; to the Committee on Banking, Finance and Urban Affairs.

By Mr. BRINKLEY:

H.R. 5631. A bill to amend the Internal Revenue Code of 1954 to provide a trade or business deduction to firemen for meals which they eat while at their post of duty overnight; to the Committee on Ways and Means.

By Mr. DAVIS of Michigan:

H.R. 5632. A bill to amend section 5(d) of Public Law 874 to prevent taking into account Federal funds made available under that act in the distribution of State educational funds; to the Committee on Education and Labor.

By Mr. FASCELL:

H.R. 5633. A bill to amend the Internal Revenue Code of 1954 to provide that non-resident alien individuals and foreign corporations shall be taxed at capital gain rates on gain from the sale or exchange of real property located in the United States; to the Committee on Ways and Means.

By Mr. FISHER:

H.R. 5634. A bill to amend the Internal Revenue Code of 1954 to subject foreign investors to the capital gains tax on gain from the sale of real property situated in the

United States; to the Committee on Ways and Means.

By Mr. GEPHARDT (for himself, Mr. BROYHILL, Mr. LUKEN, Mr. GRADISON, Mr. JONES of Oklahoma, Mr. CARTER, Mr. HOLLAND, Mr. BROWN of Ohio, Mr. SATTERFIELD, Mr. MARTIN, Mr. GRAMM, Mr. DUNCAN of Tennessee, Mr. SHELLBY, Mr. FRENZEL, Mr. SCHULZE, Mr. MOORHEAD of California, Mr. STOCKMAN, Mr. CORCORAN, Mr. MOORE, and Mr. LEE):

H.R. 5635. A bill to establish a national commission on hospital costs, to encourage voluntary efforts to contain hospital costs, to provide for the orderly development of State hospital cost containment programs, to encourage philanthropic support for non-profit hospitals, and for other purposes; jointly, to the Committees on Ways and Means and Interstate and Foreign Commerce.

By Mr. GIBBONS:

H.R. 5636. A bill to amend the Internal Revenue Code of 1954 to increase the minimum accumulated earnings credit from \$150,000 to \$200,000; to the Committee on Ways and Means.

By Mr. PREYER:

H.R. 5637. A bill to amend title II of the Social Security Act to provide that a child's entitlement to child's insurance benefits on the wage record of an adopting parent shall terminate upon such child's adoption by his or her natural parent; to the Committee on Ways and Means.

By Mr. STACK:

H.R. 5638. A bill to amend title 5, United States Code, to provide premium pay for employees for time in an on-call status away from their duty posts; to the Committee on Post Office and Civil Service.

By Mr. TRAXLER:

H.R. 5639. A bill to amend the Internal Revenue Code of 1954 to repeal the inclusion in gross income of unemployment compensation added by the Revenue Act of 1978; to the Committee on Ways and Means.

By Mr. AUCCOIN:

H.R. 5640. A bill to amend the Housing and Community Development Act of 1974 to provide for grants to be made by the Secretary of Housing and Urban Development to local governmental units and Indian tribes for the development of energy conservation plans and programs; jointly, to the Committees on Banking, Finance and Urban Affairs and Interstate and Foreign Commerce.

H.R. 5641. A bill to amend the Housing and Community Development Act of 1974 to provide for grants to be made by the Secretary of Housing and Urban Development to cities, urban counties, and Indian tribes for energy development and conservation action; jointly, to the Committees on Banking, Finance and Urban Affairs and Interstate and Foreign Commerce.

By Mr. CLAY:

H.R. 5642. A bill to amend chapter 79 of title 5 of the United States Code to provide for the application of occupational safety and health standards to the Federal workplace, and for other purposes; jointly, to the Committees on Education and Labor and Post Office and Civil Service.

By Mr. GORE (for himself, Mr. BOWEN,

Mr. DASCHLE, Mr. OTTINGER, Mr. EDGAR, Mr. ICHORD, Mr. WHITLEY, Mr. BURLISON, Mr. KOGOVSEK, Mr. YOUNG of Alaska, Mr. VOLKMER, Mr. CHENEY, Mr. MONTGOMERY, Mr. ANDREWS of North Dakota, Mr. KINDNESS, Mr. LEACH of Iowa, Mr. STANGELAND, Mr. HINSON, Mr. BAUMAN, Mr. LOTT, Mr. CLEVELAND, Mr. WAMPLER, Mr. FOWLER, Mr. GUDGER, Mr. SKELTON, Mr. GINGRICH, and Mr. CHARLES WILSON of Texas):

H.R. 5643. A bill to amend the Internal Revenue Code of 1954 with respect to the tax treatment of cooperative electric and tele-

phone companies; to the Committee on Ways and Means.

By Mr. McDADE:

H.R. 5644. A bill to establish a program under which the Secretary of Health, Education, and Welfare, acting through the Social Security Administration and under agreements made with appropriate State agencies, will assist low-income and elderly households in meeting the increased costs of residential fuel, and to amend the Internal Revenue Code of 1954 to provide a middle-income energy tax credit for households which use heating oil; jointly, to the Committees on Education and Labor, Interstate and Foreign Commerce, and Ways and Means.

By Mr. MAZZOLI:

H.R. 5645. A bill to grant to the Little Sisters of the Poor all right, title, and interest of the United States in the land comprising certain alleys in the District of Columbia; to the Committee on the District of Columbia.

By Mr. PREYER:

H.R. 5646. A bill to amend the Privacy Act to transfer coverage of certain insurance records, to improve information practices in the insurance industry, and for other purposes; jointly, to the Committees on Interstate and Foreign Commerce and Government Operations.

By Mr. QUAYLE:

H.R. 5647. A bill to amend the Internal Revenue Code of 1954 to provide for the economic stimulation of the economy through increased savings and investment; to the Committee on Ways and Means.

By Mr. WOLFF:

H.R. 5648. A bill to establish an interagency task force on suburban development; to the Committee on Government Operations.

By Ms. HOLTZMAN:

H.R. 5649. A bill to establish a program under which the Secretary of Energy shall make grants available to local governmental units to assist them in undertaking energy conservation activities; to the Committee on Interstate and Foreign Commerce.

By Mr. ROE:

H.R. 5650. A bill to modify the restrictions contained in section 170(e) of the Internal Revenue Code in the case of certain contributions of literary, musical, or artistic composition, or similar property; to the Committee on Ways and Means.

Mr. BEDELL (for himself, Mr. McCloskey, Mr. MITCHELL of Maryland, Mr. MARKEY, Mr. OBERSTAR, Mr. LA FALCE, Mr. BARNES, Mr. QUAYLE, Mr. KILDEE, Mr. OTTINGER, Mr. GRADISON, Mr. DRINAN, Mr. STARK, Mr. FRENZEL, Mr. STOKES, Mr. WAXMAN, Mr. McHUGH, Mr. GLICKMAN, Mr. BRODHEAD, Mr. RAHALL, Mr. LELAND, Mr. PEASE, Mr. WOLPE, Mr. WON PAT, Mr. PANNETTA, and Mr. DELLUMS):

H. Con. Res. 199. Concurrent resolution expressing the sense of Congress with respect to employment practices in South Africa of U.S. companies doing business in that country; to the Committee on Foreign Affairs.

By Mr. BOLAND:

H. Res. 452. Resolution to provide for the further expenses of investigations and studies to be conducted by the Permanent Select Committee on Intelligence; to the Committee on House Administration.

By Mr. BREAUX (for himself, Mr. MURPHY of New York, Mr. FORSYTHE, Mr. STUDDS, Mr. AU COIN, Mr. BOWEN, Mr. FRITCHARD, Mr. YOUNG of Alaska, Mr. TRIBLE, and Mr. TREEN):

H. Res. 453. Resolution disapproving the proposed deferral of budget authority for fiscal year 1980 for the promotion and development of fishery products and research pertaining to American fisheries; to the Committee on Appropriations.

By Mr. SENSENBRENNER:

H. Res. 459. Resolution prohibiting use of official funds for expenses of foreign travel by

Representative CHARLES C. DIGGS, JR.; to the Committee on House Administration.

By Mr. SMITH of Iowa:

H. Res. 460. Resolution providing for the expenses of the investigation and studies by the Committee on Small Business; to the Committee on House Administration.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 264: Mr. DORNAN and Mr. GREEN.
H.R. 325: Mrs. HECKLER.
H.R. 801: Mr. HALL of Texas.
H.R. 1000: Mr. KEMP and Mr. LUNGREN.
H.R. 2139: Mr. BRODHEAD.
H.R. 2279: Mr. LENT and Mr. BROOMFIELD.
H.R. 2291: Mr. ATKINSON, Mr. BAILEY, Mr. BEDELL, Mr. DAVIS of Michigan, Mr. DERWINSKI, Mr. GRAY, Mr. KOGOVSEK, Mr. LOWRY, Mr. MADIGAN, Mr. PRICE, Mr. ROYER, Mr. SEBELIUS, Mr. STANGELAND, Mr. TAUKE, Mr. WALGREN, Mr. WALKER, and Mr. WYLIE.
H.R. 2744: Mr. STEED.
H.R. 2763: Ms. OAKAR.
H.R. 3932: Mr. GINGRICH, Mr. THOMAS, Mr. RITTER, Mr. GUYER, Mr. DANIEL B. CRANE, and Mr. EDWARDS of Oklahoma.
H.R. 3958: Mr. CARR.
H.R. 4024: Mr. BLANCHARD.
H.R. 4513: Mr. HAGEDORN and Mr. KINDNESS.
H.R. 4526: Mr. AU COIN.
H.R. 4563: Mr. ANTHONY and Mr. HAMILTON.
H.R. 4646: Mr. TAYLOR, Mr. PATTERSON, Mr. BLANCHARD, and Mr. HOPKINS.
H.R. 4782: Mr. NICHOLS.
H.R. 4885: Mr. FORSYTHE, Mr. WHITEHURST, Mr. SPENCE, Mr. HINSON, Mr. MICHEL, Mr. LUNGREN, Mr. EMERY, Mr. LIVINGSTON, Mr. WHITTAKER, Mr. SIMON, Mr. MOTT, Mr. COURTER, Mr. JONES of Oklahoma, Mr. FRENZEL, Mr. BURGNER, Mr. NEAL, Mrs. HOLT, Mr. BLANCHARD, Mr. BEDELL, and Mr. DORNAN.
H.R. 4906: Ms. HOLTZMAN, Mr. MAGUIRE, Mr. MINETA, and Mr. OBERSTAR.
H.R. 5038: Mr. BAILEY.
H.R. 5371: Mr. PETRI, Mr. DUNCAN of Tennessee, Mrs. HOLT, Mr. REGULA, Mr. BENJAMIN, Mr. WHITEHURST, Mr. LUJAN, Mr. ROTH, and Mr. HUBBARD.
H.R. 5420: Mr. GRISHAM, Mr. PASHAYAN, Mr. McCLOSKEY, Mr. FISH, Mr. LEE, Mr. ERLBORN, Mr. ROYER, Mr. HINSON, Mrs. FENWICK, Mr. PETRI, Mr. KINDNESS, Mr. CLEVELAND, Mr. CAMPBELL, and Mr. MILLER of Ohio.
H.R. 5570: Mr. STUDDS.
H.J. Res. 300: Mr. DOUGHERTY, Mr. ST GERMAIN, Mr. PAUL, Mr. APPEGATE, and Mr. MURPHY of Pennsylvania.
H.J. Res. 322: Mr. FTTHIAN.
H.J. Res. 394: Mr. ROBINSON, Mr. McDONALD, Mr. YOUNG of Alaska, Mr. PHILIP M. CRANE, Mr. GOLDWATER, Mr. WINN, Mr. ROBERT W. DANIEL, Jr., Mr. LIVINGSTON, Mr. HINSON, Mr. WHITEHURST, Mr. DANNMEYER, Mr. LAGOMARSINO, Mr. LOTT, Mr. SPENCE, Mr. COLLINS of Texas, Mr. CAMPBELL, Mr. COURTER, Mr. ROE, Mr. FLOOD, and Mr. STOCKMAN.
H. Res. 218: Mr. BURGNER, Mr. DOUGHERTY, Mr. DERWINSKI, Mrs. FENWICK, Mr. LOEFFLER, Mr. SKELTON, and Mr. THOMAS.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2313

By Mr. KEMP;
—Page 26, after line 2, add the following new section:

RESTRICTION OF COMMISSION ACTIONS AGAINST CEREAL MANUFACTURERS

SEC. 305. (a) The Federal Trade Commission shall not have any authority to use any

funds which are authorized to be appropriated to carry out the Federal Trade Commission Act (15 U.S.C. 41 et seq.) for fiscal year 1980, 1981, or 1982 for the purpose of—

(1) continuing any administrative or other proceeding brought by the Federal Trade Commission against the Kellogg Company, General Mills, Incorporated, and the General Foods Corporation which is pending on the date of the enactment of this Act; or

(2) initiating any such proceeding, based upon any allegation of anticompetitive practices, against any such business organization after such date of enactment; until the Commission carries out a study in accordance with subsection (b)

(b) The Commission, in carrying out the study specified in subsection (a), shall—

(1) examine the economic impact which may result from any proceeding specified in subsection (a) against the Kellogg Company, General Mills, Incorporated, and the General Foods Corporation, including the impact upon—

(A) individuals employed by such business organizations and any labor organizations representing such individuals;

(B) the communities in which such business organizations are located; and

(C) other business organizations, employees, and labor organizations;

(2) study any impact which such proceeding may have upon—

(A) the collective bargaining rights of labor organizations; and

(B) employee wages, pension rights, insurance benefits, and working conditions, and any other contractual rights of employees; and

(3) determine whether any individual employed by the Kellogg Company, General Mills, Incorporated, or the General Foods Corporation who suffers a loss of employment caused by the economic impact resulting from such proceeding would be entitled—

(A) to be provided with new employment by his employer; and

(B) to receive payment or reimbursement for relocation expenses incurred by such individual.

H.R. 3000

By Mr. CAMPBELL:

(To the amendment offered by Mr. PEYSER.)
—Strike out "third" in section 901 and insert "tenth" in lieu thereof; and

In section 902, strike "sixth" and insert "fifteenth" in lieu thereof.

By Mr. COURTER:

(Page and line numbers refer to H.R. 4839.)

—On page 79 at the end of title VIII:

Strike the next to the last word.

Strike out the last three words.

By Mr. STOCKMAN:

(Page and line numbers refer to H.R. 4839.)

—On page 79, at the end of title VIII:

Strike the last word.

Strike the last paragraph.

H.R. 3712

By Mr. GEPHARDT:

—Page 32, beginning in line 15, strike out "single-family".

Page 32, beginning in line 23, strike out "single family owner-occupied residences" and insert "one to four family residences (one unit of which is owner-occupied)".

Page 34, after line 18, insert the following:

(2) STATE HOUSING FINANCE AGENCY OBLIGATIONS AUTHORIZED BY ENABLING LEGISLATION ENACTED AFTER APRIL 25, 1979, AND BEFORE OCTOBER 18, 1979.—

(A) IN GENERAL.—The amendments made by this Act shall not apply to obligations issued by a State housing finance agency pursuant to legislation enacted after April 25, 1979, and before October 18, 1979, which authorized such agency to issue tax-exempt obligations or increased the amount of tax-

exempt obligations which may be issued by such agency.

(B) DOLLAR LIMIT FOR STATE HOUSING FINANCE AGENCIES.—The aggregate amount of obligations which may be issued by State housing finance agencies with respect to any State by reason of subparagraph (A) may not exceed the lesser of—

(1) the aggregate amount authorized by the legislation referred to in subparagraph (A), or

(2) \$100,000,000, reduced by the aggregate amount of obligations which are issued by the housing finance agencies of such State after April 24, 1979, and to which the amendments made by this Act do not apply solely by reason of paragraph (1).

(C) MORTGAGE COMMITMENTS MUST BE MADE BEFORE JANUARY 1, 1981.—Subparagraph (A) shall not apply with respect to any issue by a State housing finance agency unless substantially all of the proceeds of such issue (exclusive of issuance costs and a reasonably required reserve) are committed by firm commitment letters (similar to those used in owner-financing not provided by tax-exempt bonds) to owner-financing before January 1, 1981, and such issue meets the requirements of subclause (I) of paragraph (1) (C) (ii).

(3) CERTAIN LOCAL ACTION PURSUANT TO LEGISLATION ENACTED BEFORE OCTOBER 18, 1979.—

(A) IN GENERAL.—For purposes of paragraph (1), if—

(i) on April 25, 1979, legislation was pending in a State legislature authorizing a local governmental unit to issue tax-exempt obligations,

(ii) before October 18, 1979, such legislation was enacted (and any referendum required in connection with the issuance of tax-exempt obligations was held), and

(iii) any action with respect to the issuance of such obligations by the local governing body would have met the requirements of paragraph (1) if such legislation had been in effect (and such referendum had been held) when that action was taken,

then such legislation shall be treated as in effect (and such referendum shall be treated as having been held) at the time when such action was taken.

(B) DOLLAR LIMIT FOR LOCAL GOVERNMENTAL UNITS.—The aggregate amount of obligations which may be issued by local governmental units with respect to the area comprising any local governmental area by reason of subparagraph (A) may not exceed the lesser of—

(1) the aggregate amount authorized by the legislation referred to in subparagraph (A), or

(2) \$100,000,000, reduced by the aggregate amount of obligations which are issued by local governmental units with respect to such area after April 24, 1979, and to which the amendments made by this Act do not apply solely by reason of paragraph (1) (determined without regard to the application of subparagraph (A) of this paragraph).

(C) MORTGAGE COMMITMENTS MUST BE MADE BEFORE JANUARY 1, 1981.—Subparagraph (A) shall not apply with respect to any issue by a local governmental unit unless substantially all of the proceeds of such issue (exclusive of issuance costs and a reasonably required reserve) are committed by firm commitment letters (similar to those used in owner-financing not provided by tax-exempt bonds) to such owner-financing before January 1, 1981.

(4) TREATMENT OF CERTAIN LEGISLATION ENACTED BEFORE NOVEMBER 18, 1979.—For purposes of paragraphs (2) and (3), any legislation which was passed by at least 1 house of a State legislature before October 18, 1979, and which was enacted before November 18,

1979, shall be treated as enacted before October 18, 1979.

(5) ONGOING LOCAL PROGRAMS FOR REHABILITATION LOANS.—

(A) IN GENERAL.—If before April 25, 1979, a local governmental unit had a qualified rehabilitation loan program, then the amendments made by this Act shall not apply to obligations issued by such governmental unit for qualified loans if substantially all of the proceeds of such issue (exclusive of issuance costs and a reasonably required reserve) are committed by firm commitment letters (similar to those used in owner-financing not provided by tax-exempt bonds) to qualified loans before January 1, 1981.

(B) LIMITATION.—The aggregate amount of obligations which may be issued by local governmental units with respect to the area comprising any local governmental area by reason of subparagraph (A) may not exceed the lesser of—

(1) \$10,000,000, or

(2) the aggregate amount of loans made under the qualified rehabilitation loan program during the period beginning on January 1, 1977, and ending on April 24, 1979.

The limitation established by the preceding sentence shall be reduced by the aggregate amount of obligations (if any) which are issued under the qualified rehabilitation loan program after April 24, 1979, with respect to the same local governmental area and to which the amendments made by this Act do not apply solely by reason of paragraph (1) (as modified by paragraph (3)).

(C) QUALIFIED REHABILITATION LOAN PROGRAM.—For purposes of this paragraph, the term "qualified rehabilitation loan program" means a program for the financing—

(i) of alterations, repairs, and improvements on or in connection with an existing residence by the owner thereof, but

(ii) only of such items as substantially protect or improve the basic livability of the property.

(D) QUALIFIED LOAN.—For purposes of this paragraph, the term "qualified loan" means the financing—

(i) of alterations, repairs, and improvements on or in connection with an existing 1 to 4 family residence (1 unit of which is owner-occupied) by the owner thereof, but

(ii) only of such items as substantially protect or improve the basic livability of the property.

(E) DOLLAR LIMIT ON QUALIFIED LOANS.—For purposes of this paragraph, a loan shall not be treated as a qualified loan if the financing is in an amount which exceeds \$20,000 plus \$2,500 for each unit in excess of 1.

(6) OFFICIAL ACTION BY LOCAL GOVERNING BODY WHERE COURT ACTION DETERMINING SCOPE OF AUTHORIZING LEGISLATION WAS PENDING.—For purposes of paragraph (1), if—

(A) before April 25, 1979, a State had enacted a law under which counties were authorized to issue tax-exempt obligations for public purposes,

(B) on such date the question of whether or not that law authorized the issuance of obligations to finance owner-occupied residences was being litigated in a court of competent jurisdiction, and

(C) there is written evidence which was in existence before April 25, 1979, that the governing body of a county in such State had taken action indicating an intent to establish a program for issuing tax-exempt obligations to finance owner-occupied residences, and an appropriate official of the county files with the Secretary of the Treasury or his delegate an affidavit that this was the intent of the governing body on such date.

then such action shall be treated as official action indicating an intent to issue any obligation issued pursuant to such program. In any such case, limitations similar to the limitations of subparagraphs (B) (ii) and (C)

of paragraph (3) shall apply, except that "\$50 million" shall be substituted for "\$100 million" where it appears therein.

Page 34, line 19, strike out "(2)" and insert in lieu thereof "(7)".

Page 36, line 13, strike out "(3)" and insert in lieu thereof "(8)".

Page 37, after line 3, insert the following:
(B) RENTAL HOUSING PROJECTS APPROVED BY SECRETARY OF HUD.—The amendment made by section 3 shall not apply to a project which was in the development stage on April 24, 1979, if—

(1) a plan specifying the number and location of rental units was preliminarily approved by the Secretary of Housing and Urban Development pursuant to section 221 (d) (4) or section 232 of the Housing Act on or before such date, and

(2) fees for processing the project with the Department of Housing and Urban Development and other expenditures for the project had been incurred on or before such date.

Page 37, line 4, strike out "(B)" and insert in lieu thereof "(C)".

Page 37, after line 22, insert the following:
(D) CERTAIN REDEVELOPMENT MORTGAGE BOND FINANCING PROJECTS.—Clause (ii) of subparagraph (C) shall be treated as satisfied if, before April 25, 1979—

(1) the developer of a project acquired the land for such project,

(2) there was approval by the mayor's advisory committee of a city of a comprehensive proposal (under a State law authorizing tax-exempt obligations for use only in redevelopment areas) for such project, subject to revisions to be made, and

(3) a revised proposal was submitted to the redevelopment agency and city council containing the revisions.

The aggregate amount of obligations which may be issued by local governmental units with respect to the area comprising any local governmental area by reason of this subparagraph may not exceed \$20,000,000.

By Mr. JACOBS:

—Page 3, strike out line 22 and all that follows down through and including the material between lines 14 and 15 on page 30, and insert in lieu thereof the following:

SEC. 2. MORTGAGE SUBSIDY BONDS; CREDIT FOR CERTAIN MORTGAGE INTEREST AND MORTGAGE INSURANCE AND FIRST-TIME HOME BUYERS.

(a) MORTGAGE SUBSIDY BONDS.—Section 103 of the Internal Revenue Code of 1954 (relating to interest on certain governmental obligations) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) MORTGAGE SUBSIDY BONDS.—

"(1) IN GENERAL.—Except as provided in paragraph (3), any mortgage subsidy bond shall be treated as an obligation not described in subsection (a) (1) or (2).

"(2) MORTGAGE SUBSIDY BOND DEFINED.—For purposes of this subsection, the term 'mortgage subsidy bond' means any obligation which is issued as part of an issue a significant portion of the proceeds of which are to be used directly or indirectly for mortgages on (or other owner-financing of) owner-occupied residences.

"(3) EXCEPTION FOR QUALIFIED VETERANS' BONDS.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to any qualified veterans' mortgage bond.

"(B) QUALIFIED VETERANS' MORTGAGE BOND DEFINED.—For purposes of subparagraph (A), the term 'qualified veterans' mortgage bond' means any obligation—

"(1) which is issued in registered form as part of an issue substantially all the proceeds of which are to be used to provide residences for veterans,

"(2) the payment of the principal and

interest on which is secured by the general obligation of a State, and

"(iii) which is issued as part of an issue no part of the proceeds of which is to be used to acquire or replace existing mortgages.

"(C) ADVANCE REFUNDING NOT PERMITTED.—An obligation which is issued for the advance refunding of another obligation shall not be treated as a qualified veterans' mortgage bond.

"(D) EXCEPTIONS TO NEW MORTGAGE REQUIREMENT.—Under regulations prescribed by the Secretary, the replacement of—

"(i) construction period loans,
 "(ii) bridge loans or similar temporary initial financing, and

"(iii) in the case of a qualified rehabilitation (as defined in section 44D(1)(6)(B)), an existing mortgage,

shall not be treated as the acquisition or replacement of an existing mortgage for purposes of subparagraph (B) (iii)."

(b) CREDIT FOR CERTAIN MORTGAGE INTEREST AND MORTGAGE INSURANCE FOR FIRST-TIME BUYERS.—

(1) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by inserting after section 44C the following new section:

"SEC. 44D. CERTAIN MORTGAGE INTEREST AND MORTGAGE INSURANCE FOR FIRST-TIME HOME BUYERS.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(1) the qualified mortgage interest expenses, plus

"(2) the qualified mortgage insurance expenses.

"(b) QUALIFIED EXPENSES.—For purposes of subsection (a)—

"(1) MORTGAGE INTEREST.—

"(A) IN GENERAL.—The qualified mortgage interest expenses are 10 percent of so much of the mortgage interest expenses paid or incurred by the taxpayer during the taxable year with respect to a qualified residence as does not exceed \$2,000

"(B) TARGETED AREA RESIDENCES.—In the case of mortgage interest expenses paid or incurred with respect to a targeted area residence, subparagraph (A) shall be applied by substituting '20 percent' for '10 percent'.

"(2) MORTGAGE INSURANCE.—The qualified mortgage insurance expenses are so much of the mortgage insurance expenses paid or incurred by the taxpayer at the time the mortgage is executed with respect to a qualified residence as does not exceed the lesser of one-half of 1 percent of the loan secured by the mortgage, or \$250.

"(3) EXCLUSION OF EXPENSES ATTRIBUTABLE TO LOANS MADE THROUGH TAX-EXEMPT FINANCING.—No mortgage interest expenses or mortgage insurance expenses may be taken into account under this section if such expenses are attributable to a loan the funds for which are provided in whole or in part from the proceeds of any obligation the interest on which is exempt from tax under section 103.

"(4) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowable under a section of this subpart having a lower number or letter designation than this section, other than the credits allowable by sections 31, 39, and 43.

"(c) INCOME LIMITATION.—

"(1) IN GENERAL.—If the adjusted gross income of the taxpayer for the taxable year exceeds \$20,000 (\$10,000 in the case of a married individual filing a separate return), the credit which would (but for this subsection) be allowed by subsection (a) for such year shall be reduced by \$1 for each \$20 of the adjusted gross income of the taxpayer in

excess of \$20,000 or \$10,000, as the case may be.

"(2) SPECIAL RULE FOR TARGETED AREA RESIDENCES.—In the case of any targeted area residence, paragraph (1) shall be applied by substituting '\$25,000' for '\$20,000' and '\$12,500' for '\$10,000' each place they appear.

"(d) DEFINITIONS.—For purposes of this section—

"(1) MORTGAGE INTEREST EXPENSES.—The term 'mortgage interest expenses' means expenses for interest on—

"(A) any mortgage loan for the purchase of a qualified residence,

"(B) any qualified home improvement loan, or

"(C) any qualified rehabilitation loan.

"(2) MORTGAGE INSURANCE EXPENSES.—The term 'mortgage insurance expenses' means, with respect to a loan secured by a mortgage on a qualified residence, expenses to insure payment of such loan in the event of the mortgagor's default on such loan.

"(3) QUALIFIED RESIDENCE.—The term 'qualified residence' means a residence with respect to which each mortgagor meets the requirements of subsections (e), (f), and (g).

"(e) RESIDENCE REQUIREMENTS.—A mortgagor meets the requirements of this subsection with respect to a residence for the taxable year only if the residence—

"(1) is a single-family residence,

"(2) is used as the principal residence of the mortgagor, and

"(3) is located in the United States or a possession of the United States.

"(f) 3-YEAR REQUIREMENT.—

"(1) IN GENERAL.—A mortgagor meets the requirements of this subsection with respect to a residence only if the mortgagor had, at no time during the 3-year period ending on the date the mortgage with respect to such residence is executed, a present ownership interest in any other residence which was a principal residence of such mortgagor. For purposes of the preceding sentence, the mortgagor's interest in the residence with respect to which the credit under subsection (a) is claimed shall not be taken into account.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply with respect to—

"(A) any targeted area residence,

"(B) any qualified home improvement loan, and

"(C) any qualified rehabilitation loan.

"(g) PURCHASE PRICE REQUIREMENTS.—

"(1) IN GENERAL.—A mortgagor meets the requirements of this subsection with respect to a residence only if the acquisition cost of such residence does not exceed 80 percent of the average area purchase price applicable to such residence.

"(2) AVERAGE AREA PURCHASE PRICE.—For purposes of paragraph (1), the term 'average area purchase price' means, with respect to any residence, the average purchase price of single family residences (in the statistical area in which the residence is located) which were purchased during the most recent 12-month period for which sufficient statistical information is available. The determination under the preceding sentence shall be made as of the date on which the commitment to provide the financing is made (or, if earlier, the date of the purchase of the residence).

"(3) SEPARATE APPLICATION TO NEW RESIDENCES AND OLD RESIDENCES.—For purposes of this subsection, the determination of average area purchase price shall be made separately with respect to—

"(A) residences which have not been previously occupied, and

"(B) residences which have been previously occupied.

"(4) SPECIAL RULE FOR TARGETED AREA RESIDENCES.—In the case of a targeted area residence, paragraph (1) shall be applied by substituting '110 percent' for '80 percent'.

"(5) EXCEPTION FOR QUALIFIED HOME IMPROVEMENT LOANS.—Paragraph (1) shall not apply with respect to any qualified home improvement loan.

"(h) TARGETED AREA RESIDENCES.—

"(1) IN GENERAL.—For purposes of this section, the term 'targeted area residence' means a residence which, at the time the mortgage is executed, is in an area which is either—

"(A) a qualified census tract, or

"(B) an area of chronic economic distress.

"(2) QUALIFIED CENSUS TRACT.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'qualified census tract' means a census tract in which 70 percent or more of the families have income which is 80 percent or less of the statewide median family income.

"(B) DATA USED.—The determination under subparagraph (A) shall be made on the basis of the most recent decennial census for which data are available.

"(3) AREA OF CHRONIC ECONOMIC DISTRESS.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'area of chronic economic distress' means an area of chronic economic distress—

"(i) designated by the State as meeting the standards established by the State for purposes of this subsection, and

"(ii) the designation of which has been approved by the Secretary and the Secretary of Housing and Urban Development.

"(B) CRITERIA TO BE USED IN APPROVING STATE DESIGNATIONS.—The criteria used by the Secretary and the Secretary of Housing and Urban Development in evaluating any proposed designation of an area for purposes of this subsection shall be—

"(1) the condition of the housing stock, including the age of the housing and the number of abandoned and substandard residential units,

"(ii) the need of area residents for owner-financing under this section, as indicated by low per capita income, a high percentage of families in poverty, a high number of welfare recipients, and high unemployment rates,

"(iii) the potential for use for owner-financing under this section to improve housing conditions in the area, and

"(iv) the existence of a housing assistance plan which provides a displacement program and a public improvements and services program.

"(1) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) MORTGAGE.—The term 'mortgage' includes any other owner-financing.

"(2) STATE.—The term 'State' includes a possession of the United States and the District of Columbia.

"(3) STATISTICAL AREA.—

"(A) IN GENERAL.—The term 'statistical area' means—

"(i) a standard metropolitan statistical area, and

"(ii) any county (or the portion thereof) which is not within a standard metropolitan statistical area.

"(B) STANDARD METROPOLITAN STATISTICAL AREA.—The term 'standard metropolitan statistical area' means the area in and around a city of 50,000 inhabitants or more (or equivalent area) as defined by the Secretary of Commerce.

"(C) DESIGNATION WHERE ADEQUATE STATISTICAL INFORMATION NOT AVAILABLE.—For purposes of this paragraph, if there is insufficient recent statistical information with respect to a county (or portion thereof) described in subparagraph (A) (ii), the Secretary may substitute for such county (or portion thereof) another area for which there is sufficient recent statistical information.

"(D) DESIGNATION WHERE NO COUNTY.—In the case of any portion of a State which is not within a county, subparagraphs (A) (ii) and (C) shall be applied by substituting for 'county' an area designated by the Secretary which is the equivalent of a county.

"(4) ACQUISITION COST.—

"(A) IN GENERAL.—The term 'acquisition cost' means the cost of acquiring the residence as a completed residential unit.

"(B) EXCEPTION.—The term 'acquisition cost' does not include—

"(1) usual and reasonable settlement or financing costs.

"(ii) the value of services performed by the mortgagor or members of his family in completing the residence, and

"(iii) the cost of land which has been owned by the mortgagor for at least 2 years before the date on which construction of the residence begins.

"(C) SPECIAL RULE FOR QUALIFIED REHABILITATION LOANS.—In the case of a qualified rehabilitation loan, for purposes of subsection (g), the term 'acquisition cost' includes the cost of the rehabilitation.

"(5) QUALIFIED HOME IMPROVEMENT LOAN.—The term 'qualified home improvement loan' means the financing (in an amount which does not exceed \$15,000)—

"(A) of alterations, repairs, and improvements on or in connection with an existing residence by the owner thereof, but

"(B) only of such items as substantially protect or improve the basic livability of the property.

"(6) QUALIFIED REHABILITATION LOAN.—

"(A) IN GENERAL.—The term 'qualified rehabilitation loan' means any owner-financing provided in connection with—

"(i) a qualified rehabilitation, or

"(ii) the acquisition of a residence with respect to which there has been a qualified rehabilitation,

but only if the mortgagor to whom such financing is provided is the first resident of the residence after the completion of the rehabilitation.

"(B) QUALIFIED REHABILITATION.—For purposes of subparagraph (A), the term 'qualified rehabilitation' means any rehabilitation of a building if—

"(1) there is a period of at least 20 years between the date on which the building was first used and the date on which the physical work on such rehabilitation begins,

"(ii) 75 percent or more of the existing external walls of such building are retained in place as external walls in the rehabilitation process, and

"(iii) the expenditures for such rehabilitation are 25 percent or more of the mortgagor's adjusted basis in the residence.

For purposes of clause (iii), the mortgagor's adjusted basis shall be determined as of the completion of the rehabilitation or, if later, the date on which the mortgagor acquires the residence.

"(7) JOINT OCCUPANCY.—Except as provided in subsection (c), in the case of any qualified residence with respect to which mortgage interest expenses or mortgage insurance expenses (as the case may be) are paid or incurred during any calendar year by 2 or more individuals—

"(A) the amount of the credit allowable under subsection (a) by reason of such expenses paid or incurred during such year by all such individuals with respect to such residence shall be determined by treating all such individuals as one taxpayer whose taxable year is such calendar year, and

"(B) there shall be allowable with respect to such expenses to each of such individuals a credit under subsection (a) for the taxable year in which the calendar year ends in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenses paid or incurred by such individual during such calendar year bears to the aggregate of such expenses paid or incurred by all of such individuals during such calendar year."

(2) TECHNICAL AMENDMENT.—Subsection (b) of section 6096 of such Code (relating to designation of income tax payments to Presidential Election Campaign Fund) is amended by striking out "and 44C" and inserting in lieu thereof "44C, and 44D".

(3) CLERICAL AMENDMENT.—The table of

sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 44C the following new item:

"Sec. 44D. Certain mortgage interest and mortgage insurance for first-time home buyers."

(4) EFFECTIVE DATE.—Notwithstanding section 4, the amendments made by this subsection shall apply to mortgages executed after December 31, 1979, and to taxable years beginning after such date.

Page 33, line 2, strike out "103A(1)(4)" and insert in lieu thereof "103(g)(3)(B)(ii)".

Page 38, line 7, strike out "subsection (p) of section 103A" and insert in lieu thereof "subparagraph (C) of section 103(g)(3)".

Amend the title of the bill so as to read: "A bill to amend section 103 of the Internal Revenue Code of 1954 to provide that the interest on mortgage subsidy bonds will not be exempt from Federal income tax, and to allow a credit for certain mortgage interest and mortgage insurance for first-time home buyers."

By Mr. JONES of Oklahoma:
—Page 3, strike out line 22 and all that follows down through and including the material between lines 14 and 15 on page 30, and insert in lieu thereof the following:

SEC. 2. MORTGAGE SUBSIDY BONDS.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to items specifically excluded from gross income) is amended by inserting after section 103 the following new section:

"SEC. 103A. MORTGAGE SUBSIDY BONDS.

"(a) GENERAL RULE.—Except as otherwise provided in this section, any mortgage subsidy bond shall be treated as an obligation, not described in subsection (a) (1) or (2) of section 103.

"(b) MORTGAGE SUBSIDY BOND DEFINED.—

"(1) IN GENERAL.—For purposes of this title, the term 'mortgage subsidy bond' means any obligation which is issued as part of an issue a significant portion of the proceeds of which are to be used directly or indirectly for mortgages on owner-occupied residences.

"(2) EXCEPTIONS.—The following shall not be treated as mortgage subsidy bonds:

"(A) any qualified mortgage bond; and

"(B) any qualified veterans' mortgage bond.

"(c) QUALIFIED MORTGAGE BOND; QUALIFIED MORTGAGE ISSUE; QUALIFIED VETERANS' MORTGAGE BOND.—

"(1) QUALIFIED MORTGAGE BOND DEFINED.—

"(A) IN GENERAL.—For purposes of this title, the term 'qualified mortgage bond' means an obligation which is issued as part of a qualified mortgage issue.

"(B) Obligation must be issued after June 30, 1981.—No obligation issued before July 1, 1981, may be treated as a qualified mortgage bond.

"(2) QUALIFIED MORTGAGE ISSUE DEFINED.—

"(A) DEFINITION.—For purposes of this title, the term 'qualified mortgage issue' means an issue by a State or political subdivision thereof of 1 or more obligations, but only if—

"(1) all proceeds of such issue (exclusive of issuance costs and a reasonably required reserve) are to be used to finance owner-occupied residences, and

(ii) such issue meets the requirements of subsections (d), (e), (f), (g), (h), (i), (j), (k), and (l).

"(B) GOOD FAITH EFFORT TO COMPLY WITH MORTGAGE ELIGIBILITY REQUIREMENTS.—An issue which fails to meet 1 or more of the requirements of subsections (d), (e), (f), (g), and (h) and paragraphs (4) and (5) of subsection (1) shall be treated as meeting such requirements if—

"(i) the issuer in good faith attempted to

satisfy all such requirements before the mortgages were executed,

"(ii) 95 percent or more of the proceeds devoted to owner-financing was devoted to residences with respect to which (at the time the mortgages were executed) all such requirements were met, and

"(iii) any failure to meet the requirements of such subsections and paragraphs is corrected within a reasonable period after such failure is first discovered.

"(C) GOOD FAITH EFFORT TO COMPLY WITH OTHER REQUIREMENTS.—An issue which fails to meet 1 or more of the requirements of subsections (1), (j), and (k) and paragraphs (1), (2), and (3) of subsection (1) shall be treated as meeting such requirements if—

"(i) the issuer in good faith attempted to satisfy all such requirements, and

"(ii) any failure to meet such requirements is due to inadvertent error after taking reasonable steps to comply with such requirements.

"(3) QUALIFIED VETERANS' MORTGAGE BOND DEFINED.—For purposes of this section, the term 'qualified veterans' mortgage bond' means any obligation—

"(A) which is issued in registered form as part of an issue substantially all of the proceeds of which are to be used to provide residences for veterans,

"(B) the payment of the principal and interest on which is secured by the general obligation of a State, and

"(C) which is part of an issue which meets the requirements of subsection (1)(4).

"(d) RESIDENCE REQUIREMENTS.—

"(1) FOR A RESIDENCE.—A residence meets the requirements of this subsection only if—

"(A) it is a single-family residence which can reasonably be expected to become the principal residence of the mortgagor within a reasonable time after the financing is provided, and

"(B) it is located within the jurisdiction of the authority issuing the obligation.

"(2) FOR AN ISSUE.—An issue meets the requirements of this subsection only if all of the residences for which owner-financing is provided under the issue meet the requirements of paragraph (1).

"(e) 3-YEAR REQUIREMENT.—

"(1) IN GENERAL.—An issue meets the requirements of this subsection only if each mortgagor to whom financing is provided under the issue had a present ownership interest in a principal residence of such mortgagor at no time during the 3-year period ending on the date the mortgage is executed. For purposes of the preceding sentence, the mortgagor's interest in the residence with respect to which the financing is being provided shall not be taken into account.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply with respect to—

"(A) any financing provided with respect to a targeted area residence,

"(B) any qualified home improvement loan, and

"(C) any qualified rehabilitation loan.

"(f) PURCHASE PRICE REQUIREMENT.—

"(1) IN GENERAL.—An issue meets the requirements of this subsection only if the acquisition cost of each residence the owner-financing of which is to be provided under the issue does not exceed 80 percent of the average area purchase price applicable to such residence.

"(2) AVERAGE AREA PURCHASE PRICE.—For purposes of paragraph (1), the term 'average area purchase price' means, with respect to any residence, the average purchase price of single family residences (in the statistical area in which the residence is located) which were purchased during the most recent 12-month period for which sufficient statistical information is available. The determination under the preceding sentence shall be made as of the date on which the commitment to provide the financing is

made (or, if earlier, the date of the purchase of the residence).

"(3) SEPARATE APPLICATION TO NEW RESIDENCES AND OLD RESIDENCES.—For purposes of this subsection, the determination of average area purchase price shall be made separately with respect to—

"(A) residences which have not been previously occupied, and

"(B) residences which have been previously occupied.

"(4) SPECIAL RULE FOR TARGETED AREA RESIDENCES.—In the case of a targeted area residence, paragraph (1) shall be applied by substituting '110 percent' for '80 percent'.

"(5) EXCEPTION FOR QUALIFIED HOME IMPROVEMENT LOANS.—Paragraph (1) shall not apply with respect to any qualified home improvement loan.

"(g) DOWNPAYMENT REQUIREMENT.—

"(1) 5-PERCENT REQUIREMENT.—An issue meets the requirements of this subsection only if 75 percent or more of the owner-occupied financing provided by the issue (other than qualified home improvement loans and qualified rehabilitation loans) is 95-percent financing.

"(2) 95-PERCENT FINANCING DEFINED.—For purposes of paragraph (1), financing of a residence is 95-percent financing if such financing is 95 percent or more of the acquisition cost of such residence.

"(3) LARGER DOWNPAYMENT PERMITTED IN CASE OF GRADUATED PAYMENT MORTGAGES.—For purposes of determining whether a graduated payment mortgage meets the 95-percent financing requirement of paragraph (1), the percentage of the acquisition cost of the residence which is not required to be financed by the mortgage shall be increased to the lesser of—

"(A) 10 percent of the acquisition cost, or

"(B) the sum of—

"(1) 5 percent of the acquisition cost, plus

"(ii) the excess of—

"(I) the aggregate amount payable before the crossover point under a comparable standard mortgage, over

"(II) the aggregate amount payable before the crossover point under such graduated payment mortgage.

For purposes of the preceding sentence, the crossover point is the first day of the first payment period for which the payment under the graduated payment mortgage is greater than the payment would be under a comparable standard mortgage.

"(h) INCOME REQUIREMENTS.—

"(1) IN GENERAL.—An issue meets the requirements of this subsection only if—

"(A) at least 50 percent of the owner-financing provided under the issue is provided for mortgagors whose family income is 90 percent or less of the median family income for the statistical area in which the residence is located, and

"(B) all owner-financing provided under the issue is provided for mortgagors whose family income is 115 percent or less of the median family income for the statistical area in which the residence is located.

"(2) DETERMINATION OF FAMILY INCOME.—For purposes of this subsection, the family income of mortgagors, and median family income, shall be determined under regulations prescribed by the Secretary which, to the extent not inconsistent with the purposes of this subsection, shall be consistent with the regulations prescribed under section 8 of the United States Housing Act of 1937.

"(3) SPECIAL RULE FOR TARGETED AREA RESIDENCES.—In the case of any targeted area residence, paragraph (1)(B) shall be treated as satisfied if the mortgagor's family income is 140 percent or less of whichever of the following is the greater:

"(A) the median family income for the statistical area in which such residence is located, or

"(B) the statewide median family income

for the State in which such residence is located.

"(1) LIMITATION ON AGGREGATE AMOUNT OF QUALIFIED MORTGAGE BONDS ISSUED DURING ANY CALENDAR YEAR.—

"(1) IN GENERAL.—An issue meets the requirements of this subsection only if the aggregate amount of bonds issued pursuant thereto, when added to the aggregate amount of qualified mortgage bonds previously issued by the issuing authority during the calendar year, does not exceed the applicable limit for such authority for such calendar year.

"(2) 5-PERCENT LIMIT.—Except as provided in paragraph (3), the applicable limit for qualified mortgage bonds for any issuing authority for any calendar year shall be 5 percent of the average annual aggregate principal amount of mortgages executed during the immediately preceding 3 calendar years for single-family owner-occupied residences located within the jurisdiction of such issuing authority.

"(3) AT LEAST \$50,000,000 MAY BE ISSUED IN EACH STATE DURING EACH CALENDAR YEAR.—If, but for this paragraph, the aggregate amount of qualified mortgage bonds which could be issued in any State during any calendar year is less than \$50,000,000, the aggregate amount which may be issued by each issuing authority in such State during such calendar year (determined without regard to this paragraph) shall be increased to the amount determined by multiplying such aggregate amount by a fraction—

"(A) the numerator of which is \$50,000,000, and

"(B) the denominator of which is the aggregate amount of qualified mortgage bonds which could be issued by all issuing authorities in such State during such year (determined without regard to this paragraph).

"(4) OVERLAPPING JURISDICTIONS.—Except as provided in paragraph (5), if 2 or more governmental units have authority (determined without regard to paragraph (1)) to issue qualified mortgage bonds with respect to residences in the same geographical area, for purposes of this subsection only the unit having jurisdiction over the smallest geographical area shall be treated as having issuing authority with respect to such area unless such unit agrees to surrender part or all of such authority for such calendar year to the unit with overlapping jurisdiction which has the next smallest geographical area.

"(5) STATE MAY PROVIDE DIFFERENT FORMULA.—The State may, by law enacted after the date of the enactment of this section, provide a different formula for allocating the 5-percent limitation (and, if applicable, the \$50,000,000 limitation) among the governmental units in such State having authority to issue qualified mortgage bonds.

"(6) TRANSITIONAL RULES.—In applying this subsection to any calendar year, there shall not be taken into account any bond which—

"(A) was issued on or before April 24, 1979, or

"(B) by reason of section 4(b) of the Mortgage Subsidy Bond Tax Act of 1979, receives the same tax treatment as bonds issued on or before April 24, 1979.

"(j) PORTION OF LOANS REQUIRED TO BE PLACED IN TARGETED AREAS.—

"(1) IN GENERAL.—An issue meets the requirements of this subsection only if at least 20 percent of the proceeds of the issue which are devoted to providing owner-financing is made available (with reasonable diligence) for owner-financing on targeted area residences for at least 1 year after the date on which owner-financing is first made available with respect to targeted area residences.

"(2) LIMITATION.—Nothing in paragraph (1) shall be treated as requiring the making available of an amount which exceeds 40 percent of the average annual aggregate principal amount of mortgages executed during the immediately preceding 3 calendar years

for single-family owner-occupied residences located in targeted areas within the jurisdiction of the issuing authority.

"(k) REQUIREMENTS RELATED TO ARBITRAGE.—

"(1) IN GENERAL.—An issue meets the requirements of this subsection only if such issue meets the requirements of paragraphs (2), (3), and (4) of this subsection. Such requirements shall be in addition to the requirements of section 103(c).

"(2) EFFECTIVE RATE OF MORTGAGE INTEREST CANNOT EXCEED BOND YIELD BY MORE THAN 1 PERCENTAGE POINT.—

"(A) IN GENERAL.—An issue shall be treated as meeting the requirements of this paragraph only if the excess of—

"(i) the effective rate of interest on the mortgages provided under the issue, over

"(ii) the yield on the issue, is not greater than 1 percentage point.

"(B) EFFECTIVE RATE OF MORTGAGE INTEREST.—

"(1) IN GENERAL.—In determining the effective rate of interest on any mortgage for purposes of this paragraph, there shall be taken into account all fees, charges, and other amounts borne by the mortgagor which are attributable to the mortgage or to the bond issue.

"(ii) SPECIFICATION OF SOME OF THE AMOUNTS TO BE TREATED AS BORNE BY THE MORTGAGOR.—For purposes of clause (1), the following items (among others) shall be treated as borne by the mortgagor:

"(I) all points or similar charges paid by the seller of the property, and

"(II) the excess of the amounts received from any person other than the mortgagor by any person in connection with the acquisition of the mortgagor's interest in the property over the usual and reasonable acquisition costs of a person acquiring like property where owner-financing is not provided through the use of qualified mortgage bonds.

"(iii) SPECIFICATION OF SOME OF THE AMOUNTS TO BE TREATED AS NOT BORNE BY THE MORTGAGOR.—For purposes of clause (1), the following items shall not be taken into account:

"(I) any expected rebate of arbitrage profits, and

"(II) any application fee, survey fee, credit report fee, insurance charge, or similar amount to the extent such amount does not exceed amounts charged in such area in cases where owner-financing is not provided through the use of qualified mortgage bonds. Subclause (II) shall not apply to origination fees, points, or similar amounts.

"(iv) PREPAYMENT ASSUMPTION.—In determining the effective rate of interest, it shall be assumed that the mortgage prepayment rate will be the rate set forth in the most recent mortgage maturity experience table published by the Federal Housing Administration for the State (or, if available, the area within the State) in which the residences are located.

"(C) YIELD ON THE ISSUE.—For purposes of this subsection, the yield on the issue shall be determined on the basis of—

"(i) the issue price (within the meaning of section 1232(b)(2)), and

"(ii) an expected maturity for the bonds which is consistent with the assumption required under subparagraph (B)(iv).

"(3) NON-MORTGAGE INVESTMENT REQUIREMENTS.—

"(A) IN GENERAL.—An issue meets the requirements of this paragraph only if—

"(i) at no time during any bond year may the amount invested in non-mortgage investments with a yield higher than the yield on the issue exceed 150 percent of the debt service on the issue for the bond year, and

"(ii) the aggregate amount invested as provided in clause (i) is promptly and appropriately reduced as mortgages are repaid.

"(B) EXCEPTION FOR TEMPORARY PERIODS.—Subparagraph (A) shall not apply to—

"(1) proceeds of the issue invested for an initial temporary period until such proceeds are needed for mortgages, and

"(ii) temporary investment periods related to debt service.

"(C) DEBT SERVICE DEFINED.—For purposes of subparagraph (A), the debt service on the issue for any bond year is the scheduled amount of interest and amortization of principal payable for such year with respect to such issue. For purposes of the preceding sentence, there shall not be taken into account amounts scheduled with respect to any bond which has been retired before the beginning of the bond year.

"(4) ARBITRAGE AND INVESTMENT GAINS TO BE USED TO REDUCE COSTS OF OWNER-FINANCING.—

"(A) IN GENERAL.—An issue shall be treated as meeting the requirements of this paragraph only if an amount equal to the sum of—

"(i) the excess of—

"(I) the amount earned on all non-mortgage investments (other than investments attributable to an excess described in this clause), over

"(II) the amount which would have been earned if the investments were invested at a rate equal to the yield on the issue, plus

"(ii) any income attributable to the excess described in clause (i), shall be paid or credited to the mortgagors as rapidly as may be practicable.

"(B) INVESTMENT GAINS AND LOSSES.—For purposes of subparagraph (A), in determining the amount earned on all non-mortgage investments, any gain or loss on the disposition of such investments shall be taken into account.

"(1) OTHER REQUIREMENTS.—

"(1) STATE OPINION THAT ISSUE MEETS FEDERAL REQUIREMENTS.—An issue meets the requirements of this subsection only if a preliminary official statement of such issue has been submitted to a State agency and—

"(A) such agency has, within 30 days after the date of such submission, issued an opinion that such issue meets the requirements of subsections (i) and (j) of this section, or

"(B) 30 days have elapsed since such submission and during such 30-day period the State agency has not issued an opinion that the issue does not meet the requirements of subsections (i) and (j) of this section.

"(2) OBLIGATIONS MUST BE REGISTERED.—An issue meets the requirements of this subsection only if each obligation issued pursuant to such issue is in registered form.

"(3) REQUIREMENT OF MORE THAN 1 LENDER.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), an issue meets the requirements of this subsection only if the mortgages are originated by 2 or more persons.

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply if—

"(1) due diligence was exercised in offering an opportunity to participate and not more than 1 person was willing and able to originate the mortgages, or

"(ii) a sound public purpose is served by having 1 person originate all owner-financing provided under the issue.

"(4) MORTGAGES MUST BE NEW MORTGAGES.—

"(A) IN GENERAL.—An issue meets the requirements of this subsection only if no part of the proceeds of such issue is to be used to acquire or replace existing mortgages.

"(B) EXCEPTIONS.—Under regulations prescribed by the Secretary, the replacement of—

"(1) construction period loans,

"(ii) bridge loans or similar temporary initial financing, and

"(iii) in the case of a qualified rehabilitation, an existing mortgage, shall not be treated as the acquisition or re-

placement of an existing mortgage for purposes of subparagraph (A).

"(5) CERTAIN REQUIREMENTS MUST BE MET WHERE MORTGAGE IS ASSUMED.—An issue meets the requirements of this subsection only if a mortgage with respect to which owner-financing has been provided under such issue may be assumed only if the requirements of subsections (d), (e), (f), and (h) are met with respect to such assumption.

"(m) TARGETED AREA RESIDENCES.—

"(1) IN GENERAL.—For purposes of this section, the term 'targeted area residence' means a residence in an area which is either—

"(A) a qualified census tract, or

"(B) an area of chronic economic distress.

"(2) QUALIFIED CENSUS TRACT.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'qualified census tract' means a census tract in which 70 percent or more of the families have income which is 80 percent or less of the statewide median family income.

"(B) DATA USED.—The determination under subparagraph (A) shall be made on the basis of the most recent decennial census for which data are available.

"(3) AREA OF CHRONIC ECONOMIC DISTRESS.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'area of chronic economic distress' means an area of chronic economic distress—

"(i) designated by the State as meeting the standards established by the State for purposes of this subsection, and

"(ii) the designation of which has been approved by the Secretary and the Secretary of Housing and Urban Development.

"(B) CRITERIA TO BE USED IN APPROVING STATE DESIGNATIONS.—The criteria used by the Secretary and the Secretary of Housing and Urban Development in evaluating any proposed designation of an area for purposes of this subsection shall be—

"(i) the condition of the housing stock, including the age of the housing and the number of abandoned and substandard residential units,

"(ii) the need of area residents for owner-financing under this section, as indicated by low per capita income, a high percentage of families in poverty, a high number of welfare recipients, and high unemployment rates,

"(iii) the potential for use of owner-financing under this section to improve housing conditions in the area, and

"(iv) the existence of a housing assistance plan which provides a displacement program and a public improvements and services program.

"(n) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) MORTGAGE.—The term 'mortgage' includes any other owner-financing.

"(2) BOND.—The term 'bond' includes any obligation.

"(3) STATE.—The term 'State' includes a possession of the United States and the District of Columbia.

"(4) STATISTICAL AREA.—

"(A) IN GENERAL.—The term 'statistical area' means—

"(i) a standard metropolitan statistical area, and

"(ii) any county (or the portion thereof) which is not within a standard metropolitan statistical area.

"(B) STANDARD METROPOLITAN STATISTICAL AREA.—The term 'standard metropolitan statistical area' means the area in and around a city of 50,000 inhabitants or more (or equivalent area) as defined by the Secretary of Commerce.

"(C) DESIGNATION WHERE ADEQUATE STATISTICAL INFORMATION NOT AVAILABLE.—For purposes of this paragraph, if there is insufficient recent statistical information with respect to a county (or portion thereof) described in subparagraph (A) (ii), the Secretary may substitute for such county (or por-

tion thereof) another area for which there is sufficient recent statistical information.

"(D) DESIGNATION WHERE NO COUNTY.—In the case of any portion of a State which is not within a county, subparagraphs (A) (ii) and (C) shall be applied by substituting for 'county' an area designated by the Secretary which is the equivalent of a county.

"(5) ACQUISITION COST.—

"(A) IN GENERAL.—The term 'acquisition cost' means the cost of acquiring the residence as a completed residential unit.

"(B) EXCEPTIONS.—The term 'acquisition cost' does not include—

"(i) usual and reasonable settlement or financing,

"(ii) the value of services performed by the mortgagor or members of his family in completing the residence, and

"(iii) the cost of land which has been owned by the mortgagor for at least 2 years before the date on which construction of the residence begins.

"(C) SPECIAL RULE FOR QUALIFIED REHABILITATION LOANS.—In the case of a qualified rehabilitation loan, for purposes of subsection (f), the term 'acquisition cost' includes the cost of the rehabilitation.

"(6) QUALIFIED HOME IMPROVEMENT LOAN.—The term 'qualified home improvement loan' means the financing (in an amount which does not exceed \$15,000)—

"(A) of alterations, repairs, and improvements on or in connection with an existing residence by the owner thereof, but

"(B) only of such items as substantially protect or improve the basic livability of the property.

"(7) QUALIFIED REHABILITATION LOAN.—

"(A) IN GENERAL.—The term 'qualified rehabilitation loan' means any owner-financing provided in connection with—

"(1) a qualified rehabilitation, or

"(ii) the acquisition of a residence with respect to which there has been a qualified rehabilitation,

but only if the mortgagor to whom such financing is provided is the first resident of the residence after the completion of the rehabilitation.

"(B) QUALIFIED REHABILITATION.—For purposes of subparagraph (A), the term 'qualified rehabilitation' means any rehabilitation of a building if—

"(1) there is a period of at least 20 years between the date on which the building was first used and the date on which the physical work on such rehabilitation begins,

"(ii) 75 percent or more of the existing external walls of such building are retained in place as external walls in the rehabilitation process, and

"(iii) the expenditures for such rehabilitation are 25 percent or more of the mortgagor's adjusted basis in the residence.

For purposes of clause (iii), the mortgagor's adjusted basis shall be determined as of the completion of the rehabilitation or, if later, the date on which the mortgagor acquires the residence.

"(8) DETERMINATIONS ON ACTUARIAL BASIS.—

All determinations of yield, effective interest rates, and amounts required to be paid or credited to mortgagors under subsection (k) (4) (A) shall be made on an actuarial basis taking into account the present value of money.

"(o) SPECIAL RULE FOR ISSUE USED FOR OWNER-OCCUPIED HOUSING AND RENTAL HOUSING.—In the case of an issue—

"(1) part of the proceeds of which are to be used for mortgages on owner-occupied residences in a manner which meets the requirements of this section, and

"(2) part of the proceeds of which are to be used for rental housing which meets the requirements of section 103(b) (4) (A),

under regulations prescribed by the Secretary, each such part shall be treated as a separate issue.

"(p) ADVANCE REFUNDING OF MORTGAGE

SUBSIDY BONDS NOT PERMITTED.—On and after the date of the enactment of this section, no obligation may be issued for the advance refunding of a mortgage subsidy bond (determined without regard to subsection (b)(2))."

(b) **CLERICAL AMENDMENT.**—The table of sections for part III of subchapter B of chapter 1 of such Code is amended by inserting after the item relating to section 103 the following new item:

"Sec. 103A. Mortgage subsidy bonds."

H.R. 3947

By Mr. DOUGHERTY:

(To the committee amendment.)

—Strike out subsections (c) and (d) of the matter proposed to be inserted by the committee amendment (page 54, lines 8 through 25) and insert in lieu thereof the following (and redesignate the succeeding subsection accordingly):

(c) No action with respect to the proposed closure or the realignment of Fort Indian-town Gap, Annville, Pennsylvania, or New Cumberland Army Depot, New Cumberland, Pennsylvania shall be taken until the Secretary of the Army has conducted a study of the economic impact on central Pennsylvania of (1) the proposed closure or realignment, as the case may be, of each such military installation, and (2) the recent nuclear accident that occurred at Three Mile Island, Middletown, Pennsylvania.

EXTENSIONS OF REMARKS

JAMES M. CARTER—DISTINGUISHED FEDERAL JUDGE

HON. GEORGE E. DANIELSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. DANIELSON. Mr. Speaker, I bring to your attention and that of our colleagues a significant anniversary in the career of a great public servant which will be observed this afternoon in San Diego, Calif.

It is a great pleasure for me to announce that today, at 3 p.m., the U.S. Court of Appeals for the Ninth Circuit will convene in a special session in the U.S. Courthouse in San Diego to honor Circuit Judge James M. Carter who will be completing 30 years of distinguished service as a Federal judge. Chief Judge James R. Browning of the Ninth Circuit will preside, and there will be several speakers representing the bench, the bar, and the public. I regret that due to our heavy calendar of business here in Washington I cannot personally attend.

Judge Carter has had an outstanding career. Born in Santa Barbara, Calif., on March 11, 1904, he received his early education in the California public schools and graduated from San Fernando High School in 1920. He later received his A.B. degree from Pomona College, attended Harvard Law School for 1 year and graduated from the University of Southern California Law School with the degree of juris doctor in 1927.

He engaged in the general practice of law in Los Angeles following his graduation until July of 1940 when Governor Olson appointed him director of the Department of Motor Vehicles for the State of California. In 1943 he was appointed assistant U.S. attorney in Los Angeles, and was appointed U.S. attorney by President Truman in July of 1946. In October 1949 he was appointed U.S. District Judge by President Truman, and was appointed U.S. Circuit Judge for the Ninth Circuit on December 1, 1967. Judge Carter accepted status as senior U.S. Circuit Judge on September 30, 1971, but has remained active, carrying a substantial caseload since that time. In January 1972, he was appointed as a member of the Temporary Emergency Court of Appeals by the Chief Justice of the United States.

It has been a personal privilege for me to have known Judge Carter for more than 30 years. I first met him in 1948

when I applied for a job as an assistant when he was U.S. attorney in Los Angeles, and I am eternally grateful that he provided me with the opportunity to begin my career at the bar. Judge Carter was a magnificent U.S. attorney; no U.S. attorney's office could have had higher morale than that which prevailed in his office. Under his direction the duties of the office were carried out vigorously and fairly. I clearly remember his commending to his staff of the mandate of Justice Sutherland in his decision in *Berger v. United States*, 1935, 295 U.S. 78, 88:

The United States Attorney is the representative not of an ordinary party to a controversy, but of a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all; and whose interest, therefore, in a criminal prosecution is not that it shall win a case, but that justice shall be done. As such, he is in a peculiar and very definite sense the servant of the law, the twofold aim of which is that guilt shall not escape or innocence suffer. He may prosecute with earnestness and vigor—indeed, he should do so. But, while he may strike hard blows, he is not at liberty to strike foul ones. It is as much his duty to refrain from improper methods calculated to produce a wrongful conviction as it is to use every legitimate means to bring about a just one.

After Judge Carter assumed the bench his role in the administration of justice was changed. Yet I know from personal experience and from numerous comments I have received from those who have handled litigation before him as a judge, and who have been his colleagues on the bench, that he has continued to follow the precepts of fairness and evenhandedness which are so well epitomized in the *Berger* decision.

Mr. Speaker, I am sure that you, and all of our colleagues, join with me in expressing our thanks to Judge Carter for his many contributions to the administration of justice and wish him health and happiness throughout the rest of his career. ●

PEACEFUL MISSOURI COUNTRYSIDE IS A FIRST-STRIKE TARGET

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. SKELTON. Mr. Speaker, the October 14, 1979, *Kansas City Star* carried a guest editorial that I wrote concerning

the importance of civil defense, entitled "Peaceful Missouri Countryside Is a First-Strike Target." I wish to share this article with the Members of this body, which is set forth as follows:

PEACEFUL MISSOURI COUNTRYSIDE IS A FIRST-STRIKE TARGET
(By IKE SKELTON)

Recently, I was asked what is unique, what is different about the 4th Congressional District of Missouri, the district I represent in the United States Congress. My first inclination—when asked such an open-ended question—is to provide an answer from a wealth of delightful images acquired after years of traveling the roads of west-central Missouri.

There are the softly rolling green hills of Lafayette County. The Saline County back roads lined on both sides with 7-foot-high corn—some of the best in the nation. Down in Vernon County on a cold snowy winter's day you can see the stark beauty of a weathered barn against the backdrop of flat land and an early twilight sky.

The people here are special. From the gentle sternness seen in the face of the late President Harry Truman of Independence to the stubborn, intelligent opinions voiced by a Benton County farmer. From the excited laughter of rural and urban people at the Missouri State Fair to the smiles and quiet talk of a small brother and sister playing after school in their front yard in Warrensburg.

These lovely images make west-central Missouri very special. But this area of the state has something which sets it apart from most every place in the world. Western Missouri is a potential holocaust. We have our own terrifying Damoclean sword. It is the 150 Minuteman Intercontinental Ballistic Missiles located throughout Missouri's 4th Congressional District.

They are one of the nine missile fields in America that make up part of our national strategic defense. Experts in Washington agree if there were ever a nuclear assault against the United States, western Missouri would be among the first areas attacked.

An attack would mean that this part of Missouri would be turned from gently rolling hills, small towns and suburban housing into an inferno—a hell on earth.

Here is what the area just east of Independence, south of the Missouri River, north of Lamar and west of the Lake of the Ozarks would look like. There would be 150 huge craters created by an enemy using two one megaton nuclear bombs on each of the missile silos located here.

Each crater would be about as deep as a 35-story building is tall and about one-quarter of a mile wide. The wind created by the nuclear explosion would be approximately 400 miles an hour as far as two miles from where the bomb landed. By comparison, tornadoes are about 200 to 300 miles an hour. Then there is the heat.

Two miles from the point of impact it would still be hot enough to incinerate an unprotected human being. At ground zero,

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

people, large and small buildings—everything—would be vaporized. The wind velocity and heat there are impossible to imagine. Remember, these things are happening at only one missile silo. Identical horrors are being repeated 149 other times throughout west-central Missouri.

There is a way to protect thousands of people in this region if we start acting now. The answer is civil defense. Don't laugh. It's true. This relic from the cold war era does have the potential for saving many lives here. But there is one major problem. As protection against nuclear weapons it is currently ineffective, but we can change things. That is why immediate planning is necessary. Although local civil defense officials, who are very professional and dedicated, have been doing a yeoman's task in trying to meet the demands of this problem, the federal government must carry the ball. The ultimate responsibility is with Congress and the White House.

There are about 10 million people (5 percent of the U.S. population) who are in high risk areas similar to the one in west-central Missouri. This generally means people living near missile silos, Strategic Air Command bomber bases and nuclear submarine bases.

There are only two types of effective protection if there is a nuclear strike against western Missouri. Presently we have neither. One is blast shelters. Only these have the potential for withstanding the tremendous force caused by a nuclear explosion. It's the strongest kind of in-place protection known to us. Of course, certain caves would suffice as blast shelters. These types of shelters would be necessary if there were only 15 minutes to one-half hour of warning before an attack. It takes a missile about 30 minutes to get here from the Soviet Union. The second type of protection involves moving people from these high risk areas, if there is enough time, to areas that are not likely to be targets. This second approach is called crisis relocation. It is based on the assumption there would be several days of heightened international tension before a war. This period would give us enough time to evacuate. We would need two or three days.

Blast shelters are very expensive, although a number of countries have been constructing such facilities. They are Switzerland, Sweden and Finland. It would cost about \$3 to \$4 billion to build blast shelters for the 10 million people in high risk areas.

By comparison, crisis relocation, although it is criticized by many experts, would cost relatively little, with large costs not seen until evacuation actually took place.

So, what are the chances for the people in west-central Missouri having blast shelters or a crisis location plan? The experience in the 1950s was that very few people were willing to construct even flimsy fallout shelters at their expense. Remember, the missiles have been with us in Missouri since the early 1960s and there have been no great efforts to install shelters here. There are other possibilities. One is to offer tax breaks to people who build blast shelters in their homes.

We don't know how successful this would be, although mandatory construction, with partial or full subsidy, has proved a practical approach in a number of European countries for developing shelters in single-family homes, apartments and commercial structures.

As for crisis relocation, there is now a plan on paper for west-central Missouri. I feel crisis relocation has the potential for working, even with its inherent problems. Besides, we may not have an alternative. Blast shelters for the people in western Missouri and the other Americans who also are prime targets may not be politically and financially possible.

I would be surprised if the White House and the Congress were to agree in the near

future on a civil defense shelter program that will cost several billion dollars for 10 million people. I've already been presented the argument that the federal government should provide protection of this type for every American and not just a relative few.

Of course, the cost for sheltering every American would be prohibitive.

My position is that the people in western Missouri and other Americans who find themselves under the nuclear gun deserve special protection—either a crisis relocation plan we know will work and/or a shelter plan able to withstand the blast of a nuclear explosion. After all, these people didn't ask to have missiles put in their backyards and yet they well understand the necessity of a strong national defense so they aren't protesting against them.

At the beginning of this article, I said the people of west-central Missouri make this a pleasant and special area of the nation. When you look at what they have done—become sitting ducks for the benefit of 200 million other Americans—I think these uncommon people deserve special attention. Congress and the White House must lead the way and there must be public support. ●

THE AGING MORK AND MINDY HAVE FOUND A NEW CAUSE

HON. DANIEL B. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. DANIEL B. CRANE. Mr. Speaker, recently the Decatur (Ill.) Herald, which serves a large portion of my district, editorialized on the need for prudence and restraint on the part of those engaged in antinuclear rhetoric and demonstrations.

We have recently witnessed the pitiful antics of the two aging protestors Mork and Mindy (also known as Tom Hayden and Jane Fonda), as they attempt to recapture their youth via mass demonstrations.

The Decatur Herald has put this matter in perspective, and I commend the editorial to my colleagues.

NUCLEAR ISSUE MORE DIFFICULT

With its entourage of rock singers and film stars, the anti-nuclear rallies in New York City and elsewhere seemed almost like the anti-war demonstrations of the 1960s.

Heading the New York parade of stars was actress Jane Fonda and her husband Tom Hayden, once a leader of the anti-war movement and now possessed of political ambitions. Also with them on the New York platform was Ralph Nader.

In some ways, their "war" against nuclear plants is more difficult than the one against the Vietnam war.

All through Vietnam public opinion continued to shift against the war, due partly to the growing number of protests and demonstrations.

But the Vietnam protestors were aided by other factors which may be absent from the nuclear issue.

People were constantly reminded of the war through flickering images on nightly television newscasts, and, more important, by growing casualty rates from the front.

Television news will cover the nuclear protests only as events warrant. As for casualties, even the near disaster at Three Mile Island resulted in no loss of life or even serious injury. How close we came to disaster remains a matter of dispute.

In Vietnam people could see and perceive events and react according to their own sense

of values. Seldom was it necessary to become involved in technical questions of military strategy or diplomacy.

A portion of nuclear politics is involved in broad policy questions. Washington University environmentalist Barry Commoner makes a distinction between democratic and undemocratic forms of energy.

For Commoner, nuclear energy, synthetic fuels manufactured from coal and petroleum are essentially undemocratic because their production and distribution is limited to giant corporations.

Solar energy and the production of synthetic fuels from agricultural products are, in Commoner's view, potentially more democratic because production can be spread around to more people. Nearly every farmer, for instance, can build a still to manufacture alcohol for the production of fuel.

But beyond the manner of producing and distributing energy are numerous technical questions which may be beyond the capacity of a protest movement to resolve.

Among signs at the rally in New York was one demanding that the nation turn away from atomic power to safe forms of energy.

But the problem is that all energy carries risks. Coal offers environmental hazards plus high risk of injury and death to miners.

Natural gas poses fewer environmental problems but supplies are frequently short and cost is rising.

Even solar energy could take huge chunks of land for storage ponds and could cut further into land available for agricultural production.

One reason gasohol is popular now is the availability of a surplus of corn and sugar beets. But a continued surplus will depend to an extent on the availability of agricultural land.

As an issue Vietnam could be dramatized and isolated in ways that will prove difficult in dealing with energy.

Vietnam protestors could quite easily say, "Hell no, I won't go" or even "Yankee come home" without having to deal with other matters.

But the question of nuclear energy also involves jobs, other sources of energy, capital formulations, relative safety of different forms of energy, and the like.

Simply demanding that "nukes" be replaced won't create another source of energy. Slogans won't keep people warm no matter how many people show up at a rally. ●

COMMENT ON OREGON'S PROJECT RELATING ETHICS TO MEDICAL COSTS

HON. ROBERT DUNCAN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. DUNCAN of Oregon. Mr. Speaker, on September 18 I inserted as an extension of remarks an article extracted from the American Medical News of September 14. The article, "Oregon Educator Emphasizes Ethics as Basis for Cost-Related Medical Decisions," described an innovative program created, developed and implemented at the University of Oregon Health Sciences Center in Portland, Ore. The program, designed to teach medical students the true social and ethical costs of medical treatment and hospitalization, is the work of Drs. Joyce Atlee Campbell and Michael T. Mackler. Though inserted in full exactly as it appeared in the AMA's News, the article omitted the names of these two physicians.

I applaud the efforts of all personnel involved in the project at the Health Sciences Center, and especially congratulate Drs. Campbell and Mackler on their creativity and hard work.

OCCUPATIONAL SAFETY FOR
FEDERAL EMPLOYEES

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. CLAY. Mr. Speaker, today I am introducing the "Federal Employee Occupational Safety and Health Act of 1979." This bill will make available to Federal and postal employees many of the safety and health protections which are already available to employees in the private sector.

When Congress enacted the Occupational Safety and Health Act of 1970, Federal employees were excluded from coverage. In addition, there has been uneven compliance with Executive Order 11807, which details the health and safety obligations of Federal agencies. At Hill Air Force Base in Utah, Federal civilian employees were exposed to dangerous levels of toxic chemicals. At the old Biscayne Postal Facility in Miami, Fla., there is reason to believe that postal employees may have been exposed to unacceptably high levels of cancer-producing asbestos fibers. In Mechanicsburg, Pa., it was reported that a dozen workers at the Defense Supply Depot were exposed to a significant level of PCB, a chemical which produces liver damage, birth defects, and various skin diseases.

Mr. Speaker, these and other examples are some of the reasons why injuries and accidents have risen from 1 among every 23 Federal employees in 1974, to 1 among every 16 Federal employees in 1977. Were it possible to bring the Occupational Safety and Health Act of 1970 to the floor without crippling amendments, I would recommend strengthening its provisions covering Federal employees. Instead, my bill affords Federal employees a safe and healthful work environment by amending title 5 of the U.S. Code. The bill makes the Office of Personnel Management the enforcing authority with responsibility to issue citations for violations of Federal safety and health laws; the Occupational Safety and Health Review Commission is the adjudicatory authority with the right to impose civil sanctions; and judicial review is available to aggrieved parties.

The principle provisions of the Federal Employee Occupational Safety and Health Act of 1979 are as follows:

Covers executive agencies, the Postal Rate Commission, and the U.S. Postal Service.

Requires that each agency maintain a safe and healthful work environment and that each agency and employee comply with Federal safety and health standards.

Authorizes the Office of Personnel Management (OPM) to conduct unan-

nounced inspections and investigations and requires that agencies maintain and make available adequate safety and health records.

Requires that OPM issue citations for violations of Federal safety and health standards and establishes enforcement procedures.

Authorizes the Occupational and Health Review Commission (OSHRC) to impose civil penalties upon agencies for failure to comply with OPM citations.

Provides for court review of OSHRC orders by agencies and OPM and prohibits discharge or discrimination against employees for complaining, testifying, or otherwise asserting rights afforded by this bill.

Authorizes the OPM to take steps to restrain agency conditions which could cause death or serious harm to employees.

Authorizes the OPM to provide training, education, and consultation with agencies and authorizes agencies to conduct preventive health programs for employees.●

RECENT ACTION OF INTERSTATE
COMMERCE COMMISSION MAY
NOT BE PROPER

HON. WILLIAM H. HARSHA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. HARSHA. Mr. Speaker, as you, our colleagues, and I know, section 8 of article I of the U.S. Constitution vests exclusively in the Congress the power to regulate commerce among the several States. Even though we know that fact, recent actions by the Interstate Commerce Commission have led me to the belief that that Agency does not.

Yesterday, I mailed to each Commissioner of the ICC a letter expressing my concerns about several of their recent actions which I would like to share with you:

OCTOBER 15, 1979.

DEAR COMMISSIONER: I have reviewed the notice of intent to open rulemaking decided by the Commission on September 20, 1979, docketed as Ex Parte No. MC-135, Master Certificates and Permits.

While I have knowledge of the issues involved in the proceeding, I have no desire at this time to express myself in any manner as to the merits of "possibly easing entry requirements in several specialized fields of for-hire motor carrier transportation" or as to "the appropriate relationship between easier entry, and a zone of reasonableness for rates . . ."

I will reserve my expressions on these subjects as they come before the Congress, and that brings me to the primary purpose of this letter.

I was of the opinion that the ICC was aware that the appropriate Committees of the Congress are actively engaged in consideration of legislation relating directly to the issues embraced in Ex Parte No. MC-135. I refer specifically to H.R. 4549, H.R. 4550 and H.R. 4586. To date, the Surface Transportation Subcommittee of the House Public Works and Transportation Committee, of which I am the Ranking Minority Member, has held four days of regional hearings. Additional hearings are scheduled. We are hearing from and will hear from the same cate-

gories of witnesses you mention in your notice—shippers, carriers, government agencies, academic and public policy institutions and concerned private citizens.

Thus, I appreciate your unusual action of serving a copy of the notice upon every Member of the Congress. I say "unusual" because a few months ago the ICC indicated to the Congress that it did not desire communications from Members expressing their views on issues pending before the ICC.

I also appreciate the specific remarks of Commissioner Gresham on this issue. He is correct—the questions he raises must be answered by the Congress before the ICC makes any further substantial changes in the areas of entry and ratemaking. Ex Parte No. 297, with its impact on collective ratemaking, obviously falls within the same category as Ex Parte No. MC-135. Commissioner Gresham is also correct when he states "This Commission has no authority beyond that expressly delegated to it by Congress."

I hereby request, in light of the current Congressional review of your delegated authority, that further proceedings in Ex Parte No. MC-135 and Ex Parte 297 be suspended until Congress has clearly set forth the direction the ICC should take in these matters.

Sincerely,

WILLIAM H. HARSHA.●

A SALUTE TO THE SANTA MONICA
HOSPITAL MEDICAL CENTER
AUXILIARY

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. DORNAN. Mr. Speaker, one of the great and unique characteristics of our Nation has been its spirit of voluntarism.

There is one such volunteer organization back in my 27th District of California, which for the past 37 years has been a great asset to the community of Santa Monica, Calif. This organization, the Santa Monica Hospital Medical Auxiliary, founded in 1942, has been working on behalf of the medical center to maintain good public relations in the community, to provide volunteer services for the hospital, to open new financial resources for the hospital, and to promote medical careers among the area's young.

On Thursday, October 25, the 470 members of the auxiliary are going to celebrate a notable event; the raising of a total of \$1 million for the medical center. This milestone has been attained by the many diverse fund-raising efforts of the auxiliary, such as a gift shop, thrift shop, art shows, Christmas card sales, and membership dues. This \$1 million has been used for the benefit of such departments as radiology, nuclear medicine, cardiology, maternity, and pediatrics.

A hospital stay can be an anxiety provoking experience for some. But the auxiliary also conducts programs which will benefit the patients by making their visits more pleasant, such as teas for expectant parents, flowers on Mother's Day for mothers, prayer booklets, and puppets for the children.

I would like to extend my sincere thanks and congratulations to the medical center auxiliary members for the valuable work they have done over the

years. I am sure you have earned the gratitude of the citizens of Santa Monica. ●

POSITIVE COMMENTS FROM A
CONSTITUENT

HON. DONALD J. MITCHELL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. MITCHELL of New York. Mr. Speaker, occasionally a letter from a constituent deserves wider dissemination and accordingly I place the following in the RECORD:

GFM MACHINES INC.,
October 5, 1979.

Subject: Cuba and SALT II.

HON. DONALD J. MITCHELL,
Rayburn House Office Building,
Washington, D.C.

DEAR DON: I know you like to receive the comments of people in your district. Accordingly, I will present mine regarding the problem of Russian combat troops in Cuba and the SALT II treaty.

First, I believe it is necessary that we recognize that this is 1979 and not 1962. Unfortunately, President Carter did not have the options available to President Kennedy during the Cuban missile crisis. In 1962 the United States had nuclear superiority, unmatched naval power, as well as unmatched conventional forces. In short, strategic tactical power the Soviets could not match.

Today, the Soviet Union's navy can challenge any task force the United States could send into the area or any other part of the world for that matter. They have a nuclear missile force equal to (if you believe reports from Washington) but more likely superior (if you use more reliable information).

Personally, I was pleased by the development of Russian combat forces in Cuba. An uneasiness about the United States global retreat all over the world has been developing among the American people and our allies for a long time. It appeared that this fact was beginning to dawn on the people in Washington. The presence of Russian combat troops in Cuba presented the possibility to draw the line and that line should have been drawn a long time ago. For once the President had Congress and the American people behind him. The President, it seems, understood this as he stated with strength he would not permit a status quo on the Russian troops issue. Then came his speech in which he chose political expediency and did exactly what he stated he would not do, and accepted a status quo. In addition, he threw the ball which he has consistently shown an inability to handle, into the hands of the Senate by stating that failure to ratify the SALT II treaty would create a crisis much greater than the Russian combat troops in Cuba. His weak responses of sending a few ships into the Caribbean, military units in Florida, renewed surveillance flights over Cuba (which he should have never stopped in the first place) and promise to defend nations in South America, together with beefing up the U.S. forces at Guantanamo are completely inadequate. They are nothing more than cosmetic attempts to save face before the American people and the watching world.

I would like to make known that I am strongly against SALT II in its present form. Contrary to the statements of the President (who needs passage for political reasons) it is not in its present form a proper treaty. Those who back it march down the road of

appeasement, and appeasement leads to war. If modern history teaches us anything, it is this undeniable fact.

No one wants war. A statement often made, but not true. From the dawn of history wars have been fought, and they were started by countries that perceived they could only accomplish their objectives by armed conflict. Wars are started and for a purpose.

SALT I was a complete failure. It did not lessen the danger of war, it increased it. SALT II, if ratified in its present form, will further increase the risk of war. Both SALT I and SALT II deal primarily with nuclear ballistic missiles. In my judgment the next war will not be fought with nuclear ballistic missiles. It is further my opinion there will be a war (started by the Soviet Union) sometime between now and 1985. During the last fourteen years I have spent 4½ years in Europe. During that period I have watched the Soviet Union not only building up their conventional armed capability in all areas, but the most efficient industry which exists in the world today to produce that military equipment on a continuing basis. This includes every area... land, sea, and air.

Our company represents seven Austrian machine tool builders in the United States and Canada. In addition, I have connections with a great many other machine tool companies in Europe. With few exceptions the tremendous flow of the latest and technically advanced machines sold to the Soviet Union and the Eastern Block countries have been for the production of arms. I have spent hundreds of hours with influential people of the machine tool industry of Europe who supplied these machines. In addition, with the representatives of the Eastern Block countries and the Soviet Union who were in charge of the plants who received this equipment. I have relatives and friends who are continually in the Eastern Block countries and the Soviet Union involved with the negotiations for purchase of this equipment, and then the technical engineering work to establish the equipment in the production plants where the equipment is to be used.

The Soviet Union now has the most powerful military establishment and armed forces the world has ever known. The power of the Soviet Union is tremendous in all areas. This is not news to you. You stated in a recent article in the Herkimer Evening Telegram that the Soviet Union leads the United States in seventeen out of every twenty categories. What you are also, I am sure, aware of (or should be) is that they also have the ability to replace equipment rapidly as it is destroyed in combat. Look back at the Six Day War in the Middle East for a lesson in how fast military equipment of all types is destroyed on both sides in only a limited small war. Today, the United States does not have the conventional military equipment to match the Soviet Union, but even worse, we do not have the capability to produce it on a scale which even starts to approach that of the Soviet Union and Eastern Block countries. These are facts. Doesn't this trouble you? Doesn't it trouble the other members of the Armed Services Committee? If it doesn't, it should. The United States is facing a war we are not prepared to fight, and have no chance of winning.

Let's take a hypothetical situation. The Russians and Warsaw Pact countries invade Western Europe through upper Austria and across the plains of Germany. Based on all the information I have, and from what I have personally observed, it would take them between ten to fourteen days to reach the coast of Spain. Present NATO forces could not stop them. You, of course, counter with the fact I have left out our tremendous nuclear capability for a retaliatory strike against the Soviet Union itself; the so called nuclear umbrella to protect Western Europe.

Based on the facts as we know them today the nuclear retaliation as a means of protecting Western Europe is a myth. It does not in reality exist.

Make an honest appraisal. If you were president in such a situation, would you push the button to release our missiles in the full knowledge of the fact that in the return exchange a minimum of 70 million Americans would die immediately, and millions more over a period of time due to radioactive fallout? You know the answer. So do I. Any president would rationalize that national interest would not be served by meeting our commitment to Western Europe. The decision should be easy because the American Government has found lately that meeting our commitments are secondary when it does not serve what is termed the national interest. I don't need to provide examples. You know better than I. However, what you may not know as well as I is the perception of that fact by the people of Western Europe and much of the rest of the world as well. In an emergency would America meet our commitments to defend Western Europe? Ask that question of Europeans. They don't think so.

Our previous Secretary of State doesn't think so by his recent statement to our allies in Europe that they should not depend so heavily on our nuclear umbrella to protect them in the event of an attack on Western Europe by the Soviet Union. What is worse, the Soviet Union's plans are predicated on that belief. In such a situation the nations of Western Europe would have two choices. Complete destruction, or seeking accommodations with the Soviet Union. Europeans are realistic and would accept the latter. A short conventional war, with an advance of only a short distance into Europe, and a settlement of accommodation with Western Europe will leave the Soviet military might intact.

Perhaps our perspectives are different. Your relatives live in the United States. Mine live in upper Austria just a few short miles from borders of three Warsaw Pact countries. I have spent more time in Europe than you have spent in Washington. However, my perspectives are not based on emotions, but rather on sound reasoning.

With Europe neutralized, the Soviet Union could then face the Chinese threat effectively.

The Soviet Union is preparing for war. That preparation began a long time ago. The Cuban missile crisis of 1962 accelerated it. SALT I and détente (a one way street) allowed the Soviet Union the world atmosphere they desired to proceed and accelerate their preparation. I recognize that these are statements no one in the United States wants to hear. Many refuse even when presented with uncontested facts to believe it. Over forty years ago no one wanted to believe Germany was preparing for war with the ultimate objective of world conquest. The parallels between that period and this period (particularly 1938 and 1979) are surprising when reviewed in detail. America and Europe were not perceptive then, and the American Government is even less perceptive now regarding the Soviet threat. The global plan of the Soviet Union is abundantly clear. It is being carried out according to a worked out program and plan. The program may be altered as events demand (example 1962 Cuban missile crisis) but the plan is fixed, firm, and unchanging. Its objective is world domination.

Today, the United States lacks a realistic foreign policy. Without a proper perspective of the Soviet threat there can be no effective foreign policy. We deal with, and react to, the effects and not the cause of the problem. Not since John Foster Dulles' program of massive retaliation have we dealt effectively with the Soviet Union. It was discarded because uninformed and blind political people in Washington called it "brinkmanship". It was. But it was, and is, the only effective way

to deal with the Soviet threat. It was a plausible policy then because America had the military strength to back it up. Today, we are practicing brinkmanship of a different and more dangerous sort. The brinkmanship of appeasement. We have been for years appeasing the Soviet Union by one concession after another. All under the seemingly worthy objective of promoting peace in the world through improved relations with the Soviet Union. Détente and SALT I were fostered under that program. We were reducing tension in the world. Exactly what the Soviet Union's plan required.

While we have honored the spirit of détente and agreements of SALT I, the Soviet Union proceeded at an astonishing rate with their plan for world domination. To accomplish this the first order of priority was unchallenged military superiority in all areas. Today, for all practical purposes, they have accomplished that objective. At the same time they have spread their influence and control over strategic geographical areas throughout the world. And during all these activities they have been probing and testing American resolve. In almost all cases they have tested and found the United States impotent. Seems a little like Nazi Germany's actions preceding World War II. Arms build up, defiance of treaty agreements regarding production armament, testing, and probing in one area after another.

The appeasement of, and concessions made to Hitler in the interest of preserving world peace. World War II could have been prevented by a proper perception of Germany's real objectives, and the will to halt them. That failure resulted in the most destructive war in history; human suffering beyond description and with the irresponsible decisions made at the war's conclusion of which this country must shoulder the major blame, the enslavement of 130 million people. An enslavement that continues today. The stakes are high when you participate in the game of international politics. Next time the freedom threatened will include all free nations unless that threat is properly suppressed. Increasing military spending by 3 percent or 5 percent will not meet the requirements.

The present Cuban crisis is only a rather small incident in the unfolding drama, but it was predictable. The 3,000 combat troops in Cuba are insignificant when viewed in the light of the more important operations of the Soviet Union in Cuba. Soviet submarines of every type (except nuclear powered) equipped with nuclear ballistic missiles have visited Cuban ports for years. Soviet bear bombers in reconnaissance configuration with Russian pilots have been flying intelligence gathering missions in and out of Cuba for years. Russian piloted Migs have been in Cuba for years. Recently the latest type Mig 23's have been sent to Cuba. A large submarine base is under construction in Cuba. Highly sophisticated Soviet equipment in Cuba monitors telephone communications conducted in the United States of all types. Why does the administration and State Department try to explain away this growing Soviet threat only ninety miles from the United States mainland?

The continuing extension of Soviet influence in Angola, the horn of Africa, Afghanistan, and South Yemen, to mention only a few, are other areas where the resolve of the United States has been tested and found wanting. Why? Perhaps Senator Munn's recent statement "There is evidence that we have been tranquilized to the point where U.S. military budgets no longer provide for defense of our national interest" gives an answer. The statement is true, but is extremely lacking in presenting the total picture of the disparity of the United States versus Soviet military capabilities.

My direct question to you as my Congressman in Washington is why has the government failed to have a proper perspective of the developing situation? It has been developing under both Democratic and Republican administrations. Why have, for years, the Soviet intentions been misunderstood? Why has this government allowed a steady decline of our military strength in face of accelerated increases of Soviet military power? Why does the President state to the American people on one day that a status quo in the presence of Soviet combat troops in Cuba will not be permitted, and a few days later completely reverse his stand and state that they present no threat to the United States? Then base this on promises from Soviet government officials of the highest level that those troops will never be used for offensive purposes. Again in a test the Soviets stood firm and the United States backed down. Soviet promises are worthless. You know it, and I know it. Look at the record.

It is apparent that the Soviet threat is not clearly understood in Washington. Our foreign policy is ineffective because it lacks a proper perspective of this Soviet threat. And until this changes, no foreign policy we formulate will be effective. The often heard statement that "nice guys finish first" is not the rule. In almost all the cases when a completely honorable person deals with a completely unscrupulous person, the unscrupulous person comes out ahead. This is not an easy fact to accept, but it is a fact. This is the basic problem with the United States versus the Soviet Union. It is high time we recognized that the Soviet Union is the enemy of the United States and the free world. No amount of good will, concessions, or treaties will change their goals. In the past history of this country this fact would have been understood, squarely faced, and dealt with. What has changed?

A long letter? Yes. But its length should reveal the deep concern of one American in your district.

Very truly yours,
ROBERT W. SELWOOD, President. ●

BEDELL STATEMENT ON SOUTH AFRICAN RESOLUTION

HON. BERKLEY BEDELL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. BEDELL. Mr. Speaker, today I am introducing House Concurrent Resolution 199, a refinement of House Concurrent Resolution 139, concerning employment practices of U.S. companies in South Africa.

We have heard much discussion in recent months about the nature and extent of U.S. business involvement in South Africa. Many proposals have been made with the objective of influencing South African policy through the regulation of U.S. business practices in that country.

In debating the alternatives, however, we have sometimes lost sight of the direct impact that working for an American business has on black South African employees themselves. Nonwhite employees of U.S. companies in South Africa continue to labor under discriminatory practices that, in our own country, were outlawed by the Civil Rights Act of 1964. The South African Govern-

ment has shown little resistance to "private" initiatives by U.S. firms to achieve such basic goals as desegregation of work facilities, equal pay and hiring practices, better training and advancement opportunities for nonwhites, and improvement in the lives of black employees outside the workplace. Yet only 120 of the 280 American businesses in South Africa have agreed to adhere voluntarily to these principles, as embodied in the so-called Sullivan Code.

I am therefore introducing House Concurrent Resolution 199, which conveys the sense of Congress that U.S. businesses in South Africa should refrain from engaging in discriminatory employment practices and that they should pursue the affirmative goals for black employees set forth in the Sullivan Principles. The resolution also urges U.S. companies to recognize black trade unions and to negotiate and conclude agreements with them.

Mr. Speaker, this resolution aims at bringing about improved working conditions and greater opportunities for advancement for nonwhites in South Africa. Just as important, passage of the resolution would communicate to the South African authorities our willingness to support with official U.S. policy the dismantling of apartheid. In this way, perhaps we can promote justice and peaceful change in troubled South Africa. ●

HOSPITAL COST CONTROL

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. LAGOMARSINO. Mr. Speaker, I submit for the benefit of my colleagues, the following editorial, "Hospital Cost Control," which appeared in the *Lompoc Record*, October 8.

The editorial follows:

HOSPITAL COST CONTROL

President Carter is pushing very hard for the enactment of hospital cost controls and scored another recent victory in bringing this to the House floor when the Commerce Committee by a slim margin approved the measure.

The bill, H.R. 2626, would allow most private hospitals one year to voluntarily reduce their rate of cost increase to 11.5 percent annually. Hospitals not meeting this target would be subject to federally imposed penalties such as loss of Medicaid and Medicare funds, and a 150 percent excise tax on "excess" revenues.

While we are sympathetic with the concept of controlling escalating hospital costs, we strongly oppose mandatory government regulations as the answer. Under this proposed measure, hospitals would be limited in how much they can increase their prices even if their own costs of doing business increases by a much larger amount. It is logical to believe then that limiting hospital charges would result in decline of care.

Curiously enough this legislation exempts public hospitals which now are increasing costs faster than private hospitals. It exempts, also, salaries of nonsupervisory personnel whose wages account for up to two-thirds of hospital costs.

This move is Carter's first step toward price control throughout the economy.

When will they get the message in Washington that inflation in health care, as in other industries, will decrease only when Congress stops spending more than it takes in? More and expensive government regulation only compounds the problem.●

STATEMENT OF BLACK AND JEWISH ORGANIZATIONS

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. HAWKINS. Mr. Speaker, I would like to call to the attention of my colleagues the following statement issued by black and Jewish organizations in the Leadership Conference on Civil Rights.

The statement addresses the recent reporting of a so-called "rift" between American blacks and Jews. While accepting that differences exist between the two communities, the statement reaffirms the commitment of the signatory organizations to continue working together to achieve the shared goals and purposes of the leadership conference to encourage a just and equitable society. Free expression of views is at the heart of our democratic society; coalition politics is the strength of our democratic system. This statement confirms these two tenets.

The statement follows:

JOINT STATEMENT BY BLACK AND JEWISH ORGANIZATIONS IN THE LEADERSHIP CONFERENCE ON CIVIL RIGHTS

The undersigned Black and Jewish organizations are deeply concerned over recent reports of a rift between Blacks and Jews. That we have our differences is clear. But to suggest that such differences constitute an irreparable rift is to misunderstand the nature of a coalition and of our relationship.

The essence of our plural democracy is that it encourages every group to express its views on whatever issues it chooses in accordance with its own values and judgment. It is out of such differing values, judgments and priorities that the temper of our society is forged.

A free plural society demands not the elimination of differences but the expression of differing views without rancor, racism or anti-Semitism.

For 30 years we, together with other groups, have worked through the Leadership Conference on Civil Rights in furtherance of its stated purpose: to establish "an integrated, democratic, plural society in which every individual is accorded equal rights, equal opportunities and equal justice without regard to race, sex, religion, ethnic origin, handicap or age; and in which every group is accorded an equal opportunity to enter fully into the general life of the society with mutual acceptance and regard for difference."

In pursuit of that goal, as members of the Leadership Conference, we have committed ourselves to support, "as a matter of right—a useful job at a decent wage for all who are employable or who can be made so by training or retraining; income sufficient to provide all others with the essentials for living in dignity and self-respect; decent housing in a decent environment for all; medical care for all in health, sickness and

disability; and education to the limit of each person's capacity to benefit from it."

That shared commitment continues undiminished. Our years together have been marked by great advances, great achievements. The work that still must be done is too important to let differences divide us.

SIGNATORIES TO JOINT STATEMENT BY BLACK AND JEWISH ORGANIZATIONS IN THE LEADERSHIP CONFERENCE ON CIVIL RIGHTS

Richard M. Ballard, National President, Phi Beta Sigma Fraternity, Inc.

Syd Bykofsky, President, United Hebrew Trades.

Marjorie Merlin Cohen, Executive Director, National Council of Jewish Women.

Bishop Charles H. Foggie, Secretary, Board of Bishops, African Methodist Episcopal Zion Church.

Bertram Gold, Executive Director, American Jewish Committee.

Benjamin Hooks, Executive Director, National Association for the Advancement of Colored People.

Vernon Jordan, President, National Urban League.

Aline Kaplan, Executive Director, Hadassah.

Frieda S. Leemon, National President, Pioneer Women.

Theodore R. Mann, Chairman, National Jewish Community Relations, Advisory Council.

Emanuel Muravchik, Executive Director, Jewish Labor Committee.

Bayard Rustin, President, A. Philip Randolph Institute.

S. Garry Onikl, Executive Director, Office for Church in Society-United Church of Christ.

Nathan Perlmutter, Executive Director, Anti-Defamation League of B'nai B'rith.

Nathan Peskin, Executive Director, Workmen's Circle.

William M. Ross, Executive Director, Recruitment and Training Program.

Eleanor R. Schwartz, Executive Director, National Federation of Temple Sisterhoods.

Simon Schwartz, President, United Synagogue of America.

Rabbi Henry Slegman, Executive Director, American Jewish Congress.

Harris B. Stone, National Commander, Jewish War Veterans of the U.S.A.

Inez W. Tinsley, National President, National Association of Colored Women's Clubs.

Rabbi Alexander Schindler, President, Union of American Hebrew Congregations.

Evelyn Wasserstrom, President, B'nai B'rith Women.

Dr. Freda Witherspoon, National President Iota Phi Lambda Sorority, Inc.

Dorothy Height, President, National Council of Negro Women.

ADDITIONAL SIGNATURES

Janice Kissner, Grand Basileus, Zeta Phi Beta Sorority, Inc.

Rabbi Arthur Lelyveld, President, Synagogue Council of America.

Theodore R. Hagans, President, National Business League.

Walter Hubbard, President, National Office of Black Catholics.●

H.R. 5606

HON. MARTIN OLAV SABO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. SABO. Mr. Speaker, the Railroad Retirement Act of 1974 provides for the disbursement of pension checks on the

first day of each month to qualified railroad retirees. For many retirees this check represents the major portion of their monthly income. Financial difficulties arise when the check arrives on a weekend or holiday and banks are not open.

Unlike the social security system which allows for checks to be delivered prior to the first day of the month if such date coincides with a holiday or weekend, the Railroad Retirement Act provides for no such arrangement. A recent example of this problem was Labor Day. Due to the Labor Day holiday, retirees who received their railroad pension checks on Saturday, September 1 of this year had to wait 3 days; until Tuesday, September 4, to cash their checks. Certainly these people had little opportunity to enjoy their Labor Day holiday.

For this reason yesterday I introduced H.R. 5606, a bill to amend the Railroad Retirement Act of 1974 to make monthly annuities payable before the first day of the month when the first day is on a weekend or holiday.●

A TRIBUTE TO A. H. "BILL" GALLARDO, ORANGE COUNTY HISPANIC LEADER

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. PATTERSON. Mr. Speaker, in each community there are a few good people who are known for getting things done. They are the ones you can rely on to roll up their shirt sleeves and dig in to get the job done. For the past 20 years, A. H. "Bill" Gallardo has been one of those people. His involvement in the Hispanic community and his many achievements on behalf of the working person have made him a local legend in Orange County. On November 2, the LULAC Council and the Tiempo Sobre El Tiempo will salute Bill Gallardo for his dedication to the local community and his many accomplishments during his career.

Bill began his career as an apprentice to a plasterer in 1945, and worked throughout the county before becoming a business representative in 1953. He served in that capacity for 18 years before becoming the representative-coordinator for the California Labor Federation of the AFL-CIO.

In addition to his many years of commitment to the union and to working people, Bill has been very involved in the Committee on Political Education, and has earned the reputation of the man most likely to get out the vote. His involvement in voter registration programs, voter education projects, and get-out-the-vote efforts have made him a friend to campaigners in Orange County. His tireless dedication and commitment encouraged others to invest that extra ounce of effort which so often can draw those few critical votes to turn the tide.

Within the Hispanic community, Bill

has been involved with the LULAC Council since 1949, and helped raise the \$4,000 that started their first education program. He has been a member of the Amigos Beneficial Club, the Political Association for Spanish Speaking Organizations, and the Latin American Political Education Organization. On the national level he has championed Hispanic rights through his involvement in the Labor Council for Latin American Advancement.

I am delighted to join with the LULAC Council and the Tiempo Sobre El Tiempo in honoring this capable and responsible member of my community. Through his unselfish dedication to both the working people and the Hispanic community he has made a significant contribution to Orange County and made a mark on the lives of many of us. I ask my colleagues to join with me in commending this fine man. ●

THE FAILURE OF CHILE TO EXTRADITE THREE INDICTED TERRORISTS TO THE UNITED STATES

HON. ANTHONY TOBY MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. MOFFETT. Mr. Speaker, many Members have contacted me, and my colleagues Representative HARKIN and Representative GEORGE MILLER requesting further information about our resolution expressing the sense of the House with respect to the failure of the Government of Chile to extradite the three DINA officials indicted for the terrorist murder of Orlando Letelier and Ronni Karpen Moffitt. I would like to have printed in the RECORD the text of this resolution, and to encourage other Members to join as cosponsors:

RESOLUTION

Expressing the sense of the House of Representatives with respect to the failure of the Government of Chile to extradite Manuel Contreras, Armando Fernandez, and Pedro Espinoza to the United States, and to urge the President to take certain actions with respect to Chile.

Whereas the Congress has repeatedly expressed its condemnation of international terrorism;

Whereas the President on several occasions has committed the United States to the strongest possible measures against governments which have condoned acts of international terrorism or which harbor individuals who have committed acts of international terrorism;

Whereas on August 1, 1978, a Federal grand jury indicted General Manuel Contreras, Captain Armando Fernandez, and Colonel Pedro Espinoza, all of whom were members of the Chilean intelligence service, for conspiracy in the 1976 murders of Orlando Letelier and Ronni Karpen Moffitt, and on September 18, 1978, the United States Government filed requests with the Government of Chile for the extradition of those so indicted;

Whereas this act of terrorism on the streets of Washington, D.C., against an American citizen and a United States resi-

dent with diplomatic status was a result of action by the Government of Chile;

Whereas Amnesty International, the International Commission of Jurists, the United Nations Human Rights Commission Ad Hoc Working Group on Chile, and the United Nations General Assembly have stated that the regime of Augusto Pinochet has violated basic human rights and political freedoms in Chile since the military coup of 1973 in that country; and

Whereas the Pinochet regime, in refusing to extradite Manuel Contreras, Armando Fernandez, and Pedro Espinoza, is harboring and protecting individuals wanted in the United States to stand trial for acts of international terrorism: Now, therefore, be it

Resolved, That the United States House of Representatives—

(1) expresses its great concern at the refusal of the Government of Chile to extradite Manuel Contreras, Armando Fernandez, and Pedro Espinoza to the United States; and

(2) calls upon the President to take the following actions immediately:

(A) to recall the United States Ambassador to Chile;

(B) to order the application to Chile of all relevant statutes limiting bilateral and multilateral assistance to countries with terrorist governments or countries harboring terrorists;

(C) to prohibit deliveries of defense articles or defense services to Chile pursuant to sales made before the date of enactment of the International Security Assistance and Arms Export Control Act of 1976;

(D) to recall all advisory and other military personnel from Chile;

(E) to prohibit the issuance of United States visas to Chilean military or intelligence personnel or anyone acting under the auspices of Chilean military or intelligence services;

(F) to prohibit any credits or loan guarantees to be granted by the Export-Import Bank with respect to Chile and to prohibit any export licenses required under the Export Administration Act of 1979 to be granted with respect to Chile;

(G) under the authority contained in the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), to order the immediate suspension of private bank loans to Chile; and

(H) to demand that the Pinochet regime in Chile restore fully to the people of Chile the rights they had traditionally enjoyed before the military coup of 1973, including the right of the more than 50,000 Chilean exiles to return to their country and the right of the families of more than 650 political prisoners who have disappeared to be informed of the whereabouts of those political prisoners. ●

PROFITS ARE FOR EVERYBODY

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. VANDER JAGT. Mr. Speaker, in recent times profit has become a dirty word. It is frequently described as obscene, unconscionable, excessive, and undeserved. But is profit really the boogeyman of our society, the tool of corporate economic oppressors?

To the contrary, profit is the linchpin of our free market economy, the *raison d'être* for producing goods and services. Nevertheless, the vast majority of Ameri-

cans are amazingly ill informed about the role and level of profit in our economy. When asked about the level of profit of corporations on sales volume, the popular response is invariably many times higher than the real level of profit. For example, a recent national survey indicated that the average person's estimate of what an automobile manufacturer makes in profit per sales dollar—37 cents—was almost seven times higher than the profit margin of General Motors, 5.5.

Mr. Speaker, I would like to place in the RECORD a very interesting essay on profits by Barry Crickmer which was printed in the October, 1979 issue of *Nation's Business*. This article presents an illuminating analysis of profit in terms of philosophy, reality and popular perception:

PROFITS ARE FOR EVERYBODY

(By Barry Crickmer)

Profit. Investors hope for it, economists measure it, pensioners live off it, and politicians run against it. But what is it?

In the business world, profit is what's left of the money a business takes in after all expenses have been paid. It may be stated as before-tax profit—before payment of the 46 percent federal tax on corporate income—or as after-tax profit, which is what most people think of as profit. This money is available for reinvestment in the business or distribution to the owners, when it's taxed again as income.

The most amazing thing about profit is that it exists at all. Consider a typical business: Suppliers exchange their goods, and workers exchange their labor for the company's money; consumers exchange their money for the company's products. These exchanges are voluntary. In every case, both parties to the exchange expect to benefit from it. If there were no mutual benefit, there would be no exchange.

SOMETHING LEFT OVER

After all these mutually beneficial exchanges, the successful business earns a profit—there is something left over. Was it taken from someone? No. Everyone involved has more than he or she started with. So there is something new, something that exists now, but did not exist before.

Profit may be defined more broadly as what remains after the costs of production. By this definition, profit is not limited to capitalist economies. In fact, no economic system could survive without profit.

As the economics commentator of *Izvestia* once put it:

"The basic difference between the primary economic principles of capitalism and socialism does not mean that under socialism profit is no longer an economic category. As long as commodity-money relations still operate, and they do under socialism, profit is a factor. . . . Lenin insisted that state-owned enterprises operate without loss, that they bring in a profit."

It is not the existence of profit, but rather its generation and disposition that differentiate the two systems.

In the broadest sense, profit is not even limited to the human sphere. Any successful organism must be able to withstand minor interruptions of its productive activity. To do that, it must produce more than it consumes in the act of production. Dispensing with profit would be equivalent to dispensing with life itself.

Sophisticated arguments about profit focus not upon the need for its existence, but on such questions as: Who makes it? Who gets it? Who decides how it will be used?

Profit in a market-regulated capitalist

economy is a signal, an incentive, and a discipline.

As a signal, profit is very honest. It tells potential investors what the consumer wants to buy. It doesn't respond to what some people think other people ought to buy. It doesn't always react to what people say they want to buy.

The signal is tripped only when people are willing to spend money to purchase a product or service.

BIG REWARDS, BIG PROFITS

As an incentive, profit attracts capital to serve the consumer. If consumers are willing to pay well for widgets, people with money to invest will voluntarily put it into widget factories. They do so in hopes of making a high return, but there is no guarantee. Big rewards are nearly always associated with big risks. In the words of a Japanese proverb: "Where profit is, loss is hidden nearby."

Interestingly, in the series of mutually beneficial exchanges leading to profit, all the parties but one know exactly what they will get for what they give. The exception is the investor, who exchanges his capital for the chance to earn a profit.

As a discipline, profit has several functions. First, it attracts competition, which ultimately lowers prices. Where free competition is possible, high profits are always self-limiting.

Second, it keeps investors constantly on the lookout for more productive uses of their capital.

Third, it pressures managers to use resources with maximum efficiency and grades them on their performance.

And finally, lack of profit eliminates businesses that are inefficient or unwilling to satisfy the consumer, freeing what remains of their capital for other purposes.

Few people are aware of how extensively the profit-and-loss system culls business deadwood. Only one new business in three survives through its fourth year. There are about 8,000 formal bankruptcies annually, while many times that number of businesses just quietly disappear. The point is that profit accomplishes something useful when moving in either direction.

Profit totals for all U.S. businesses always seem impressive because ours is a very big economy. Proportionately, however, the amount of national income that goes to business owners is rather small. And the employees' share of the income pie is increasing steadily, at the expense of profit.

This trend seems fortunate for workers, but in the long run it isn't. New jobs come from capital investment. And capital investment comes from profits. It now takes more than \$50,000 to create one new industrial job.

Not only is the owners' share of the income pie shrinking, but also it is smaller in absolute terms than it appears to be, thanks to the pernicious effects of inflation.

TAXING AN ILLUSION

Inflation can create an illusion of profit where none exists. Worse yet, the Internal Revenue Service is quite willing to tax the illusion. These paper profits appear because of the effects of inflation on inventory value and depreciation allowances.

Take the case of Acme Widgets. Because of inflation, the cost of making a widget has increased from \$1 to \$1.10. Since the selling price had been \$1.05, Acme must charge more to reflect its higher costs. So the price is raised to \$1.15.

At the moment of that price increase, the company had 100,000 widgets in a warehouse, all made at the older, \$1-per-unit cost. But now they are worth \$1.15 in the marketplace, rather than \$1.05. By the stroke of a pen—or more likely a computer—Acme's inventory has grown \$10,000 in value.

That \$10,000 looks like profit. But can it be treated like profit? Used to expand the business? Distributed to the shareholders? No.

Acme's inventory must be restocked as it is sold, and the replacements will be more costly to produce. So the \$10,000 is already committed—that is, what's left of it after the IRS exacts its share.

NEXT YEAR'S SEED

The depreciation problem is similar. Plant and equipment wear out or become obsolete and must be replaced. Prudent businesses set aside money to cover these expenses. This money is not taxed, because it represents capital, not profit. It is the seed for next year's crop.

But depreciation allowances for tax purposes are based on original costs, not replacement costs. Due to years of inflation, the replacement cost of a machine is likely to be several times its original cost. Yet only the original cost can be sheltered from taxation.

As a result, says economist George Terborgh of the Machinery & Allied Products Institute, "companies are counting a lot of capital consumption as profit, paying taxes on it and paying out much higher dividends than they think."

In 1978, for example, businesses shelled out \$84 billion to the tax man, a full \$17 billion more than they would have paid if profits had been adjusted for inflation. Dividends paid to shareholders, at \$44.3 billion, appeared to be 41 percent of reported corporate earnings, but were actually 67 percent of adjusted after-tax profits.

On paper, U.S. companies were able to set aside \$69 billion in 1978 to finance future growth. When that figure is adjusted for inflation and underdepreciation, the amount retained shrinks to only \$26 billion.

Even General Motors Corp., the nation's largest industrial company, is adversely affected by inflation. General Motor's 1978 annual report candidly tells shareholders that, despite a 20 percent gain in sales over the past five years, the corporation's earning power has not increased at all in 1973 dollars. The GM profit margin slid to 5.5 percent of its sales in 1978, compared with 10.3 percent in 1965.

Contrast that 5.5 cents profit with a recent national survey that shows the average person's estimate of what an auto manufacturer makes per sales dollar—37 cents. The public perception of profits is consistently about five times greater than the actual figures. Ironically, when asked to state a so-called fair or reasonable profit, most people pick a figure that is two to three times the actual level of profit.

Why should the typical American care about profit as long as his own job is secure? Because the level of profit is closely related to improvements in the overall standard of living.

America's high standard of living has come from improvements in productivity, that is, from producing more from a given amount of capital and labor.

Such improvements may come from research, which reveals new and better production techniques as well as new and better products, or from the substitution of electrical, chemical, or mechanical energy for human effort.

Capital investment pays for the research and the improved machinery. And profit provides the capital.

Most Americans are painfully aware that their standard of living is not growing as it did in the past. But not many could give the reason: U.S. productivity is not growing as fast as it once did, either.

MARKED SLOWDOWN

From the end of World War II to 1969, productivity increased by about 2.5 percent every year. Since 1969, the gains have slowed until, as the President's 1979 Economic Report notes, "productivity growth in 1978 showed a very marked slowdown from ac-

customed rates, adding substantially to inflationary pressures and raising fundamental concerns about underlying trends." Behind these concerns is a productivity increase for 1978 of only 0.6 percent.

America's productivity is still the highest in the world, but the lead is diminishing. Most major foreign competitors have had substantially higher rates of productivity growth in recent years.

Why is American productivity growth comparatively poor? Partly because this nation's competitors still have some catching up to do. But more importantly, other countries encourage the use of profit to increase productivity. Many American policies, on the other hand, have the reverse effect.

HIDDEN TAX BURDENS

First, the federal government taxes an investor's return twice—once as income to the corporation and again as income to the investor.

Second, tax incentives to companies to use their profits for research, modernization, and expansion are inadequate. Such incentives are often called loopholes and are resented by those who don't understand their purpose.

And third, the government imposes hidden tax burdens on industries.

That third point deserves expansion. A look at U.S. productivity performance by industry shows that three sectors of the economy—construction, mining, and utilities—have had the slowest growth. Not coincidentally, these sectors have been most affected in recent years by increased federal regulation. In fact, the dip in productivity matches the growth in regulation almost perfectly.

Higher productivity is to a society what a salary increase is to an individual. The gain can be spent for any desirable purpose, or reinvested, without having to cut back on some other budget category.

What happens to productivity depends on what happens to profit—how much of it we are able to generate and how we allocate it.

To increase profit, the risk-and-reward mechanism must operate freely. A market-regulated economy is uniquely designed to harness self-interest to the general interest. Profit is the carrot, and loss is the stick. When each producer tries to maximize his own personal profit, resources are used with optimal efficiency and the total wealth of the society increases at the fastest possible rate. Other systems—depending on moral suasion or government coercion—are spectacularly inefficient by comparison.

Pitting selfishness against selfishness for the good of all is an ingenious device, but many people have trouble understanding or accepting the concept. And yet, the U.S. system of government is based on a similar principle.

At the federal level, the principle is called the division of power. But it goes much deeper than that. American governments at all levels are stabilized by continual, open competition for power. As an astute French observer once remarked: "If one were required to condense into a single statement the basic concept of freedom incorporated in the Constitution, one would say that the guiding idea of the Founding Fathers was to combat evil with evil. They believed that division was a natural fact of life . . ."

ROMANTIC IDEALISTS

And so it is with economics. Selfishness cannot be eliminated, but it can be channeled into socially productive activities. This approach is offensive to romantic idealists who prefer to believe that people, when properly informed, will set aside their own interests in favor of the general interest. This rarely happens. Despite hundreds of years of attempts to make men good, human beings remain a stubborn mixture of virtue and vice. Which is probably why no one has ever

found a better way to increase freedom, wealth, and happiness than a capitalist economy.

"Unfortunately, this point is so poorly understood in America today that we needed to be reminded of it by two guests from abroad," says Richard L. Leshner, president of the Chamber of Commerce of the United States.

When the Egyptian-Israeli peace treaty signing brought the leaders of those nations to Washington, both men, appearing before U.S. Chamber of Commerce audiences, in Washington, D.C., and New York City, appealed to American business to help develop their countries.

"Come and be my partner," said Egyptian President Anwar Sadat.

Israeli Prime Minister Menachem Begin made it plain that his government wants private companies to profit from their investments in Israel. Profit, he said, "is the secret of human progress for all walks of life."●

JUSTICE FOR TAIWAN AND DAY OF RECKONING FOR CARTER'S STATE DEPARTMENT

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. ASHBROOK. Mr. Speaker, I am pleased to announce that U.S. District Court Judge Oliver Gasch has ruled that President Carter has violated the Constitution in trying to unilaterally terminate our mutual defense treaty with nationalist China. It is indeed reassuring to know that no President is above the laws of this Nation. I am pleased to be one of the plaintiffs in this suit.

The Carter administration has attempted to circumvent one commitment after another with our close ally and friend Taiwan. Recently it was announced that our treaty relating to air transportation was also in danger of termination. This all out assault on America's close ties with Taiwan has now been shown for what it really is. Mr. Carter is willing to circumvent our own Constitution in order to appease the Communists in China. It is a sad day when the whims of the Communists take precedent over American law. The courageous decision by Judge Gasch is a historic step in the direction of bringing morality back into our foreign policy and bringing America back into the decisionmaking process.

The battle is not over yet. The Justice Department is committed to helping the White House overcome whatever legal hurdles are put in the path of appeasement. It may take a decision from the Supreme Court to finally resolve this matter. At least for now the forces of justice have triumphed with the forceful reaffirmation of the system of checks and balances embodied in our Constitution. In Judge Gasch's own words:

Treaty termination impacts upon the substantial role of Congress in foreign affairs—especially in the context of a mutual defense pact involving the potential exercise of congressional war powers.

The Judge went on to eloquently state that the ability of a president to terminate a treaty unilaterally would open

the "possibility of abuse," and the need for congressional approval of presidential actions involving treaties "lies at the heart of our constitutional system." I hope my colleagues who were so quick to criticize another President's foreign policy actions just a few years ago will join me in welcoming a major decision against the imperial presidency of Mr. Carter.●

FIFTIETH ANNIVERSARY OF ST. GEORGE HELLENIC ORTHODOX CHURCH

HON. ADAM BENJAMIN, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. BENJAMIN. Mr. Speaker, it is my privilege today to congratulate the congregation of the St. George Hellenic Orthodox Church in East Chicago, Ind., in recognition of its 50th anniversary.

The Hellenic Greek Orthodox Community was founded in 1929 in East Chicago. Citizens of Hellenic origin began settling in its Indiana harbor community in 1903. A group of industrious individuals from the Greek community coordinated plans to erect a church. Through their conscientious efforts, construction on the church was completed in 1938. The first parish priest was Reverend Demetriades.

The church is presently under the leadership of Reverend Anthony Kanavos who has been pastor since 1948. Reverend Kanavos and his congregation of 200 Greek Americans are dedicated to preserving the Greek culture, and its ethnic and strong family orientation.

The membership of the church consists of families who put equal amounts of energy into their work to preserve the Hellenic heritage in this country. They are a proud group of people who attend to the word of God and the fellowship of their Greek backgrounds through inspiring services delivered each week by Reverend Kanavos.

The children attend language school 5 days a week and regular Sunday school programs. The native tongue of their parents and grandparents is not lost to the changing times.

The church is associated with the American Hellenic Educational and Progressive Association, an organization dedicated to maintaining the Greek traditions. This kind of dedication has been a part of the Greek citizenry since the first wave of Greek immigrants settled in Florida in 1767.

It is at this time that I ask my fellow colleagues to join me in a heartfelt message of congratulations to the Reverend Kanavos and the membership of the St. George Hellenic Orthodox Church on their 50th anniversary. The dedication to tradition that is so much a part of this church is refreshing and an inspiration to all Americans. The pastor and membership deserve our warmest congratulations and best wishes for a long and continuing service to the Greek-American community and all citizens of northwest Indiana.●

THE ALL-UNIONS COMMITTEE TO SHORTEN THE WORK WEEK

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. CONYERS. Mr. Speaker, on October 23, 24, and 25 the Labor Standards Subcommittee will conduct the first major hearings in 15 years on work time reduction as the means to spread around work and combat unemployment. The hearings will focus on legislation I introduced on February 10, 1979—the Fair Labor Standards Amendments (H.R. 1784)—to eliminate compulsory overtime, raise the overtime rate to double-time, and reduce over a 4-year period the standard workweek to 35 hours.

This legislation has the support of more than 100 major labor organizations, including 20 national and international unions, across the Nation. Two significant national labor conferences in the past few years have been held on the shorter workweek, and generated tremendous support among working people. The national movement afoot to build support for a shorter workweek could not have proceeded as far as it has without the tremendous organizing efforts of the All-Unions Committee to Shorten the Work Week, which is based in Detroit.

Last April the All-Unions Committee National Conference to Shorten the Work Week was keynoted by its president, Frank Rannels, who is also president of Cadillac Local 22, United Auto Workers. Rannels' address was a major document in laying out the reasons for labor advocacy of the shorter workweek, the historical background for this advocacy, and the direction the All-Unions Committee will be taking to mobilize national support for H.R. 1784. I wish to bring to the attention of my colleagues, in preparation for the hearings next week excerpts from the text of Mr. Rannels' remarks.

The excerpts follow:

ADDRESS BY FRANK RANNELS

Friends: Let me add my own welcome to those of you who have come to Washington today in behalf of the campaign to shorten the work week. Our meeting today marks a new step in that campaign.

In last Wednesday's Detroit news there was an article that tells the story of why we are here today—the headline on page 4 reads: "30,000 Seek 3,000 Ford Jobs," and the story goes like this: "more than 30,000 people have taken applications for the 3,000 jobs at the new Ford Motor Company plant near Batavia, Ohio. Kevin Downey, Ford industrial relations analyst, predicted that there would be 50,000 applications by the end of the week."

That my friends tells a sad story.

While I'm at it, let me quote from another article in the same paper, this time from a column by Cart T. Rowan: unemployment for the nation as a whole showed a modest decline to 5.7 percent in February.

But, the rate of unemployment among black workers increased from 11.2 to 11.9 percent.

What this means, brothers and sisters, is that in the month of February the unemployment rate among black workers was nearly 2½ times the rate of white workers.

Let me ask you: how secure is any worker's job . . . how secure is any strike . . . how

secure is any union . . . how secure is the labor movement as a whole . . .

When 30,000 people line up for 3,000 jobs; or when nearly 350,000 black teenagers are left to drift aimlessly without a job?

How much longer can the labor movement hope to protect the jobs and conditions of its members with this kind of a situation?

Brother Wendell Young is a vice president of the all unions committee to shorten the work week. He is also president of Local 1357 of the Retail Clerks Union in Philadelphia. Brother Young has lost nearly 10,000 jobs in '78.

Brother Edman is president of steelworkers Local 1462 in Youngstown, Ohio. He is also on the steering committee for the all unions committee to shorten the work week. Brother Mann, lost over 5,000 in last year and another 5,000.

How long can the labor movement protect itself in the face of wholesale lay-offs that have gutted membership of locals like 1357 of the Retail Clerks?

How long can we last in the face of plant closures like that threatened by Youngstown Sheet and Tube at their Briar Hill Works in Youngstown, Ohio. I ask you . . . how much longer are we going to sit still for this?

I am sure that you out there could point to hundreds of other areas that tell the same sad, sad story.

Now another set of figures:

In February of this year even if we were to accept the official figure of 5.7% it means that one worker out of the six had no job at all. And, another 25% of the workforce were forced to try to live on the money they earned working less than 35 hours a week.

So, we had 6% of the workforce out of work . . . 25% of the workforce underemployed . . . and that very same time in the month of February, 25% of the workforce . . . nearly 24 million workers . . . were forced to work more than 40 hours a week.

How are we going to deal with this situation?

We who formed the All-Unions Committee to shorten the work week on October 25, 1977, are convinced that there is an answer—a very simple answer:

We say "cut the hours of labor without cutting income until with the number of hours going down and the number of jobs going up, we can eliminate unemployment and provide security, dignity and hope for those who do not and will not have a job under our present system."

I admit that our solution is not all that original. As a matter of fact, it has been with us for a very long time.

The struggle for shorter hours . . . as a way to make life better . . . as a way to obtain a greater share of the increased production made possible by new technology—while at the same time creating new jobs . . . dates from the earliest days of our nation . . . back to 1791 when carpenters in Philadelphia struck to reduce the work day to twelve hours.

It is the same solution as was found by the women in the textile industry in New England . . . by coal miners in Ohio and Pennsylvania . . . by building trades unions in a dozen cities who fought for and won a ten hour day in the first half of the last century.

Our solution is the same as that advocated by the Federation of Organized Trades and Labor Unions in the United States and Canada in 1884.

And that was reaffirmed by Samuel Gompers when he said, and I call your attention to the banners on the wall:

"So long as there is one who seeks employment and cannot find it, the hours of labor are too long."

Our solution is the same solution that lay at the base of the general strike of May

1, 1886 and to the many struggles through the many years between that date and the CIO upsurge that forced enactment of the Fair Labor Standards Act of 1938.

I said that ours was a simple answer but I did not say it was *simplistic*. I did not say that it was going to be simple or easy to achieve.

No, far from it: History shows that no employer, anywhere, has ever given up anything without a struggle.

We need not look back to Hay Market . . . or to the 1919 steel strike, or to the Flint sit-in to see if things have changed.

We only have to look to the great coal strike of 1978 or to the strike by members of Steelworkers Local 88-88 at the Newport News Shipyard to understand the brutal realities of corporate America today.

We only have to look at the last session of Congress or to the present effort of the Carter Administration to impose wage controls to understand that corporate America has got a lot of political clout to back up its ruthless economic might.

In February there were at least eight and three quarter million workers in our country who were either unemployed or underemployed—and I ask you: What greater challenge is there to the labor movement than to give leadership—than to come up with solutions—that will provide those eight and three quarter million jobs?

What greater challenge? What greater obligation does the American labor movement have . . . than to create jobs for eight and three quarter million human beings . . . men and women . . . young and old . . . white, black and brown—who, because they have no jobs, are also without security . . . without dignity—and yes—in all too many instances—without hope?

Consider today's reality where technological change and slow economic growth have combined to perpetuate the stagnation that has marked our nation's job market for a quarter of a century.

Every year we have to create jobs that will provide employment for at least two million young people who enter the work force. We have to provide jobs for some two and a half million workers who are displaced by new machinery and new technology every year. We must find jobs for those who are presently out of work.

When it is all added up, these three things mean that our economy must provide over one hundred thousand jobs every week for the next four years to even approach full employment.

Tell me, how can we do this without a shorter work week with no cut in pay?

We are also not going to fall for any phony propaganda about declines in productivity being the cause of the inflation spiral.

If they want to play the numbers game, let them answer these figures:

In the period from 1955 to 1976, the production work force in manufacturing industries grew by less than three percent. In this same period, production more than doubled.

Let me repeat, in the period from 1955 to 1976, a production workforce that grew by less than three percent was able to more than double production.

You don't have to be a mathematician—you don't need a fancy computer—or even a slide rule—to see that with this type of job erosion, our economy cannot be sustained on a forty hour work week.

Just as sure as you and I are here today, the forty hour system that was established in 1938 has built a wall around all of the jobs in our country—and that wall has locked out nearly nine million people.

As long as that forty hour wall stands, there is no way that we will be able to create the jobs that we must have.

There are no shortcuts—there are no cheap gimmicks—there are no substitutes: the en-

tire labor movement must renew the battle for shorter hours. It is time to tear that old forty hour wall down!!!

It is time the labor movement stops passing meaningless resolutions. It is time we put our time, our strength, our resources . . . and yes, our heart and soul into renewing the movement for shorter hours. This demand is to fight for and win the best measure of economic security for the employed, the unemployed and the under-employed.

We have begun to build that movement and we are here today to build it some more.

The all unions committee to shorten the work week gives all of labor an opportunity to come together in a fighting spirit of solidarity to renew the struggle that has lay dormant for over 40 years.

The idea for an all unions committee to shorten the work week was conceived in mid August, 1977 when nine local union and district and regional officers met in the office of UAW Local 22 in Detroit. We agreed to take the lead in an effort to build a movement to reduce the hours of labor.

We decided to form an organization that would, and I quote from our founding resolution, "help initiate, develop and coordinate a national movement to create jobs by reducing the hours of labor through the process of education, legislation and collective bargaining."

We decided to call a founders meeting and the all unions committee to shorten the work week was founded on October 25, 1977 by labor leaders who represented a quarter of a million workers. From that meeting we went on to bigger and better things.

On April 11, 1978, our organization initiated the first national all unions conference to shorten the work week. Douglas Fraser, President of the United Auto Workers, Albert Fitzgerald, President of the United Electrical Workers, and William Marshall, President of the Michigan State AFL-CIO were guest speakers, along with Conyers as 750 representatives of nearly a million members of 23 international unions launched a national campaign to reduce the work week.

Many will ask why doesn't the established labor movement take on this fight? Then ask: Why do we need a separate organization . . . and how does the all unions committee fit into the picture?

I think we can provide very simple and very straight forward answers to these questions.

The very nature of our labor movement makes an independent organization necessary.

No single union can concentrate its' energies exclusively on the issue of shorter hours.

No single union can coordinate the efforts to build a national movement.

No single union can win a reduction in hours for all workers.

No single union can win legislation to extend a reduction in hours to the unorganized workers of the nation.

I submit to you that the all unions committee to shorten the work week is that organization.

As I said, our purpose is to "help initiate, develop and coordinate a national movement to create jobs by reducing the hours of labor through the process of education . . . legislation and collective bargaining."

What is new . . . what is different about the all unions committee to shorten the work week is that our organization is working to bring together all unions without regard to industry, craft or affiliation.

It is not our intention to tell any union how their program should operate . . . nor is it our intention for this movement to become involved in inner union politics.

Not only is there a need for the all unions committee to shorten the work week, the many precedents for such independent labor organizations.

There was the eight hour league.

There was the CIO, that pooled the resources of several international unions to support and direct campaigns to organize workers in basic industry.

There was the AFL committee for unemployment compensation, that led the campaign for unemployment insurance.

There was the black lung association that initiated campaigns to enact black lung legislation at state and national levels.

We have—we need these organizations today . . . just look around:

Here is the Brown Lung Association.

We have the Coalition of Labor Union Women—we have the Coalition of Black Trade Unionists.

And, since October 25, 1977, there has been the all unions committee to shorten the workweek.

All are based in the labor movement . . . all are independent of the formal trade union structure . . . all came into being in response to specific needs . . . all are necessary . . . all contribute to the strength and to the unity of the labor movement.

Although this is a grassroots organization led primarily by local union officers, we consider it extremely important that we be able to work with the leaders of international unions and with the leaders of other official labor bodies.

The all unions committee is a part of the labor movement . . . but we will not be . . . we will not attempt to become . . . a substitute for any existing labor organization.

Our purpose is to renew the movement for shorter hours.

And let me tell you brothers and sisters: The all unions committee has been about the business of renewing the movement for shorter hours!

Last April we organized the first national all unions conference to shorten the work week in Dearborn and 750 representatives attended that conference.

It was at that conference that Congressman Conyers announced his sponsorship of H.R. 1784.

And at that time, brothers and sisters, there was only one Member of Congress who had both the foresight and the courage to put his name on legislation to reduce the work week to 35 hours . . . raise the penalty for overtime to double time . . . and outlaw compulsory overtime.

Today there are thirteen Members of Congress who are sponsors of H.R. 1784. Like I said the all unions committee has been about the business of renewing the movement for shorter hours!

In the year since that conference in Dearborn five State AFL-CIO conventions have gone on record in support of H.R. 1784.

City Central Labor Councils from Pittsburgh to Baltimore and back to Youngstown, Ohio, and out to Oakland, California, have endorsed H.R. 1784.

The convention of the United Electrical, Radio and Machine Workers endorsed H.R. 1784 and so did the convention of the International Typographical Union.

District 31 of the United Steelworkers of America is solidly behind the campaign to win congressional enactment of H.R. 1784.

The Coalition of Black Trade Unionists at their convention last May in Memphis endorsed H.R. 1784, and so did the convention of District 12 of the Amalgamated Meat Cutters and Butcher workmen.

Thousands of signatures have been collected in shops across the country as rank and filers have worked to back up their demand for a shorter work week.

As I said brothers and sisters the all unions committee has been about the business of renewing the movement for shorter hours.

Legislation to limit the hours of labor, either by outlawing compulsory overtime or imposing a 35- or a 32-hour work week have been introduced in the State Legislatures of

New York, Washington, Oregon, Illinois, Wisconsin, and Minnesota, and are in preparation in Ohio, Pennsylvania, Michigan and a number of other States. As I said brother and sisters the all unions committee has been about the business of renewing the movement for shorter hours.

Brothers and sisters one of the nice things about making opening speeches is that one gets the opportunity to be the first to make important announcements.

And I have an important announcement to make:

On October 23, 24 and 25 of this year there will be hearings on H.R. 1784 before the House Subcommittee on Labor Standards which is chaired by Congressman Edward P. Beard of Rhode Island.

As I said, the all unions committee to shorten the work week has been about the business of renewing the movement for shorter hours, and now we have to make a decision: What are we going to do next? This is the question that this meeting must address itself to.

Yes, we are going to meet with representatives of 25 Members of Congress later this afternoon. Yes, the all unions committee will be among those organizations presenting testimony before the Congressman's subcommittee in October.

This work is important and we will present the facts. But, it is not enough just to develop arguments and present facts. We must accept bigger challenges—we must set bigger goals for ourselves.

We have to marshal the troops. We have to take a leaf from Martin Luther King, Jr., who said: "Congress must not only hear our voices—Congress must hear the sound of our feet as well."●

CITIZENS CALL FOR ENERGY ACTION

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. HARRIS. Mr. Speaker, across the Nation today, Americans are protesting the high cost of energy. They are protesting the self-interested international oil companies, and the refusal of this Congress to act responsibly on energy issues. The people are protesting decontrol of oil prices, and the Government's failure to come to grips with a problem individual Americans have to deal with every day. They are protesting the Department of Energy, which through sins of omission and commission, ineptitude and insensitivity, has exacerbated energy shortages and driven prices out of reach of many Americans.

One of the most telling actions today is the planned march of senior citizens on the American Petroleum Institute headquarters. Older Americans, most of whom live on fixed incomes, are among the most vulnerable to energy price increases. They are tired of seeing the slick oil ads on TV, extolling the virtues of the petroleum industry. And they are frightened. They are frightened of the bills that will come this winter because they do not know how they are going to pay them. Though I cannot walk with the senior citizens in front of API today, I support their challenge to the oil lobbyists to justify outrageous prices and outrageous profits.

Here in Congress we have our own challenge. The challenge from the American people to act responsibly. To reimpose controls on petroleum prices. To enact standby rationing authority. To expand support of alternative fuel development. And to produce an energy policy worthy of the American people.

I urge my colleagues to heed the call of the Citizen-Labor Energy Coalition.●

THE NFBPWC SUPPORTS NEW SUSAN B. ANTHONY COIN

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Ms. OAKAR. Mr. Speaker, as you are aware, there has been much negative publicity surrounding the new Susan B. Anthony dollar coin. For a change of pace, I wish to submit for the Record a press release from the National Federation of Business and Professional Women's Clubs, Inc. urging its 165,000 members to renew their support of the new dollar coin.

Shortly following the oversight hearings on the new dollar coin conducted by the House Subcommittee on Consumer Affairs and General Oversight and Renegotiation the latter part of September, I received among numerous other phone calls, an unsolicited call from the National Federation of Business and Professional Women reacting to the criticism leveled at the new dollar coin. The advocacy of the dollar coin by BPW demonstrates but one arm of the many business and professional concerns who have communicated their absolute endorsement of the coin, not only from the time of conception, but also since its distribution and circulation.

I trust that positive comment exemplified by the following, will do much to alleviate many of the problems the coin has experienced. I remain grateful to the National Federation of Business and Professional Women for their efforts in this matter.

The press release follows:

BUSINESS AND PROFESSIONAL WOMEN SUPPORT SUSAN B. ANTHONY DOLLAR COIN

The 165,000 members of the National Federation of Business and Professional Women's Clubs, Inc. (BPW) were urged today to renew their support of the Susan B. Anthony dollar coin.

Julia K. Arri, BPW's national president, of California, issued this statement following criticism leveled at the new dollar coin during hearings conducted last week by the Subcommittee on Consumer Affairs of the House Committee on Banking, Finance and Urban Affairs:

"Women have waited a long time for a coin bearing the resemblance of a real woman. We cannot afford to lose the Susan B. Anthony dollar coin. I am urging each of our 165,000 BPW members to keep this Susan B. Anthony dollar coin in circulation by using it in their professional and personal transactions."

The new coin was hailed as a breakthrough for women, because it was the first time that a portrait of a "real" American woman, rather than a symbolic woman, appeared on the circulating coinage of our Nation.

Since 1935, BPW has steadfastly supported efforts to honor the great American suffragette and was among the first to lend its support for a Susan B. Anthony design to be issued on a dollar coin. Stella B. Hackel, Director of the Mint, applauded BPW's support in an official presentation made at BPW's national convention in Boston last July. ●

NAVY LEAGUE OPPOSES DECLINE IN NAVAL POWER

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. ASHBROOK. Mr. Speaker, the Navy League is one of the most respected civilian patriotic groups. It would be natural that the league would be at the forefront of Americans who view the decline in U.S. seapower as a threat to the survival of this country. The Navy League has long sought an adequate Defense Department commitment to a 600-ship Navy as a necessary part of any adequate military preparedness.

The national president of the Navy League, John J. Spittler of Columbus, Ohio, recently wrote a letter to President Carter criticizing proposed fleet reductions and asking the Commander in Chief to "pay more than lip service to the serious needs of the Navy."

That letter is must reading for every American who wants to guard against pre-World War II weakness which found this Nation virtually powerless when confronted by aggressors who moved against the free world. The letter follows:

AN OPEN LETTER TO THE PRESIDENT OF THE UNITED STATES

DEAR PRESIDENT CARTER: Much has been written about your administration's plans for the 1981 defense budget and the ensuing four years. Frankly, the data I have seen and the reports I have read appall and frighten me. For I find it inconceivable that your planners could even remotely consider a budget that comes so close to decimating United States maritime power.

As I understand it, your Pentagon planners would, among other things:

Reduce the Navy's five-year shipbuilding program to 46 ships, fewer than 10 ships a year and some 100 fewer overall than the program sought by your predecessor in office—a program endorsed by you in the first year of your presidency.

Cut aircraft procurement to a level well below the current rate at which the Navy loses aircraft in peacetime operations, even though naval aircraft procurement in the past two years also has been below that level.

Markedly reduce weapons procurement across the board, even though stockpiles of key weapons are lower now than they have been for years.

Call for further civilian personnel reductions that would cripple even further the Navy's ability to maintain and repair its ships and aircraft.

Eliminate all funding for new amphibious assault ships, without which naval sealift and Marine Corps combat capabilities both will be drastically reduced.

Downgrade allocations for research and development, thus continuing a trend begun in your earlier defense budgets.

Slash the production line of one of our most competent aircraft producers so severely that it might well be forced out of business.

Reduce nuclear-submarine construction capability to the point that only one shipyard would be building such ships, and then at a rate only an eighth that of the Soviet Union's building rate.

In short, Mr. President, your planners, presumably operating under your specific instructions, would further reduce the Navy in the very near future to a level under 400 ships—at a time when over 600 are required—thus leaving the United States with a fleet only marginally able, if that, to maintain sustained air operations, far less capable of keeping even the present reduced inventory of ships and aircraft in operation, and allocated fewer resources than at any time in the last half century upon which to rebuild that fleet in time of crisis.

Mr. President, can this possibly be the legacy you wish to leave your country? Do you really want our once-mighty Navy to be second best? In short, does the evidence speak for itself?

You may well attempt to answer those questions, and many others which could be asked, by contending that only minimum-level planning figures are involved. It also is recognized that you have instructed your Secretary of Defense both to ask for an increase in the 1980 defense budget, and to anticipate more funds for the defense portion of the 1981 budget which you will submit to the Congress in January. Mr. President, that is all to the good. But it is not enough.

Will you momentarily reflect on the uses to which the limited additions to the 1980 budget will be spent? For example, the \$2.7 billion addition you recently have requested of Congress will serve only: (1) to close the gap between the allowed 6-percent inflation rate and the actual double-digit rate; (2) to counter changes in currency rates caused by the weakened dollar; (3) to pay for the higher fuel costs imposed by OPEC; and (4) to more fully fund maintenance and repair work already planned, and already in the budget.

Those expenditures may pay fully for what you previously have requested, Mr. President, but they won't buy any new hardware. They can't commence the rebuilding process of our naval and military weapons inventory that is so vital to the nation's safety. In fact, they'll do no more than permit the Navy to operate in a more realistic environment, rather than being forced to plan and operate under totally unrealistic funding postulates imposed by planners whose motives become more suspect.

And what will the 1981 budget permit the Navy to do to improve the situation? As nearly as I can interpret the more credible analyses I have read, Mr. President, the 1981 funds you reportedly plan to request will, in the long run, only maintain the Navy at about today's dangerously reduced level. I do understand and appreciate, however, that there were some concessions made affecting the whole 1981-1985 period and mitigating to some extent the worst effects of the earlier defense program guidance given the services last July.

DDG-47s will be built at a more sensible rate of four a year. An experimental destroyer will be continued in the R&D stages—but will not be funded for construction until two years after originally planned. The attack submarine rate will be up slightly, although it still will be below what is required to build the Navy to previously approved and vitally essential force levels. Funding for the much-needed LSD-41 amphibious assault ship will be restored in the later years of the period.

Aircraft production will climb above the rate of loss to attrition, but those aircraft remaining in the Navy's inventory will have to be flown far longer than desirable from either a safety or an operational viewpoint. The business base of one long-time supplier of Navy aircraft will be sustained, so that means he won't be forced to completely shut

down. Weapons procurement will be up, thus increasing stockpiles modestly.

But even if those plans do become reality, at the end of the five-year period the Navy still would be barely able even to meet today's commitments, let alone those that will undoubtedly be imposed during the increasingly dangerous years ahead.

Because the fact is, Mr. President, what your budget planners refer to as an "enhanced" shipbuilding program still would be more than 40 ships below what the Chief of Naval Operations submitted to the Chairman of the Senate Armed Services Committee this year as being absolutely necessary if the Navy is even to hope to hold its own on the high seas. Insufficient numbers of aircraft will be built. Weapons stockpiles still might not be enough to carry us through the first stages of a sustained war. Navy manpower will be down, with the shores establishment being manned at only three-quarters of demonstrated need. And the Navy still will be struggling just to stay even with the maintenance and repair backlog, while the major overhaul picture becomes next to impossible.

The defense budget increases you now appear willing to approve will be of minimal help, although they might impress some uninformed voters. But they still are a mighty long way from insuring that five years from now we will have a Navy adequate to carry out the traditional role of securing freedom of the seas.

While our Navy is struggling to maintain bare steerage way, on the other side of the world the Soviet Union is building aircraft carriers and cruisers at an unprecedented rate.

They could have as many as eight carriers in five years. They already have a cruiser at sea with a system as good as our AEGIS radar-and-weapons capability—a capability we won't have in our fleet for at least two more years. As noted, their submarine construction rate is eight times ours. And each year they're operating farther from their home bases on an ever larger scale and with greater effectiveness, competence, and confidence.

Mr. President, no matter what happens to SALT II, no matter whether the Soviet brigade in Cuba stays or goes, the United States still needs an ever more powerful Navy. All the strategic warfare capability imaginable will not protect our waterborne oil lines if they become threatened by Soviet fleet units. Nor will our strategic forces enable us to go to the aid of our allies around the world in confrontations short of nuclear war without further endangering our safety. Nor, finally, will our strategic forces afford assurance to our merchant marine, and those of our allies, that they can sail the seas peacefully and trade where and when they wish without intimidation by a foreign power.

So, as you face the budget decisions immediately ahead, I implore you to pay more than lip service to the terribly serious needs of the Navy. Throughout the country I hear those who, despite the vigorous denials made by your budget planners, are convinced the Navy is deliberately, systematically, and ruthlessly being decimated—against the recommendations of your senior naval and military advisers. When your planners slash naval ship and aircraft procurement plans for the future to the levels here indicated, I cannot but wonder if perhaps those critics aren't right.

Mr. President, when historians write the record of your time in office, you'll not want to be remembered for the methodical sinking of the Navy in which you once served and on which our Nation, and the entire Free World, so strongly depend. But that may well be the most conspicuous mark you leave on the pages of history unless you act now to reverse this suicidal trend. For the mili-

tary reality in today's world is that to be second best is to be dead last!

Sincerely,

J. J. SPITTLER,
National President,
Navy League of the United States.●

MOTHERS, GRANDMOTHERS PREPARE FOR NEW CAREER AT CCB

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Ms. MIKULSKI. Mr. Speaker, I would like to call the attention of my colleagues to an article in the East Baltimore Guide of September 27, 1979 headlined "Mothers, Grandmothers Prepare for New Career at CCB."

As a former instructor at Community College of Baltimore I was delighted to read of the response by East Baltimoreans to the new Harbor Campus. I am particularly pleased to see that so many of my neighbors are taking advantage of this opportunity to extend their own education. Many of the students are women who have raised their families and are now interested in returning to work or entering new careers. With the increasing complexity of modern society, all of us need the chance to brush up on our skills and to learn new ideas. I believe this article is an excellent example of the value of community education for mature students.

MOTHERS, GRANDMOTHERS PREPARE FOR NEW CAREER AT CCB

(By Dr. Sidney Kobre)

East Baltimore housewives are ambitious to advance themselves in business and professional worlds by getting more college education.

This is the inspiring conclusion I reached the other day while talking to mothers and grandmothers from East and Southeast Baltimore, who were registering for the Fall Semester classes at the Community College of Baltimore.

Homemakers had come early to the Forum in the Bard Building of the Harbor Campus where they received registration assistance from the advisors on duty. These adult students went over the schedule of classes and selected the ones most suitable for their purposes. They sat alongside the young students, just out of school, accustomed to making our schedules and forms. The homemakers got into the swing of registration quickly. CCB has extended its registration to accommodate other East Baltimoreans through next week.

In the registration area I walked over and talked to some of these housewives. They proved the soundness of the long-range view of President Harry Bard and Dr. William V. Lockwood that a college constructed adjacent to East Baltimore and convenient to East Baltimoreans would stimulate the interest of area residents to take college courses.

A variety of cultural and career programs, excellent instructors, well-equipped laboratories plus promotion through word-of-mouth of satisfied students and graduates, and through the columns of the East Baltimore Guide would make the Harbor Campus, at Lombard Street and Market place, appealing to East and Southeast Baltimoreans.

It seems to be working out that way. One of the East Baltimoreans I talked to was Mrs. Betty Piscor, of 2903 Fait avenue. A mother of six children and some grandchildren, Mrs. Piscor is well-known in East Baltimore for her work with young people at St. Casimir's Church and for her teaching of craft work to many adults.

Left a widow a number of years ago, she reared her sons and daughters nearly all of whom are grown now and have homes and children of their own. Mrs. Piscor has always wanted to do occupational therapy work and has attended the Community College of Baltimore's Harbor Campus and Liberty Campus to prepare for her career.

"This does not involve hospital work, as much as going into the homes of people to help them," she explained. "I have done much craft work and this type of therapy is related closely. I hope to complete my courses of study at CCB by next June."

Mrs. Piscor's children were all reared in East Baltimore and went to school there. Veronica, 21, is now attending Towson State University, Ramona is 24, Patrick, 27, Ray, 29, David, 20 and Brenda, 16.

Another East Baltimore homemaker I chatted with, Mrs. Cecilia Poole, of 413 S. Duncan Street, prefers the business world. A graduate of Seton High School, class of 1954, she desires to take a refresher course in secretarial science to prepare a job in a business or industrial concern.

"I like the business world," she said. "I expect to help support my family." This is Mrs. Poole's first year at CCB, where she was directed to attend for career preparation by the Maryland Displaced Homemakers organization, as she is divorced.

I also talked to Mrs. Linda Roth, who was born and went to school in East Baltimore and has many friends there now. She lives at 4111 Shannon Drive in Northeast Baltimore. A mother of two, Kelly 8, and Craig, 12. Mrs. Roth is interested seriously in becoming an accountant. She has worked for the Curtis Bay Towing Company in the business office and is sure that studying accounting will enable her to advance in the business world. An excellent dancer, too, Mrs. Roth is a member of the Polynesian Dance Group, the Aloha Lani, which has performed before a number of East Baltimore organizations.●

PERSONAL EXPLANATION

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. McDONALD. Mr. Speaker, due to my congressional schedule I was unavoidably absent late in the afternoon on Friday, October 12, 1979, and missed four votes. While I was paired on each vote missed, I did not receive a live pair on each vote. If I had been present I would have voted as follows:

"Yes" on the amendment to H.R. 2061 that sought to strike the national priority grant program.

"Yes" on the amendment to H.R. 2061 that sought to strike the mini-block program.

"No" on the amendment to H.R. 2061 that extends the coverage of the Public Safety Officers Death Benefits Act administered by the LEAA to rescue squad personnel.

"No" on final passage of H.R. 2061, the Justice System Improvement Act of 1979.●

THE CASE AGAINST THE OIL COMPANIES

HON. JEROME A. AMBRO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. AMBRO. Mr. Speaker, it has been said in many ways but the axiom that "if we refuse to learn the lessons of history we shall be forced to relieve it" becomes starkly clear in the article by Robert Sherrill, "The Case Against the Oil Companies," published in last Sunday's New York Times Magazine. I commend it to my colleagues, most especially to those who persist in believing, as did Adam Smith, that the free market system applies to the oligopoly that is the petroleum industry and for their edification I reprint it here:

THE CASE AGAINST THE OIL COMPANIES

(By Robert Sherrill)

(NOTE.—Often in the past 50 years, the oil companies have sounded the alarm that the nation's wells were running dry. Each time, says the author, after the companies got what they wanted, the crisis ended. The problem, now as in the past, highlights the public's need for independent information.

Quite frankly, the oil industry has developed the reputation over the years of being a robber, cheating and despoiling the environment.—Frank Ikard, President of American Petroleum Institute, 1971.

Ever since Jimmy Carter arrived in Washington he has been trying to convince the American people that the periodic oil and natural-gas shortages are not contrived deceptions used by the industry to squeeze more profits from consumers. In his first major speeches to the nation in 1977, when he put on a sweater and declared moral war on the energy problem, he said, "I realize that many of you have not believed that we really have an energy problem." He seemed sympathetic. But then, there he was again, during the great gasoline shortage of 1979, back on television, giving his fifth energy speech, still with the same theme. This time he had obviously lost patience. "The energy crisis is real," he said, going up half an octave. "It is worldwide. It is a clear and present danger to our Nation. These are the facts—and we simply must face them."

The address was probably the most impassioned of his political life. Yet neither that plea nor the gas shortage itself seemed to have much effect on public perception. After the speech, 65 percent of the public still thought the current energy shortage was a hoax, according to a New York Times/CBS poll.

It's not hard to understand why the majority of Americans feel the way they do. Over the years, they have been told by many knowledgeable politicians and lay experts that the oil companies are quite capable of duplicity. George P. Shultz, a Secretary of Labor in Richard M. Nixon's Cabinet, who headed a Cabinet Task Force on Oil Import Control, found that "the industry is capable of behaving irrationally . . . and even of contriving an apparent disaster" and of "downward manipulation" of reserve statistics to squeeze more money out of consumers. In 1973, the Federal Trade Commission charged eight of the largest oil companies with conspiring to destroy competition and with conspiring to cheat the public out of billions of dollars by price fixing. The oil companies' lawyers are still in court fighting those charges, but in its sweeping accusations—and in its futility—the case stands as the nagging question of this energy decade. It has

been a decade in which headlines such as "Oil Giants Exploited Energy Shortage, Probers Charge"—a vintage piece from *The Washington Star*—have appeared almost as regularly as Mobil's ads proclaiming the industry's innocence.

Above all, this has been a decade of *déjà vu*. Opening his famous "obscene profits" investigation in 1974, Senator Henry Jackson delivered a Whitmanesque outburst:

"The American people want to know why the prices of home heating oil and gasoline have doubled when the companies report high inventories of these stocks. . . .

"The American people want to know whether major oil companies are sitting on shut-in wells and hoarding production in hidden tanks and at abandoned service stations. . . .

"The American people want to know why the oil companies are making soaring profits. . . ."

It was an outburst that still seems perfectly contemporary, for the rumors, manipulation and suspicions of 1979—scarcity in the midst of plenty, tankers waiting to unload, charges of hoarding by the companies, hidden supplies, blame on the Middle East—have not changed. It is the *déjà vu* more than anything else that makes Americans now so hard to convince. For more than 50 years, Americans have been confronted with periodic energy "crises," and they have noticed that the only thing certain is that the crisis or prediction of crisis has been accompanied by increased oil prices, concessions from the Government to the major oil companies, expanded oil-company holdings or some combination of these. What follows is an account that might be called Six Crises.

1920: A TASTE OF THE FUTURE

The United States was producing about 65 percent of the world's oil in those days. The Standard Oil companies dominated, but they had few overseas sources. This made them unhappy and restless. Standard wanted to share in the oil of Iraq, then the most productive country in the Middle East. But Iraq was under British control, and the British would not let Standard in.

A propaganda war was called for, and suddenly the American people were plunged into a crisis. On Jan. 1, 1920, the U.S. Geological Survey—drawing its information, as always, from the oil companies—told *The New York Times* that "the position of the United States in regard to oil can best be characterized as precarious." Dr. George Otis Smith, director of the U.S.G.S., then warned that within the near future "Americans will have to depend on foreign sources or use less oil, or perhaps both." Within weeks, another U.S.G.S. official predicted that "unless our consumption is checked, we shall by 1925 be dependent on foreign oilfields to the extent of . . . possibly as much as 200 million barrels of crude each year, except insofar as the situation may . . . be helped to a slight extent by shale oil. . . . Within perhaps three years, our domestic production will begin to fall off with increasing rapidity, due to the exhaustion of our reserves." Oil industrialists began telling the press that, when America's oil reserves were gone, it would be at the mercy of the British, an ungrateful lot who had been saved by United States oil in World War I and now only waited for a chance to gouge us.

The people were soon given a taste of that merciless future. In some parts of the country, gasoline was sold only in one- or two-gallon lots. In some places, the price more than doubled—to 35 cents, equivalent to more than \$1 in today's currency. The magazine *Automotive Industries* reported rumors of refineries shipping gasoline away from urban centers until the prices went up. There was talk of having to make synthetic gasoline from Kansas wheat. There was even some loose talk of going to war with Britain, if necessary, to get "our" share of the oil supply.

The strategy worked. Seeing the State Department and the Congress militantly carrying the oil companies' flag, and seeing the American public exercised, the British gave in and agreed to join hands with the Americans in Iraq. With that, the crisis ended, almost as suddenly as it had begun.

This was not by any means the first time the oil industry had declared that it was running dry, but it was such a dramatically successful use of the technique as to inspire two British writers, E. H. Davenport and Sidney Russell Cooke, to observe in their book "The Oil Trusts and Anglo-American Relations," published in 1924: "There is this strange habit peculiar to the American oil industry which one should observe in passing. Although it doubles its output roughly every 10 years, it declares every other year that its peak of production has been passed and that its oilfields are well-nigh exhausted. . . . One cannot doubt that the lugubrious prophecies of American oil men are in some way related to the wish for higher prices."

1929-31 "PERFECT PATTERN" OF MONOPOLY

This time, the crisis was created in the name of "conservation." In 1929, the Federal Oil Conservation Board warned that the United States was "exhausting its petroleum reserves at a dangerous rate." It advised bringing in all the foreign oil possible, particularly from South America, and to cut back on production in the United States. The most important foreign source in this hemisphere was in Venezuela, where the dominant American producers were Standard and Gulf—the latter company being controlled, interestingly, by the family of Andrew Mellon, who was then Treasury Secretary and the most influential aide to President Hoover. Gulf and the other international companies wanted a good patriotic excuse for bringing their cheaper oil into this country. Thus the big push to "conserve" our resources.

But then, in 1930, independent oil operators began bringing in the fabulous East Texas field. Here came the legendary Spindletop and subsequent discoveries, some with wells gushing 10,000 barrels daily. The major oil companies had had little to do with the discovery of the East Texas fields. So, the majors, pretending to be horrified at the wildcatters' wasteful production methods, demanded that the government of Texas force the small companies to "conserve"—i.e., sell only as much as the big companies said they should sell. When the small companies refused to knuckle under, the majors gave them a rugged dose of competition by slashing the price they would pay for crude—from nearly \$1 a barrel to 10 cents. The resulting economic devastation forced the Texas legislature in 1933 to pass a "market demand" law. Production of oil would thereafter be "prorated," held down to what the "market" (that is, the major oil-company buyers) desired, and, since Texas was the dominant oil state, the price paid for oil in Texas would pretty well determine the national price. Thereafter, when the majors wanted to create enough scarcity to bolster prices, they simply placed smaller orders and the state prorating commission ordered lower production. Senate investigators later concluded that the system had been set up not for conservation but rather as part of "a perfect pattern of monopolistic control over oil production . . . and ultimately the price [was] paid by the public."

1947: "AN HONEST MAN IS RARE"

During World War II, Interior Secretary Harold Ickes persuaded President Roosevelt to establish a Government corporation (the Petroleum Reserves Corporation) to buy out the American oil partners—Standard Oil of California and Texaco—in Saudi Arabia. Ickes, who had seen enough profiteering to conclude that "an honest and scrupulous

man in the oil business is so rare as to rank as a museum piece," wanted the public to have more control over supplies. The oil companies were powerful enough to kill Ickes' proposal in the cradle; they had ideas of their own for further strengthening their Middle Eastern cartel.

Standard Oil of California and Texaco had controlled the concession in Saudi Arabia since before World War II, but their marketing outlets were not adequate to handle Arabia's bountiful output, so they brought in the great Standard Oil of New Jersey and Mobil as partners. This is the Arabian American Oil Company (Aramco) we know so well today. A domestic arrangement like that would clearly be a violation of America's antitrust laws, and could be expected to encounter fierce public resistance. Again, it was time for an emergency and a storm of gloom.

In 1947, the chief of the Department of State's Petroleum Division flatly stated that "sufficient oil cannot be found in the United States." Two years later, Julius Krug, the Secretary of Interior, said that the "end of the United States oil supply is almost in sight." Giving credence to the gloom, the oil companies claimed shortages and raised prices. But the true character of the "shortages" did not go unnoticed. In 1949, the Senate's Special Small Business Committee observed that, "during the year and a half the committee has been investigating the oil industry, there never has been a real overall shortage. . . . At the time that consumers were feeling the greatest pinch, in January and February 1947, there were 220 million barrels of crude oil in storage, mainly controlled by the larger units, which could have been distributed among independent refiners who were running under capacity."

1959: PUTTING THE LID ON FOREIGN IMPORTS

By now the major companies were making enormous discoveries overseas, but so were some of the more aggressive independent oil men—fellows like J. Paul Getty and William Keck and the Hunts, father and sons. The world, by the mid-50's, was awash with oil, and the development of a freewheeling, truly free-enterprise market suddenly seemed to be a dreaded possibility. The majors had long ago perfected the art of global price fixing by controlling supply. They were not about to send so much cheap foreign oil to the United States—still the world's largest market—that prices would be forced down. But the independent men felt no such restraints. They were wild hares, and the majors feared—rightly—that there were so many independents roaming the globe with their drilling rigs that they couldn't possibly be controlled.

The majors rose to the occasion by proclaiming, and having their friends in Congress and in the Eisenhower Administration also proclaim, the imminence of a national security crisis. Americans, it seems, were in danger of being subverted by cheap foreign oil. Most of it must be blocked at our shore. The argument went like this: Middle East oil could be produced for one-tenth the cost of domestic oil. So naturally it could be bought for much less. If it were allowed to undercut domestic prices, our oil men couldn't afford to go out and find new oil in American fields, and if they didn't find new oil at home we would increasingly become dependent on foreign oil, and if we became dependent on foreign oil, we would be terribly vulnerable in case of war.

With that patriotic reasoning, Congress inserted a provision into the 1958 Trade Agreement Act to give the President power to set mandatory controls over oil imports. President Eisenhower, whose closest adviser in such matters was Treasury Secretary Robert Anderson, a Texas oil man, lost no time in imposing the controls. Foreign-oil imports were held down to about 12 percent of domestic production, and only the companies with refineries—for the most part, the large

companies—were allowed to import. The larger companies made millions, bringing oil in at a price between \$1.25 and \$1.50 less per barrel than domestic oil.

Did the import-quota program make the nation more secure in its oil supply? Hardly. One effect was that the independent oil industry began a long slow decline. Another was that it gave the major international companies the excuse they wanted to take most of that wonderfully cheap Middle East oil and develop new markets in Europe. That's where they began building their refineries—not in America. They were doing it, moreover, with indirect subsidies from the American taxpayers.

Opposition to the program became intense in the 60's. Prof. M. A. Adelman, an oil expert at the Massachusetts Institute of Technology, argued, along with others, that keeping foreign oil out was costing American consumers at least \$4 billion a year. And Pentagon officials proclaimed that, as far as they were concerned, the oil-import program had not had the slightest thing to do with national security. In 1974, when the program was dead and candor could be indulged in, Z. D. Bonner, president of Gulf Oil Corporation, acknowledged that "oil import controls were used as a price-control mechanism."

1973: "ALL THE SHEIKS' HORSES"

By the mid-1960's, there was so much Middle East oil available that Professor Adelman was predicting that a Middle East oil price "as low as \$1 a barrel, though not imminent, has a 50-50 chance of occurring in, say, five years." A dollar a barrel. In February 1969, Fortune magazine writer Gilbert Burck predicted that "barring a great international cartel that will tie up the world of oil as no international organization has ever tied up anything before, everyone in the oil business faces a long series of adjustments. . . . All the sheiks' horses and all the sheiks' men will never put the comfortable old price structure together again. Consumers everywhere should rejoice."

Fortune was not giving the oil industry sufficient credit for ingenuity. A "great international cartel" capable of tying up oil as never before already existed. The Organization of Petroleum Exporting Countries (OPEC) had been formed in 1960. So far it had been dormant. But with a little luck, and the right emergency, perhaps enough lightning could be directed through this monster's body to make it rise and do the major companies some profitable service.

In the early 1970's, the right crisis seemed at hand. The Middle East was in a froth. Arabs and Jews were at each others' throats. Israel's Middle East enemies were talking about using oil as a weapon—and if they did, the major oil companies would be ready to exploit the showdown.

But first the consuming public was softened up with a series of smaller, preparatory crises. Although, in fact, the majors were holding the highest inventory of gasoline they had ever had, they managed to produce a "gasoline shortage" in the spring of 1973 even before the Arab embargo. By June they were warning of a likely shortage of home heating oil the next winter, although, as David Bird wrote in *The Times*, "the warnings are surprising some people, because the stocks on hand seem to be larger than they were at this time last year."

The shortage, contrived or not, gave the majors an excuse to cut off gasoline supplies to independent wholesalers and discount dealers; about 3,000 went out of business in 1973. Meanwhile, the majors were forcing the price of gasoline up 39 percent, and their profits shot up 63 percent in the first nine months of 1973—with the embargo still to come. When it did come, the majors were ready.

On Oct. 6, 1973, Egypt and Syria invaded Israel. Two days later, the major companies

met with representatives of OPEC to begin talking about a new price structure. Bearing in mind that up to this moment OPEC had never in its life shown anything remotely resembling courage, one may justifiably conclude that its new aggressiveness was somehow the result of collaboration with the companies. (As one oil-company executive earlier told *Newsweek*, "In the Middle East, we carry the enemy flag.") On Oct. 16, OPEC announced a stunning 70 percent increase in prices and the next day declared that the Arab members of OPEC would cut production 5 percent each month "until Israeli withdrawal is completed from the whole Arab territories occupied in June 1967 and the legal rights of the Palestinian people are restored." It also declared that, because of the United States' and the Netherlands' friendship with Israel, those two countries would be cut off completely.

Enterprising reporters, however, found abundant evidence that the Arab embargo did not, in fact, cause any shortages. Libya did not shut off its supplies. Neither did Iraq. Nor Iran. If the Netherlands was being boycotted, what were all those tankers doing out there in the harbor waiting for a berth? Jack Bax, a press aide for the city of Rotterdam, told reporters in January 1974, "Personally, I think the whole thing is a hoax." And if there was a shortage in this country, why were fuel-oil barges backed up along the Ohio River? So much oil was available in the United States that some crafty merchants were buying low-sulfur oil on the Gulf Coast for 21 cents a gallon and shipping it to Europe to resell for 34 cents.

Nevertheless, the market operated as though there were a scarcity, and profits went through the ceiling. Occidental Petroleum Company announced that 1973 earnings were 665 percent higher than those of 1972. Other big companies were not burdened with quite such embarrassingly large percentage increases, but they were doing all right. On Jan. 1, 1974, OPEC raised the price to \$11.65 a barrel—five times the price it had been only three years earlier. By the end of 1974, Exxon Corporation, the world's largest oil company, moved to the top of the Fortune 500 list—easily unseating General Motors, which for 40 years had held the premier position. Four other oil companies—Texaco, Mobil, Standard Oil of California and Gulf—joined Exxon in the top seven rankings.

Two weeks ago in *The Times*, reporter Jeff Gerth shed more light on how the giant Exxon, for example, was able to make the most of the moment. Reporting on a previously unpublicized civil trial in Canada—a Nova Scotia public utility successfully blocked Exxon price increases—Gerth said that "during 1973 and 1974, Exxon documents show, the company disguised increases in its profit margins by backdating them to blend in with price increases tied to OPEC increases. These concealed profit increases appear to contradict broad assurances that Exxon submitted in writing in early 1974 to the Senate Finance Committee that its price increases since 1973 had 'essentially only covered increased costs.'"

On its own, OPEC might have remained a motley assembly of whiners, but with the patient instruction of the majors, it had become the industry's friend supreme in raising prices. It had also become the great dramatist, writing the panic script that made oil at any price acceptable to the consumer nations. A few years later, when a reporter at *The Washington Star* asked James Lee, president of Gulf Oil, if he thought OPEC was a "good thing," he admitted that it had "done us a favor by forcing the price of oil as it did." Carmichael C. Pooock, chairman of Royal Dutch Shell, also conceded that, since OPEC took over

the pricing of oil at the production level, "our role is much happier."

Some expert observers believe that OPEC's economic terrorism could have been permanently ended in 1975 if the major companies and our Government had made the effort to do so. The inevitable glut of oil developed by the end of 1974 because the higher prices had curtailed use. As 1975 opened, world oil prices were beginning to sag. OPEC looked shaky. A group of energy specialists brought together by the Brookings Institution predicted in January 1975 that OPEC would likely be crushed by falling prices by 1978.

At that point, the oil companies apparently cut back production. John Blair, former chief economist for the Senate Antitrust and Monopoly Subcommittee, states, in his book "The Control of Oil," that "had it not been for the cutbacks, the market would have been flooded with 'distressed' oil, OPEC would indeed have broken down, and oil prices would have fallen sharply." But if the major oil companies betrayed the consumers, so did our Government officials: most of the top policy makers in the Ford Administration publicly denounced all efforts to drive down world oil prices.

HOUSE RESOLUTION 453

HON. JOHN B. BREAU

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. BREAU. Mr. Speaker, on October 5, 1979, the President transmitted a special message to the Congress proposing a deferral of budget authority to promote and develop fishery products and research pertaining to American fisheries in the amount of \$2,400,000.

Under the Saltonstall-Kennedy (S-K) Act, an amount equal to 30 percent of the gross receipts from custom duties on fishery products is transferred by the Secretary of Agriculture to the Secretary of Commerce to be used for researching, assessing, managing, and developing American fisheries resources and for developing and increasing markets for fishery products of domestic origin. These funds are supplemental to other funds appropriated to the Secretary for these purposes under the department's general authority.

The amount of funds appropriated under the S-K Act for fiscal year 1980 is \$26,679,106. Of this amount, \$2,400,000 is proposed for deferral because the Secretary of Commerce has supposedly not yet developed plans for the use of these funds. It is my understanding, however, that presently there are unfunded projects under consideration for marketing, research and development which amount to between \$5 and \$10 million. It is imperative that these funds which are earmarked for these programs be released and expended for the purposes for which they were intended.

These funds can become available for use at anytime before the end of this fiscal year if either the House or Senate passes a resolution disapproving this deferral. Passage by the House of House Resolution 453 will accomplish this purpose. ●

THE ENVIRONMENTAL PROTECTION
AGENCY AS A PROPONENT OF
BETTER SCIENTIFIC RESEARCH

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. BROWN of California. Mr. Speaker, over the past several years I have watched the Environmental Protection Agency change in its approach to and use of the scientific resources of this country. For good cause, the EPA has been criticized for its many past mistakes in neglecting the science part of their mission, while moving ahead with their regulatory role. As one of the critics, I have regularly urged the EPA to improve its research capabilities, and better utilize the scientific resources of other agencies while developing regulations.

An interview in the October 1979 issue of *BioScience* confirms an impression I have had about the EPA, which is that they are making progress in this direction. While many other topics of interest to this body are addressed in this article, the points made about science were the ones which most pleased me.

I commend this article to my colleagues.

The article follows:

EPA MUST BE AT FRONTIERS OF SCIENCE, SAYS
ADMINISTRATOR COSTLE

Few people would want to change places with Douglas Costle. Except for the commanding view of the Potomac River from his office window in southwest Washington, D.C., being administrator of the Environmental Protection Agency (EPA) has few obvious rewards. Yet Costle, who has been in the hotseat since March 1977, has managed at least to avoid alienating the myriad interest groups watching his every move—environmental activists, industry lobbyists, and members of Congress. This past year has been a difficult one for EPA, with the energy crisis forcing the environmental watchdog into some of its most difficult and controversial decisions regarding ambient air quality standards. In addition, 1979 was the year when such major issues as the long-term health effects of pesticides and delayed leaching of hazardous wastes came to the fore, and all of them have fallen right into EPA's lap.

A former trial lawyer with experience in the Civil Rights Division of the Justice Department, the Economic Development Administration of the Commerce Department, and two San Francisco law firms, Costle, 40, has been in government service for the past 10 years. He was commissioner of the Connecticut Department of Environmental Protection before coming to Washington to join the Congressional Budget Office, where he was assistant director for natural resources. In 1976, he joined the transition team of the newly elected President, Jimmy Carter, and four months later was made head of EPA. No stranger to the executive branch, Costle had first become involved in presidential politics under Richard Nixon, serving as a senior staff associate for environment and natural resources of the President's Advisory Council on Executive Organization in 1970.

Costle has managed in his two-and-a-half years at EPA to take the regulatory bull by the horns. He helped form the Interagency Regulatory Liaison Group, composed of representatives from EPA, the Food and Drug Administration, the Occupational Safety and

Health Administration, and the Consumer Product Safety Commission. Costle is also chairman of the U.S. Regulatory Council, which he describes as a governmentwide version of IRLG engaging in "shirt-sleeve trouble-shooting efforts" aimed at overall regulatory reform.

Costle is sensitive to the need for high-quality scientific input into the decisions made at EPA about health and the environment. With the aid of his scientific adviser, Richard Dowd, he has strengthened the role of EPA's 80-member scientific advisory board, which provides information directly to the administrator through its five standing committees and one ad hoc subcommittee. He also has tried to upgrade the standards for R&D at the agency, both intramural and extramural. Costle talked with *BioScience* about some of the difficult issues he's facing now, and the ways in which scientists have been incorporated into the decision-making procedure at the Environmental Protection Agency.

Q. Some environmentalists are worried that President Carter's energy plan will have an adverse impact on the environment, and fear that the Energy Mobilization Board will be able to overrule EPA's action for the sake of obtaining more fuel. Is that likely to happen in the next several years?

A. The basic thrust of the Energy Mobilization Board is to put an otherwise very prolific regulatory process under some sort of self-discipline. For example, the SOHIO [oil-transporting] project in Southern California [begun in 1970 and abandoned by the company last year] needed something on the order of 725 permits. Most of those were state and local, but there were a handful of federal permits as well.

At the present time there's no way to put all parties on a deadline, to force them to make a decision—up or down—within a fixed period of time. The whole purpose of the Energy Mobilization Board is not to wipe away the substance of the protection that these permits may be intending to afford, whether it's occupational safety or health or local zoning or air pollution, but simply to say, "We've got to have a deadline and a time frame within which to make a decision."

Q. What would happen if these decisions are anti-energy and pro-environment?

A. Well, that's always a matter of opinion. My own sense is that the energy-environmental "conflict" is sometimes overplayed. We're convinced, for example, that you can burn a lot more coal in this country and still stay within the fabric of environmental laws and not befoul the air and the water in the process. It will cost a little more, but it's not that we lack the technology. The only issue is: Do we have the political will when we build these things to build them right? Over the past several years, the Congress and the administration have said: Yes, we do have that will. . . .

Q. Many scientists now are saying that it's dangerous to rely on synfuels as a source of energy because they are so polluting. Do you see a potential conflict between the need for energy and the need for a clean environment?

A. Synfuels have to be looked at in two pieces. First are the problems that might be associated with the manufacture of the fuel. There are a variety of processes to convert coal into other fuels, liquids or gases, and some of them are potentially more hazardous than others to worker health. But they're fundamentally no different from today's chemical plants or refineries. It's simply a matter of dealing with some very hazardous substances in the process of conversion. . . .

The fuels themselves, when burned, are not toxic when they are used, and as near as we can tell they do not produce toxic byproducts. There is a longer-range issue here, though, which has to do with the

net CO₂ balance—a global atmospheric issue as to whether we're releasing CO₂ faster than the earth's natural systems can reabsorb it, and whether that won't create a "greenhouse effect." There seems to be a coalescing of opinion among scientists that it could be a serious problem, but there is virtually no agreement as to when it will become critical. Very few scientists say there's an imminent threat, but a growing number say that in 40, 50, 60, or 70 years—depending on what assumptions you make, and there's so much debate you can't pick any "correct" assumptions at this juncture—it can become a serious problem. What that tells us basically is that, over the long run, we have to decrease our reliance on fossil fuels. When you look at new energy systems, particularly in the next century, you're looking at inherently more environmentally benign technologies such as solar, controlled thermonuclear, and biomass. The long-run future for energy, over the 40- to 50-year horizon, is pretty promising. The real problem, I think, is to manage the energy transition over the next 40 or 50 years. . . .

Q. So you think of the current sources of energy, then, as rather temporary, and you'd guess that 50 years from now we'll be relying on a whole different set of sources?

A. Essentially, yes. It's a sense of the long-range, global environmental issues that will continue to drive us in that direction. The present synfuel program's impact on the CO₂ problem will be negligible. We won't be building that many plants to make a difference in the overall global climate. If in 20 years we decide to build 15,000 of them around the world, however, then we'll have a problem.

Q. In the areas you deal with, which involve highly technical scientific judgments, you often have to balance scientific opinion against political and social needs. What kind of role do scientists play in the regulatory decision-making process at EPA?

A. The average scientist spends his whole career being trained in the discipline of saying, "Never overstate the evidence." In the face of ambiguity, he must discount the ambiguity and fall back to a position where he can feel very secure that what he's saying flows from the particular facts he's using. The scientific approach essentially says, "Discount all the other things that may be indicators if they are not conclusively, finally established scientific 'facts' on which there is a scientific consensus." That's the process of science. Consensus is a moving thing. You conduct a new study that changes the significance of your earlier evidence, but you're not sure how far you go so you put out your new findings and peers review it. Then they decide your study is kind of interesting so they do another study; over time the consensus slowly moves in effect to catch up with scientific research. But the consensus always lags behind.

The approach of a public health administrator is almost exactly the opposite. As he approaches that ambiguity, being careful not to understate the evidence, he errs on the side of prudence and caution, rather than saying, "I want dead bodies to show [before drawing my conclusions]." Increasingly, that's the kind of world we're going to be living in, particularly if we look at the risks of chemical exposure, especially chronic risks. When you're talking about long-term neurological deterioration, teratogenic effects, or cancer, you can't afford to wait 25 years for the evidence to pile up.

Q. With this basic difference between a regulator and a scientist, how do you ever bring their two views together? Can you give us an example of how a regulatory standard was arrived at depending largely on the weight of scientific consensus?

A. The recent revision of the ozone standard is a good case in point. When we reviewed the standard beginning in 1977, we had bet-

ter evidence than we had eight years ago when the standard was first set. There was general agreement in the scientific community that the initial standard [0.08 ppm] was in error, because it was based primarily on a single study that had been misread. Subsequent reviews indicated that there had been misreading in that initial data set. We knew, therefore, that we were going to have to make some changes; it's part of our responsibility to set standards in the most objective, scientifically acceptable way we can.

Essentially, then, we approached a new range of data, and we found in the case of ozone a substantial band of uncertainty. One set of studies indicated clear health effects at concentrations of 0.15 ppm, and other studies suggested health impacts at various levels, down to 0.10 ppm. Most scientists we talked to, both outside the agency and inside, agreed that the range was somewhere between 0.10 and 0.15, and if we set a standard within that band we'd be on scientifically defensible ground. The issue then became, "Where in that band do you set the standard?" That was driven essentially by three considerations: first, margin of safety, which informed the way we read some of the more ambivalent evidence; second, what we thought the directional error of the studies was—that is, what additional studies were likely to show; and finally, a very clear predisposition [toward prudence in the face of ambiguous scientific evidence] on the part of the Clean Air Act itself.

Now a scientist who says "I will only go with proven scientific fact" would have set the standard at 0.15, while a public health administrator would say, "But we've got these other studies, and while they're not as unambiguous as some of the studies at the high end of the spectrum, we have to take them into account." We approached that spectrum from the other end, and settled it at 0.12. I feel very comfortable with that, as do the scientists we've polled, including those independent scientists on our science advisory board.

Q. Are scientists able to shift gears when they serve on your science advisory board, or when they work in EPA laboratories, and say, "This might not be something I would state in an academic paper, but I am here to render advice to an agency that has to make political decisions, so I'm willing to be a little less precise"?

A. It's not quite that simple. We ask our scientists to be scientists. We ask members of our science advisory board—approximately 80 nongovernment, outside experts in the variety of fields which we regulate—to give their unbiased, objective, best scientific judgment to help us characterize the evidence so that I, as a policy maker, know what I'm deciding and what the evidence is. My policy judgment is informed, essentially, by a statutory construct—in this case, the Clean Air Act. We try to use the scientists to make sure that we're not loading the deck or reading scientific data with a bias. That's sometimes hard to do, but we've been working very hard the last two years to improve and strengthen the role of outside scientists as evaluators of the data. We don't ask them to set the standards; for the most part, they don't want to do that. They'd rather advise us on what the scientific facts are and what the scientific uncertainties are. Under law, the policy makers have to make the final judgment, as informed as possible.

We've been setting up much stronger peer review systems of the scientific work that's done at EPA, involving outside scientific research institutions to critique the quality of science that we do in-house, and increasingly to provide peer review to critique the quality of science that we contract to be done for us on the outside. We're also strengthening the science advisory board so that they have a clearer opportunity to oversee and to criti-

cize constructively the whole regulatory process and the use of science in that process.

Q. How much research do you do in-house? A. Our total in research dollars last year was \$346 million, and a lot of that was for technology research, probably half of it energy-related. . . . Of that \$346 million, we spent about \$107 million, or 30 percent, on internal research, and much of it was in the area of validating what other people seemed to be finding. The whole purpose of EPA, when it was established in 1970, was to retain sufficient expertise inside to do the kind of research we need on demand, and to be able adequately to assess the work done outside for its relative utility to us.

Q. In the past, some agencies have been criticized for maintaining both a research program and a regulatory function under one roof. This criticism was especially strong regarding the old Atomic Energy Commission. Do you think there's a potential conflict within EPA in its dual role as both researcher and regulator?

A. Because of the complexity of the regulatory issues we deal with today, I think regulatory agencies that do not have a research capability are in deep trouble. At EPA, we need to have an established relationship with the scientific community and good science, which means we need a mix of in-house and external research going on and a very strong system of peer review of that scientific research for quality control. If we try to regulate the environmental area the way the Interstate Commerce Commission regulates the transportation industry, which is exclusively through the adjudicatory hearing process and cross-examination, we probably wouldn't get very much done. In many instances we are on the frontiers of science, and we need our own scientific capability to lead us in the right direction.

Q. Can't an argument be made that you should rely on the established research agencies for your scientific information?

A. That never really works, because usually what happens is that the research agencies want to research what they find interesting, and the law says we should regulate things that people are concerned about. For the most part, the two areas overlap, but there are some critical areas where they don't necessarily. If a regulatory agency isn't able to commission research in an area where the law is telling it to set a standard, it can't do the job.

Q. Even the researchers who work at EPA want to do what's interesting to them, yet they work here because you need them to conduct certain kinds of studies. How do you keep them happy?

A. We try to create a mix. We think the researchers who work here ought to have an opportunity to pursue promising avenues of interest, but not in the same sense that a wholly independent academic institution can, because we do have certain regulatory questions that we have to be in a position to answer. So there has to be a large "directed" element to our research. We want to avoid the risks of so defining the research that we constrain innovation and the kind of independence that in fact produces breakthroughs and understanding, without just letting them float out there, doing things that have no relevance. Increasingly, Congress is setting fixed time deadlines in making regulatory decisions, and so we have to focus our research dollars on areas of research that will help answer those questions in a way that still preserves and protects the integrity and independence of the individual scientist to carry out his work.

Q. Perhaps your biggest regulatory headache, and the one that is certain to be with you for many years to come, is the disposal of hazardous wastes. In a recent issue of National Wildlife magazine, you were quoted as saying: "We look back on the Middle Ages and say, 'No wonder they had black plague,

they used to throw their garbage in the streets.' Now, I just hope that in the year 2025 my grandchildren don't look back on this generation and say, 'No wonder they had problems, look at all the chemicals just carelessly introduced into the environment, uncontrolled.'" How can we go about cleaning up the chemical mess we've created?

A. Hazardous waste is probably one of the most difficult legacies of the chemical revolution. Since World War II, all manner and form of chemicals have been invented, and they're now a very big part of our lives. As a society, we're not about to repeal the chemical revolution—it's brought about some real benefits—but we're just now learning that there may be side effects, in this case delayed side effects, that we're going to have to control.

Air and water pollution were the most conspicuous environmental problems in the early 1970s, when this agency was set up. Hazardous waste disposal, in land particularly, was the least obvious. Everybody knew there were garbage dumps, but nobody realized there might be chemicals going into those dumps, or that there might be dumps like Hooker's [the chemical company responsible for burying the waste-filled drums now leaching from the Love Canal in Niagara Falls, N.Y.] It's a problem that I don't think society has approached with very much common sense. We should have realized as a society a long time ago that, if we have a company manufacturing chemicals, we're going to have wastes, and they're going to end up somewhere. We're now talking about between 50 and 60 million metric tons a year being generated by as many as 300,000 companies.

Q. I've heard it said that less than 20 percent of that is adequately disposed of.

A. That's right; in fact, we think it may even be less than 10 percent. When they designed Love Canal 15 years ago, nobody thought about the problem or even knew what to do with the wastes but simply bury them, and that was acceptable in those times. Today, we can design a landfill for probably about \$4 million that could handle what was put there. Look at the price we're paying for not having done that. The state of New York has already spent close to \$25 million; there are allegedly \$2 billion in claims against the company for personal injury. That's inflation.

Look at the example of kepone here on the James River [in Virginia]. For \$250,000, that pesticide could have been manufactured in a facility that would have protected the workers and kept kepone from getting into the James River. That money was not spent, and over \$12 million in claims has already been paid out to the workers. It was a small plant, with only a handful of workers, but they were seriously injured in the manufacturing process. So they have \$12 million in claims paid already, several million more in pending claims, and the scientists say it would cost from \$2 to \$8 billion to clean up the James River. That's inflation.

We think that about 80 percent of hazardous waste is disposed of on site, where it's manufactured, which means it can later get into the environment. The other 20 percent may be going to as many as 30,000 different sites. So it's a massive problem that we are only now beginning to get a handle on. I'm afraid that we're going to see increasingly contaminated groundwater as a part of this legacy of past disposal practices that were uncontrolled. We really have three jobs ahead of us:

First, we must impose some regulatory control on how the industry operates in terms of how waste is handled, and there are technologies for handling the waste. We can segregate the waste according to the appropriate technology for dealing with it. Some things should be put in a landfill; other

things probably can only be incinerated; other things can be recovered. We're going to have to break that waste stream down and manage it.

Secondly, we've got to go back and find all the ticking time bombs that the Love Canal situation may represent. That's going to be expensive, and it's going to take time.

Third, we have to deal with the lasting legacy, that is, the contaminated groundwater. Some of it may not be usable; in other instances maybe it can be cleaned before use, but we need technological breakthroughs in terms of drinking water protection. We're finding increasingly that these chemicals are showing up in drinking water, due to contaminated groundwater or surface water. We did a mass spec analysis on Cincinnati's finished drinking water, which had been through their treatment plant. We found over 700 synthetic organic chemicals, albeit in very small amounts, but they're there. Now an average person in Cincinnati drinks a quart of water a day. There's not enough of any of those chemicals to make him immediately sick. But what happens if he's exposed to it for 20 years?

I think it would be prudent to make an investment in technology in order to give us an insurance policy against a future health effect that could be very grave. We're still just learning about the synergistic effect of chemicals, about the independent cancer-causing potential of chemicals. We know even less about other kinds of effects, such as teratogenic or neurological. There's just so much we don't know. What worries me is that the public will assume we know more than we do. . . .

Q. Is the hazardous waste problem the largest job you face in the future?

A. It's going to be a very high priority, probably the highest priority, and probably the most difficult problem we'll be dealing with.

Q. Have you begun any programs to address hazardous wastes?

A. Yes, we're adopting regulations now that will put a basic regulatory infrastructure in place, at the direction of the Congress which includes, also at their direction, a system delineating where that waste is generated and where it's moved and by whom. We can then begin to track it; we'll have a map in our hands. We're beginning to prescribe, in those same regulations, treatment techniques depending on what kind of wastes we're dealing with. We're operating within the limits of knowledge at this point. That knowledge will improve as time goes on, but we have to make a start right now.

We've got a proposal before Congress now for a superfund, which would create a fund for going back and dealing remedially with the legacy of inherited landfills. We're working very hard now to understand the drinking water problem enough to begin to set standards for chemical concentrations in drinking water.

Q. How much is the superfund proposal for?

A. It's for \$1.5 billion, essentially to keep a pot of about that size, which would allow us to deal with emergencies as they arise. We have the authority, when we can find the culpable party, to hold him responsible, but if he doesn't have the financial wherewithal, or if he can't be found, that becomes moot. We have a situation now where we're getting leakage in the Susquehanna River [in Pennsylvania] of some pretty toxic chemicals that were just dumped in a mine up there. We don't know who dumped them, and they've begun to leach out. There are a lot of midnight haulers and dumpers, and we're going to have to bring that practice under control by licensing landfills, by requiring standards of operation. That's imposing a regulatory structure in a relatively short pe-

riod of time on what is a very large, complicated set of existing practices. It will not be easy.—Robin Marantz Henig. ●

HOSPITAL COST CONTAINMENT AND REPORTING ACT OF 1979

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. GEPHARDT. Mr. Speaker, with committee consideration of hospital cost containment legislation now complete, the full House probably will act on this measure in the near future. In the ongoing effort to alert Members of Congress to some of the problems embodied in the administration's bill, H.R. 2626, I have joined with my colleagues in a series of letters that discuss the inequality of rigid 4-year controls. We hope that the exposure of these major shortcomings has convinced Members to join the bipartisan effort to defeat this legislation.

Given that hospitals may be swept under the mandatory program unfairly, the problem is exacerbated by the unyielding nature of the controls. We hope that you agree that this type of legislation is unjust and unworkable. When H.R. 2626 comes before the full House, we will offer a bipartisan substitute based on voluntary limits which eliminates the inequities that exist in this regulatory approach, and explores more sensible and effective methods of dealing with this problem. A description of that substitute, referred to as the Hospital Cost Containment and Reporting Act of 1979, follows:

THE HOSPITAL COST CONTAINMENT AND REPORTING ACT OF 1979

I. NATIONAL COMMISSION ON HOSPITAL COSTS

Establishment and membership

The bill establishes a National Commission on Hospital Costs, appointed by the President, composed of 15 members—five representatives of hospital administration, five representatives of entities which reimburse hospitals (including the Administrator, Health Care Financing Administration), five individuals who are independent of both hospitals and reimbursers—each of whom is exceptionally well qualified to assist in the function of the Commission. The President shall first appoint the members within 60 days of enactment, and the Commission will be terminated three years after a majority of the members are appointed.

Duties of the Commission

A. The Commission shall report to the appropriate Committees of Congress and the President, at least annually, on its activities, the implementation of this Act, and on the rate of increase in hospital expenses and on the success of the voluntary efforts of hospitals to meet the voluntary goals for hospital cost containment established by this Act.

B. No later than one year after a majority of the Commission is appointed, the Commission shall submit a report on measures to control health care costs (including changes in third-party reimbursement for hospitals and physicians, payments for drugs and supplies, utilization of health facilities and services, and capital expenditures).

C. Not later than two years after a majority of the Commission is appointed, the Commission shall submit a report regarding long-range strategies to combat rising hospital expenditures with special attention paid to the supply of, and the demand for, health care services.

The "demand" study will emphasize the strengthening of competitive forces, where appropriate, (specifically, the use of deductibles, coinsurance, cost- or risk-sharing, changes in the tax deduction and exclusion from income provisions of the Internal Revenue Code relating to health services, as well as pre-paid health care plans) and the desirability of increasing the use of these and similar methods in both public and private health insurance programs. Also analyzed will be alternative systems (both federally- and state-based) of financing health services, and alternative methods (other than retrospective reimbursement) of paying for health services.

The "supply" study will analyze the impact of capital expenditures on hospital operating expenses and quality and the need for increasing or decreasing both capital expenditures and other factors leading to increases in the intensity of hospital services, particularly advances in medical care technology. The extent of underutilized capacity and the impact of capacity on hospital expenditures and patient utilization will be similarly analyzed.

The feasibility and the efficacy of methods to reduce unneeded capacity will be studied with special attention paid to the costs and benefits of the State Certificate of Need programs required by the Health Planning Act and Section 1122 of the Social Security Act. Last, the impact of increases in the supply of professional health personnel, as well as changes in the types of such personnel being trained will be analyzed.

This report will also be required to analyze several other areas of concern regarding hospital costs of which the most important is the costs to hospitals of federal and state regulatory requirements—the report will be required to make recommendations for more cost-effective regulations. Other areas analyzed will include the direct and indirect impact of increases in wages and other employee benefits, increases in energy and utility costs, and the costs to hospitals of serving the medically needy.

II. FEDERAL SUPPORT OF STATE COST CONTAINMENT PROGRAMS

The Secretary will be authorized to make grants to states to assist them in planning, establishing, or operating state hospital cost containment programs. In order to facilitate the widest variety of programs, the state will not be required to establish a program providing for mandatory approval of hospital rates or budgets in order to be eligible for a Federal grant. Each program must provide adequate assurances to the Secretary that the program will—

1. cover all non-Federal acute-care hospitals in the state other than psychiatric hospitals;

2. provide for an administering body (either public or private) other than the State Medicaid Agency and an advisory council;

3. provide for appropriate coordination with the state's health planning program and with Professional Standards Review Organizations located in the state;

4. not treat as revenue, directly or indirectly, any amount attributable to a philanthropic gift or grant.

If the state program chooses to review and approve prospective budgets or rates for hospitals, then the program must—

1. provide that hospital budgets not disapproved within 150 days following submission will be deemed approved;

2. insure that no hospital will experience

a decrease in its approved budget because it achieved savings in the previous year;

3. provide for an appeals mechanism.

The Secretary may waive any of the requirements (other than the three requirements immediately above applicable to mandatory programs), and must monitor the programs and make recommendations to the states regarding improvements.

Authorizations

For state programs the bill authorizes \$10 million for Fiscal Year 1980 and such sums as may be necessary for the two-succeeding fiscal years.

III. VOLUNTARY GOALS FOR HOSPITAL COST CONTAINMENT

The bill establishes a voluntary goal for hospital cost containment for calendar year 1979 and for each succeeding year equal to four percentage points below the rate of increase in total hospital expenses experienced in calendar year 1977. The goal would be adjusted for changes in the rate of inflation measured by the GNP deflator. The National Commission on Hospital Costs would be required to monitor the success of hospitals in meeting the goal each year, and report to the Congress.

IV. ENCOURAGEMENT OF PHILANTHROPIC SUPPORT FOR HOSPITALS

For purposes of determining reasonable costs under Medicare, Medicaid, or Title V, the bill prohibits the deduction from operating costs of revenue from philanthropic sources, or otherwise taking such revenue into account.

The bill also prohibits treating as revenue of a hospital, directly or indirectly, any amount attributable to a philanthropic gift or grant.

V. REGULATORY REFORM
Coordinated audits

The bill provides for common audits of hospitals by Medicare and Medicaid.

V. SWING BEDS

The bill would allow a hospital to use acute-care beds to provide long-term care, and to be reimbursed under Medicare and Medicaid at the average daily rate paid for long-term care by the Medicaid program.●

A SALUTE TO YOUNG LEADERS OF CALIFORNIA'S BLACK COMMUNITY

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. PATTERSON. Mr. Speaker, the California Federation of Black Leadership is an organization of concerned black people in leadership positions who have joined together to define common problems and to seek viable solutions. For 4 years, they have served as a center for political, social, and economic education for black people and have fostered the goal of a comprehensive plan for black progress. During that time, they have achieved many of their objectives and gained the respect and admiration of all those who support the causes of human rights, recognize the dignity of the individual, and value the belief of equal opportunity for all mankind.

This year, the California Federation of Black Leadership is expanding their program. Under the cochairmanship of Joshua White and Leon Berry, they are

sponsoring a youth award banquet, an effort to honor black youths who have achieved outstanding recognition in their schools and in their communities. This banquet is an extension of the goals of the federation which include fostering leadership skills in future generations.

Mr. Speaker, I ask my colleagues to join with me in saluting the black youths being honored by the California Federation of Black Leadership. They are to be commended for their individual achievements and encouraged to continue their participation in our society for they clearly have the potential to be the leaders of tomorrow.●

PROTECT CITIZEN'S ROLE: LIMIT PAC'S IN POLITICS

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. HARRIS. Mr. Speaker, one of the most disturbing trends in national politics over the last several years is the proliferation of special interest political action committees and their rapidly expanding influence in elections, and on public policy.

I, like most Members of this body, vigorously encourage individuals of all persuasions to become active in politics—to contribute and to work for the political party, candidate, or cause of their choice. This grassroots involvement is the essence of American participatory democracy.

The flood of PAC money however, is drowning the individual, crowding out the influence that one person can have on politics, and replacing concerned citizen involvement with the overbearing presence of special interest money. These funds flow to congressional campaigns and can dominate elections. Whether we have the guts to admit it or not, the pervasive presence of special interest PAC money is altering the course of public policy.

We must limit the influence of PAC dollars and redirect political debate from narrow issues to a broader consideration of public policy. By passing the Campaign Contributions Reform Act today, we can take a small, but positive step to preserve an important role for the individual in American politics.

There are now nearly 2,000 PAC's in existence—an increase of 300 percent in the last 5 years. In 1978, these PAC's funneled \$25 million to House candidates, an increase of 70 percent over 1976. Even more frightening, 162 House candidates received more than half of their campaign funds from political action committees in 1978. This overbearing presence threatens to undermine our grassroots political structure.

Some have referred to this Congress as "the best that money can buy." Sunday's Washington Post carried an article entitled "96th Congress: Where Money Begets Power." That article legitimately points out that we, as Members of Congress, cannot ignore the presence and the power of special interest money.

Under today's laws, newspapers can write stories like the Post article, raising the specter of a direct tie between PAC money and votes on the floor.

Our reputation as individuals, and as a Congress is at stake here. But far more importantly, the ability of Congress to legislate with the confidence of the people is at stake.

We must not continue to permit special interest PAC money to cloud our motivations, encourage speculation by the media, and destroy the grassroots structure of American politics. By passing this bill, we will make it clear that we are responsive to the people—to the public interest—and not to the narrow, self-interested groups that dump millions into political campaigns.

This is a compromise bill. It preserves the legitimate role of organized citizens to present their views and contribute to campaigns, but it limits the role of special interest PAC's to a manageable scale. It preserves the role of individual, and will begin to restore our standing with the American people. It is an important step that we must take. I urge my colleagues to support the Campaign Contribution Reform Act, and to reaffirm their commitment to our open democratic system.●

HYDROGEN FROM COAL

HON. CHARLES E. GRASSLEY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. GRASSLEY. Mr. Speaker, last month I sponsored H.R. 5399 (Hydrogen Fuel Development and Use Act of 1979) and asked my colleagues for their support of this legislation.

A great deal of discussion is now taking place in Iowa to produce hydrogen from high sulfur content coal for the generation of electricity. I feel this is not only a positive step forward for Iowa, but many other States as well.

The DOE and Jet Propulsion Laboratory sponsored a seminar recently in which preliminary figures were compiled on the cost of producing hydrogen from coal. Because of my keen interest in seeing this legislation go forward, I would like to present these findings to my colleagues and their staffs.

The findings follow:

COST OF HYDROGEN FROM COAL

What is the cost of hydrogen from coal and the parameters used in calculating the cost of hydrogen from coal?

COST

The "first year costs" for a large scale "grass roots type" coal gasification plant are estimated to be \$4.07 per million BTU higher heating value (HHV). This translates to 24.8 cents per pound hydrogen, hence 25 cents per pound hydrogen.

PARAMETERS

1. First year cost estimates include depreciations on the total capital requirement, interest, return on equity, taxes, insurance and investment tax credit for the first year of operation. Also included is one year of

labor cost, operation cost, maintenance cost, and coal cost. Not included is the unknowable effects of inflation over the life of the project. If costs inflate at an average of six percent per year while the price charged for hydrogen remains unchanged, then it is necessary to charge \$5.47 per million BTU for the product.

2. Total capital requirement for this calculation is \$1.66 billion.

3. Finance assumptions are as follows:
75 percent of the capital is financed at 10 percent interest.

Return on the remaining 25 percent equity capital is 15 percent.

Plant depreciation life is 20 years.
Taxable life is 16 years.

Sum of the years digits accelerated depreciation is used with flow-through accounting.
Federal and State income tax is 50 percent.
Property taxes and insurance is 2.7 percent.
Investment tax credit is 10 percent.

4. Under the assumptions given in parameter 3, 13.48 percent of the total capital requirement of \$1.66 billion must be returned each year.

5. Labor costs for operation and maintenance is estimated as \$12.1 million per year. 435 full-time jobs will be created.

6. Variable operating and maintenance cost such as utilities materials, chemicals, and catalysts are estimated as \$31.4 million per year.

7. Twelve million tons of coal are used each year. At an average cost of \$22 per ton (\$1/MMBTU), the fuel cost is \$263.7 million per year.

8. The plant produces 396 billion BTU per day for 330 days of the year (90 percent capacity factor). The annual production of hydrogen fuel is 130.7 million MMBTU/year. 97.36 percent by volume of the product gas is hydrogen, 1.96 percent is methane, .17 percent is argon, and .51 percent is nitrogen. There is less than five parts per million by volume CO, three parts per million by volume CO₂, one part per million by volume H₂S, and two parts per million by volume H₂O.

9. Thirty-five identical gasifiers are used in the plant described. The economics of scale are reached for six or more gasifiers. Therefore, plants roughly 1/6 of this size would produce hydrogen at about the same price.

10. The cost of 25 cents per pound is at the plant fence. To compare to gasoline, add distribution costs, taxes, and retailing costs. Pipeline distribution cost average about 6/10 of a cent (\$.006) per pound of hydrogen per 100 miles of pipeline. Federal gasoline tax is four cents per gallon of gasoline. State taxes vary and there also exist some local taxes (Utah State tax on gasoline is nine cents per gallon). These estimates predict a comparative cost of hydrogen of roughly 68 cents per gallon before taxes and 81 cents per gallon comparative to gasoline pump price.

11. One gallon of gasoline contains the same energy as 2.25 pounds of hydrogen (LHV). Hydrogen vehicles are more efficient than their gasoline counterparts even after the addition of hydride weight. For example, the U.S. Postal Service Jeep, as converted to hydrogen by Billings, was 15 percent more efficient. If a hydrogen vehicle is 12.5 percent more efficient, then 2.0 pounds of hydrogen will provide the same mileage as one gallon of gasoline.

What are the basic assumptions used in figuring the cost of hydrogen from coal in comparison to the cost of crude oil and/or gasoline and other petroleum products?

COSTS AND OUTPUTS

Capital cost of the plant, \$1.66 billion.
Cost of coal, \$22/ton or \$1/MMBTU.
Hydrogen from coal cost, \$4.07/MMBTU (HHV) or \$.25/lb. of hydrogen.
Higher heating value plant output, 396 billion BTU/day, (HHV) (4836 MW).

Lower heating value plant output, 335.1 billion BTU/day (LVH).

CRUDE OIL CONSUMPTION*

(Jan.-June 1979)

Imported Crude Oil (43.2%), 8,143,000 Barrels/day.

Domestic Crude Oil (56.8%), 10,717,000 Barrels/day.

Total Crude Consumption, 18,860,000 Barrels/day.

CRUDE OIL PRODUCT BREAKDOWN

One barrel of Crude	42 gallons—5,800,000 BTU/Barrel of crude	Volume percent per bbl	BTU/gal
Motor gasoline.....	44.1	110,000	
Distillate (diesel, home heating oil).....	21.3	138,690	
Residual.....	11.3	149,690	
Jet fuel.....	6.6	135,000	
Ethane.....	0.1		
Liquid gases.....	2.3	95,167	
Kerosene.....	1.0	135,000	
Petro chemical.....	4.1		
Special naphthas.....	0.4	124,952	
Lubricants.....	1.3	144,405	
Wax.....	0.1		
Coke.....	2.5		
Asphalt.....	3.2	158,000	
Road oil.....	0.1		
Still gas.....	0.7		
Miscellaneous.....	0.9		
Total.....	100.0	100.0	by volume

Source: API (American Petroleum Institute), Washington, D.C., and U.S. Bureau of Mines standard for heating values.

If hydrogen replaced gasoline as a fuel, how long would it take a \$1.66 billion plant to pay for itself with the savings between low cost hydrogen and gasoline at \$1.00 per gallon?

Assuming \$1 per gallon of gasoline.....	\$1.00
Minus 4¢/gal Federal tax, 9¢/gal State tax and 7.9¢/gal retailing cost (per gal).....	-0.209
Price of gasoline after distribution (per gal).....	0.791
Hydrogen plant annual operation and maintenance.....	\$0.333/million Btu
Annual coal costs.....	\$2.020/million Btu
Cost per pound of hydrogen excluding capital cost of plant.....	\$2.353 61,000 Btu
Assuming distribution costs of 1,000 miles (ave.) by pipeline at \$0.006/100 mile/lb. of hydrogen.....	\$0.06/lb
Cost of hydrogen after distribution.....	\$0.204/lb of H ₂
Cost of hydrogen per gasoline equivalent (2 lbs. H ₂ =one gallon gasoline, plant capital cost not incl.).....	\$0.407/gal. gasoline equiv.
Economic savings of hydrogen over gasoline at \$1/gal.....	\$0.791
Daily output of a \$1.66 billion plant.....	396 billion Btu/day
Translated to equivalent gallons of gasoline.....	61,000 Btu lb H ₂ = 6,492 million lb/day
Daily savings.....	3.245 million gal = \$1.246 million/day
Number of days to raise the capital for a \$1.66 billion plant.....	1.66 × 10 ⁹ = 1332 days = 1.246 × 10 ⁹ = 3.65 years

*Source: American Petroleum Institute as reported in U.S. News & World Report.

Conclusion: A \$1.66 billion plant will take 3.7 years to pay for itself if the product hydrogen is used as an alternative to gasoline at \$1 per gallon.

How many \$1.66 billion plants will it take to produce enough hydrogen to replace all the gasoline now made from foreign oil imports?

Volume of gasoline coming from imports: (8,143,000 bbl/day) (42 gal/day) × .441 = 150,820,000 BTU/gal = 16,590 billion BTU/day.

Daily energy consumption of gasoline from imported oil: (150.82 million gal/day) (110,000 BTU/gal) = 16,590 billion BTU/day.

Number of hydrogen production plants required to replace all gasoline made from imported oil:

15,590 billion Btu/day gasoline = 49.5 hydrogen plants
335.1 billion Btu/day hydrogen

Taking into account all of the major fuels made from crude oil (gasoline, diesel, home heating oil, and jet fuel), how many years of crude oil imports at \$20/barrel cost the same capital outlay as would the capital cost of enough coal to hydrogen plants to replace these fuels and eliminate all oil imports?

Imported crude oil: 8,143,000 bbl/day.
Daily cost at \$20/barrel: 162,860,000 dollars/day.

BTU product yield from a barrel of crude oil:

Motor gasoline.....	(.441)(42)(110,000)=2.037
Distillate (home heating oil and diesel).....	(.213)(42)(138,690)=1.241
Jet fuel.....	(.066)(42)(135,000)=.374
Total.....	3.652 million Btu barrel crude oil

Amount of energy derived from imported crude oil in the product form of motor gasoline, diesel, home heating oil, and jet fuel:

$$\frac{3,652 \text{ Million BTU}}{\text{bbl crude oil}} \times 8,143,000 \text{ bbl/day} = 29.74 \text{ Tera Btu/day}$$

Number of coal to hydrogen plants required to match this fuel energy requirement:

$$\frac{29.74 \times 10^{12} \text{ Btu/day}}{335.1 \times 10^9 \text{ Btu/day}} = 88.75 \text{ hydrogen production plants}$$

Number of years of capital outlay for imported crude oil at \$20/barrel equaling the capital requirement of enough hydrogen production plants to replace motor gasoline, diesel, home heating oil, and jet fuel made from imported crude:

$$\frac{(88.75 \text{ plants}) \$1.66 \text{ billion each}}{(\$162,860,000/\text{day}) 365 \text{ days/year}} = 2.48 \text{ years}$$

COMPARISON SUMMARY

A \$1.66 billion coal-to-hydrogen plant will require 3.7 years to pay for itself if the product hydrogen is used as an alternative to gasoline at \$1.00 per gallon.

Fifty coal-to-hydrogen plants at a cost of \$1.66 billion each will produce enough hydrogen to replace all gasoline made from imported crude oil.

Eighty-nine coal-to-hydrogen plants, at a cost of \$1.66 billion each, will produce enough hydrogen to replace all the major fuels made from imported oil: motor gasoline, diesel, home heating oil, and jet fuel.

Assuming imported crude oil cost \$20 per barrel, the amount of capital used to purchase two and one-half years of imported crude oil would pay for the construction of enough hydrogen plants (89 at a cost of \$1.66 billion each) to eliminate imported crude oil.

Expenditures for crude oil imports would pay for hydrogen plants to replace gasoline.

diesel, home heating oil and jet fuel made from imported crude oil in the number of years shown.

(In years)	
Motor gasoline.....	1.52
Diesel and home heating oil.....	.73
Jet fuel.....	.23
Total	2.48

I feel this report offers each of us an opportunity to deduce the cost of coal gasification plants, including hydrogen cost in comparison to gasoline and other crude oil products. It is also possible to estimate the length of time necessary for a hydrogen plant to pay for itself with hypothetical savings from the elimination of foreign oil imports.

I need not remind my colleagues of the OPEC ministers bold statements just this week regarding a new round of increases in foreign oil later this year. If nothing else, those signals should not be taken lightly by this Congress or this country. We should, instead, get our energy policies together and begin to take bold new steps for all mankind. We have crawled long enough.●

TWO THOUSAND EDITIONS OLD

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. MINETA. Mr. Speaker, on October 20, 1979, in Los Angeles, Calif., the Japanese American Citizens League (JACL) will be celebrating the 50th anniversary of its weekly newspaper, the Pacific Citizen. Since 1929, the Pacific Citizen has been the only national Japanese American weekly newspaper which has consistently reported the achievements, contributions, problems, and issues affecting persons of Japanese ancestry.

The editor of Pacific Citizen is Harry Honda, and Harry will be honored this weekend for the 27 years he has been with Pacific Citizen. A native son of Los Angeles, "newspapering" has been Harry Honda's lifelong career that began in 1936, and which was interrupted by military service (1941-45) and college on the GI bill (1946-50). He was on the staff of the English edition of the Shin Nichibei at the time the Pacific Citizen was relocated from Salt Lake City in September, 1952, to Los Angeles, and he was asked to be its editor.

His prewar newspaper career includes working on the English sections of Japanese vernacular newspapers in Los Angeles and San Francisco. Harry is a graduate of Maryknoll School, Belmont High, Los Angeles Junior College, and Loyola University at Los Angeles in political science. He was president of the Downtown Los Angeles JACL in 1951.

I wish to share with my colleagues the following articles written by Harry Honda, entitled "2,000 Editions Old." This article highlights the past 50 years of Pacific Citizen and the goals that have guided its publication under the direction of Harry Honda.

2,000 EDITIONS OLD: THE PACIFIC CITIZEN SUMMARY

(By Harry Honda)

Somewhere in Salt Lake City is a treasure that the Pacific Citizen has left behind when JACL's membership publication was relocated to Los Angeles a quarter century ago. The late Saburo Kido, wartime National president, remembered seeing that treasure—the bound volume of prewar issues—at Headquarters when it was located there. He was banking on it to start writing JACL history in a PC series that was published in 1961-62.

What there is on file are scattered issues—31 out of the 163 published up to the eve of the 1942 Evacuation.

Only known copy of the first edition, a six-page quarto (half tabloid) dated October 15, 1929, survives in the JACL-Japanese American Research Project Collection at the UCLA Library. We borrowed it long enough to have it microfilmed for our files. It was then called the Nikkei Shimin (Japanese American Citizen), edited as a semi-monthly by Iwao Kawakami for the San Francisco New American Citizens League, as that JACL chapter was then called. In an early 1930 edition, it was renamed the Pacific Citizen.

In 1932, Earl Tanbara and Asayo Kuraya assumed the editorial responsibilities when Iwao moved to San Diego. The PC became the "official publication" of the fledgling Japanese American Citizens League during its 1932 national convention at Los Angeles. JACL at this time consisted of 20 chapters representing urban and rural Japanese American concentrations along the west coast.

Between 1933 and 1939, the PC was printed in Seattle at Jimmie Sakamoto's Japanese American Courier plant, while the editorial office was in Sab Kido's law office in San Francisco.

In 1940, with Evelyn Kirimura as editor, the PC was again a San Francisco operation. She turned out the first Holiday Issue of 18 tabloid pages in December. Its front and back pages were printed in red and green ink. Some of the advertisers have continued to extend their best wishes in our last Holiday Issue.

The JACL Convention in 1938 passed a compulsory PC subscription policy, requiring the head of each JACL family to subscribe at 25 cents a year and the chapters to submit \$12 per year subsidy either in advertising or as a contribution. The policy was suspended with Evacuation.

The prewar PC was generally a four-page tabloid. Kay Nishida, English editor of the Nichibei in San Francisco, then the dean of Nisei writers, was a regular columnist in the late 1930s. Information on farming, national defense, home-making and job opportunities was featured when more than four pages were published during 1941.

The attack on Pearl Harbor also shut down the presses in Nihonmachi. To overcome this emergency, the PC was mimeographed at National Headquarters, then manned by Mike Masaoka as executive secretary. The PCs were bundled and sent to the chapter to distribute. Holiday issue plans were washed out, though some of the greetings appeared in the January, 1942, issue which reappeared in printed format.

The first L.A.-edition of the PC came out October 4, 1952.

Our charge was to maintain the high tone of the Tajiri years and place the PC on a self-supporting basis. We begged for indulgence by trying to pack in as much hard news while the editorial "hole" shriveled way to advertising that Tats Kushida had mustered.

The October 17, 1958, issue was memorable in that it was No. 1,000. Two decades will have passed to reach No. 2,000 on July 7, 1978.

The PC has a two-fold operating policy: to represent JACL as a public relations media, and to serve as an educational resource by

reporting the achievements, contributions, problems and issues affecting persons of Japanese ancestry. The editorial policy is broad enough to include both JACL-oriented and general news. Space is provided for divergent views to help guide public policy.

As part of the multi-ethnic press in America, the PC stays abreast of major issues facing Japanese Americans. We are still a minority among minorities and we do not forget that. JACL is about to celebrate its 50th year of existence. While much has been accomplished—citizenship for the Issei, immigration bars removed, helping to tell the Japanese American story—but people are fickle, forgetful and factious. Human nature is that way. Hence, the purpose for founding JACL in 1930 is still valid—that persons of Japanese ancestry shall not be denied their freedom and rights because of race, creed or color.●

ARIZONA STATE FUNERAL BOARD AND THE FEDERAL TRADE COMMISSION

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. UDALL. Mr. Speaker, I recently received a letter from the Arizona State Board of Funeral Directors and Embalmers concerning the Federal Trade Commission's proposed rule on funeral services. After meeting with representatives from the FTC, the board's members decided to hold a public meeting to discuss the rule and to accept testimony from concerned citizens and groups. As a result of that hearing the board now supports the Commission's position and opposes any efforts to prohibit the Commission from putting it into effect.

I have looked at this issue carefully, for it affects many people in southern Arizona. And I have come to agree with the board and with the FTC that some action is needed to protect consumers for funeral services, who are especially susceptible to fraud and unethical practices. The vast majority of businessmen in the funeral industry are good, upright people, and I can certainly understand their reluctance to accept Federal regulations which they feel are unneeded. But there is a minority in the funeral industry which does engage in questionable practices and those are the firms which will be most affected by the rule. The FTC is involved in controversial actions in several other industries, and perhaps in some the Commission is acting unjustly or has exceeded its authority. But in this area the need for action is proven and I favor the proposed rule.

The letter from the board of funeral directors follows; I commend it to my colleagues' attention:

ARIZONA STATE BOARD OF FUNERAL DIRECTORS AND EMBALMERS,
Phoenix, Ariz., October 10, 1979.

Re Support of Federal Trade Commission Funeral Industry Rule.

HON. MORRIS UDALL,
Cannon House Office Building,
Washington, D.C.

DEAR CONGRESSMAN UDALL: On September 25, 1979, a delegation of this Board met with representatives of the Federal Trade

Commission concerning the progress of the proposed Commission rule on funeral services disclosure standards and also concerning common enforcement problems in this consumer protection area.

Subsequent to that very productive and informative meeting, this Board held a public meeting on October 9, at which the proposed federal rule was discussed and debated at length. As a result, it is now the consensus of the Board that the Federal Trade Commission should be permitted to promulgate its proposed funeral industry rule in the most expeditious manner feasible.

It is the Board's view that the promulgation of minimum federal standards of fair dealing in this area would greatly facilitate the Board's local enforcement efforts and more effectively protect Arizona consumers from deceptive practices. The following points are called to your attention:

1. Funeral services consumers are uniquely vulnerable to deceptive practices, in part due to their bereaved and depressed mental state and the general lack of public information concerning funeral arrangement transactions.

2. Since the potential for consumer fraud in such "grief transactions" is very great, the demonstrated need exists for active and aggressive coordinated enforcement efforts by federal, state and local consumer fraud agencies in this area.

3. The establishment of minimum fair dealing standards in the funeral industry by the Federal Trade Commission would not inhibit local consumer fraud enforcement but rather would permit local agencies (such as this Board) with limited financial resources to build from such standards and focus on local enforcement problems.

4. It is in the best interest of local consumer fraud enforcement agencies and the funeral industry that the proposed federal rule be finalized most expeditiously to facilitate early coordination of local legal requirements and enforcement programs with the minimum standards and to prevent "dragging out" the rule-making process with the resultant disruption and confusion to business.

In conclusion, the Board welcomes the anticipated assistance of the Federal Trade Commission in protecting funeral services consumers in Arizona, and strongly urges an early resolution of the present uncertainties concerning this vitally needed rule.

Sincerely,

Keith L. Rotterson, George Menke, Ruth R. Ada, Lyle M. Ferguson, Marian Lupu, Msgr. Richard W. O'Keefe. ●

EFFORTS TO COMBAT COOLEY'S ANEMIA

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. BARNES. Mr. Speaker, this Saturday, October 20, has been proclaimed Cooley's Anemia Day in the State of Maryland. Gov. Harry Hughes announced this event as part of a nationwide effort to combat the disease.

Cooley's anemia is an inherited blood disease characterized by a diminished production of hemoglobin, the substance in red blood cells which enables them to carry oxygen to the tissues of the body. It is found primarily in children whose ancestors were natives of the Mediterranean area, particularly those of Greek and Italian descent. There is no known

CXXV—1815—Part 22

cure for Cooley's anemia, and the only effective treatment is frequent blood transfusions. Individuals with the condition rarely live beyond the age of 20.

It is estimated that there are approximately 200,000 individuals in the United States who carry the trait, and at least 2,400 patients are being maintained with the aid of transfusion therapy.

I trust that my colleagues will join with in supporting the continued efforts in Maryland and around the Nation to combat Cooley's anemia. ●

FEDERAL ENERGY ASSISTANCE PROGRAMS AND THE POOR

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. SOLARZ. Mr. Speaker, I would like to bring to the attention of my colleagues the remarks recently submitted to the Senate Committee on Labor and Human Resources by Mr. Joseph Langer, of the Metropolitan New York Coordinating Council on Jewish Poverty. This group, of which Mr. Langer is the director of operations, represents major and grassroots Jewish agencies and organizations in advocating the needs of the Jewish poor. They provide a link between the Jewish poor and Government agencies which aid the needy of our Nation, and help to develop programs in neighborhoods with large concentrations of Jewish poor.

As the representative of a district with one of the largest Jewish populations of any congressional district in the country, I commend the Metropolitan New York Coordinating Council on Jewish Poverty for their efforts to help maintain, stabilize and upgrade the social and physical health of many Jewish neighborhoods.

The testimony follows:

FEDERAL ENERGY ASSISTANCE PROGRAMS AND THE POOR

(By Joseph Langer)

Since 1973, the cost of energy has risen drastically. OPEC price increases, continuing double-digit inflation and oil decontrol have made all Americans pay an increasing portion of their budget for the purchase of energy to meet their basic household needs. The future looks dim indeed. Costs will continue to climb at excessive rates.

While the entire population has felt the impact of increasing energy costs, the burden has been experienced extremely by the poor, the elderly, the lower middle class and individuals on fixed incomes. It is estimated that the average low income family will be spending more than 25% of their income on household fuel and utilities this year. In the Northeast, as winter arrives, the price of home heating oil will have risen as much as 100% from last year. This situation will force many low income households to pay more than 40 percent of their income for the purpose of heating their homes. The average homeowner in New York State will have to shell out an extra \$500.00 in the period of only a few months. The renter or co-op owner will receive an equivalent pass-along. The large oil firms have, inexplicably tightened their credit terms recently and

many homeowners and landlords will be forced to pay for fuel in advance of delivery.

The poor will be forced into an extreme dilemma during this winter trying to choose between heating their homes and feeding their families.

II

The experiences of Federal energy assistance programs in 1977, 1978 and 1979 have been bleak.

The General Accounting Office in its audit "Meeting Winter Heating Bills for Needy Families: How Should the Federal Program Work" reports that the distribution of funds were not managed well and there was no assurance that families in the greatest need were served by these energy assistance programs.

In the first year program, funds were distributed to States based on the severity of winter, the number of poverty households, and the regional fuel cost.

State plans for identifying priorities and methods of payment were not effectively reviewed and approved within program time constraints. Federal criteria was unclear, with the result that allocations to local projects, towns and cities, varied among States and within States. Eight States designated no specific priority system. Other States adopted a variety of different priorities including services to the elderly only, all eligible recipients on a first come first serve basis, eligible recipients with power disconnects or fuel bills only, and all eligible recipients with specific exclusion and limitations on payments.

There was no provision made for heaters, blankets and other energy costs by many projects. Nor in the case of the elderly, who are known to immediately pay their bills and literally go without food, was there any provision made to look at paid bills, not just utility disconnect notices. No allowances were made for renters, the bulk of the poor in major urban centers as New York City, to meet fuel costs incubated as pass-alongs by landlords.

As the GAO report concluded, the Community Services Administration could not assure that the local programs were alleviating crisis situations. A great percentage of the Federal appropriation was unspent. During the first year of the program New York City did not spend 1 cent of its funds while Chicago spent \$7 million dollars.

III

Unfortunately the proposed Energy Assistance Program and legislation, circulated late this summer by the Administration, perpetuates and incorporates many of the failures of past Federal programs.

States have again been designated as the agency responsible for administration of the program. They are also assigned the task of developing a plan which describes how the program will be implemented within the state and the priorities of those to be serviced. Previous experience teaches us that the states have not completed this delegated task successfully and are not the sensitive vehicles to address the delivery or services to localized poor. We suggest that a more appropriate methodology in assuring that the poor receive energy assistance would be to utilize municipalities as the administrative vehicle which is more in touch with the needs of the local community.

Under the Administration's proposed plan, the bulk of the appropriation will go to SSI recipients, AFDC recipients and food stamp recipients. Assistance to the elderly and poor outside of these categories is unclear. The proposed plan of the State Department of Social Services compiling lists of the "other" poor is unrealistic. Nearly 75 percent of the elderly, for example, who are poor do not receive SSI. There are no provisions to insure that they receive benefits. This plan makes

no provision whatsoever for Outreach to the isolated, undercovered, poor.

The Administration's proposal utilizing poverty levels as eligibility criteria eliminates the bulk of energy hardship cases from receiving benefits. The lower living standard of the Bureau of Labor Statistics is a more realistic measurement device that is geared to individual communities. The BLS measure would provide a much broader eligibility target and much needed assistance to those on fixed incomes and the lower income working poor.

The Administration's plan is geared totally to the homeowner and there are no provisions for the renter, who is effected by the energy crisis through higher rental costs as a result of pass alongs by landlords. The poor in most urban areas do not own homes but live in apartments. They are paying higher rental costs yet receive no relief. They have to go without the necessities of life but are not considered in this proposed program just as they were systematically eliminated in other programs.

To utilize utility shut off notices as the sole criteria for receiving assistance is circumventing the entire spirit of energy assistance programs. In the case of the poor, and especially the elderly, we know they will deprive themselves of the basics including food in order to meet their utility obligations. Provisions must also be made for space heaters, insulation, blankets, and warm clothing to assist the poor as a result of temperature cutbacks, in staying warm during the winter months.

S. 1724 sponsored by Senators Williams and Javits provides much more realistic approach to assist households which cannot meet the high cost of fuel and other energy related costs. It provides immediate assistance to the poor that is so critical for families this winter.

We suggest that provisions for the many urban poor who are renting apartments be incorporated into the bill. Provisions must be made for renters with low incomes to meet pass along energy costs.

We commend the Outreach activities stipulated in the bill especially those involving Community Action Agencies, Area Agencies on Aging and other appropriate Agencies in outreach and certification activities.

The experience of the Metropolitan New York Coordinating Council on Jewish Poverty and its affiliated agencies has proven that local community based agencies have an appropriate handle and contact with the isolated poor and are able to deliver services on an expeditious basis eliminating red tape and bureaucracy and provide the most services for the program dollar.

We urge that provisions in S-1724 be made for other than fuel costs including clothes, space heaters and localized insulation to insure that the poor stay warm during the winter months.

The Metropolitan New York Coordinating Council on Jewish Poverty, founded a decade ago, as a coordinating body representing 46 major Jewish organizations, social service agencies and Jewish community councils. The Coordinating Council is the united voice of the Jewish community in serving the needs of the Jewish poor and elderly within their neighborhoods. It is the primary vehicle for assessing local needs, bringing resources to neighborhoods, and acting as the communal advocate and ombudsman for ameliorating the plight of the Jewish poor in the neighborhood they live in.

The Coordinating Council urges that Congress pass appropriate legislation to assist the poor with their increased energy costs as quickly as possible so it will be administratively in place before the winter. We respectfully suggest that our recommendation be incorporated into the pending legislation.

We pray that the prophesy of Congressman Frederick Richmond, quoted in the New York Times, that we will have to see someone die before Congress acts, is false and that this proposed legislation is reported out by the Committee expeditiously.

Thank you.●

CAMBODIAN FAMINE DEMANDS GENEROUS AMERICAN RESPONSE

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. SOLARZ. Mr. Speaker, yesterday the Subcommittee on Asian and Pacific Affairs unanimously recommended the enactment of a \$35 million disaster relief program. This legislation, which will be taken up by the Foreign Affairs Committee next Wednesday, is to prevent the needless death of over two and a half million Cambodians who will starve to death in the next few months if a large scale international relief effort is not quickly undertaken in that country.

As a member of the Subcommittee on Asia, I have been active in efforts to prevent the unfolding of this further tragedy on the stricken Cambodian population, and in urging the administration to move quickly and compassionately to assist these suffering people.

I would like to enter for the RECORD a copy of an eloquent plea by the major charitable organizations of our country to the Secretary of State. These 13 groups urge a generous and timely response by the American Government to the human disaster which has engulfed Cambodia.

These voluntary organizations have participated valiantly and effectively in other major humanitarian relief efforts—such as the ones undertaken by the international community in Biafra and Bangladesh—where, even under extremely difficult circumstances, not unlike the ones in Cambodia, we were able to fully participate in assisting the besieged civilian populations.

Mr. Speaker, I hope that this appeal by these voluntary organizations will not go unheeded by the administration and by this Congress.

The material follows:

OCTOBER 1, 1979.

HON. CYRUS R. VANCE,
Secretary of State,
Washington, D.C.

DEAR MR. SECRETARY: Reports of serious food shortages in certain areas of Cambodia have been a source of concern to us for some months. Recently, it has become apparent that a major international effort will be required if widespread famine affecting millions of Cambodians is to be averted. Independent reports from a variety of recent visitors to the area—including representatives of the press, religious organizations, and international relief agencies—all attest to the urgency of the situation.

On several recent occasions, you have spoken of your hope that the international community act to prevent starvation in Cambodia. We are very much aware of the unusual complexities of assistance to people in a country at war, especially when our

government does not recognize any of the conflicting parties as representative of those people. The normal procedures for adequate supervision, control, and monitoring are at once more important and more difficult. We understand that lengthy negotiations between international agencies and various governments in Southeast Asia have now succeeded in establishing arrangements under which relief supplies may be provided, distributed, and monitored. This should remove what we hope will prove the final obstacle to the launching of a major international response.

We are aware that restrictions prohibit any form of U.S. development assistance to Cambodia. However, there are no statutory prohibitions against the use of U.S. Food For Peace (PL-480, Title II) commodities or against the use of Disaster Assistance funds after October 1, 1979. We wish, therefore, to register our strong support for your efforts to encourage an international response to the Cambodian famine fully commensurate with the need. We urge you to pursue all available bilateral and multilateral channels, including private and voluntary organizations, to see that the United States moves quickly and effectively in responding to this crisis. Some of our organizations have already begun our own efforts to respond as an expression of broad public concern.

Sincerely,

The Most Reverend Edwin B. Broderick,
Executive Director, Catholic Relief Services/
U.S. Catholic Conference, Inc.

Dr. George A. Chauncey, Chairman, Inter-
religious Taskforce on U.S. Food Policy.

Dr. Bernard A. Confer, Executive Director,
Lutheran World Relief.

Stephen Hayes, Director, Office of Peace
and Development Education, International
Division, Young Men's Christian Association
of the U.S.A.

Herbert Katzki, Associate Executive Vice
President, American Jewish Joint Distribu-
tion Committee.

Dr. Paul F. McCleary, Executive Director,
Church World Service.

Rosalie Oakes, Executive, World Relations
Unit, National Board of the Young Women's
Christian Association of the U.S.A.

Louis Schneider, Executive Secretary,
American Friends Service Committee.

Joseph Short, Executive Director, OXFAM-
America.

Arthur Simon, Executive Director, Bread
for the World.

Edward F. Snyder, Executive Secretary,
Friends Committee on National Legislation.

Edgar Stoesz, Associate Executive Secre-
tary, Mennonite Central Committee.●

A BILL TO PRESERVE EQUITABLE IRS TAX TREATMENT OF RURAL COOPERATIVES

HON. ALBERT GORE, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. GORE. Mr. Speaker, electric and telephone cooperatives are the backbone of rural America. Congress helped nurture the growth of co-ops in the 1930's and 1940's in order to improve the quality of life in rural areas. Privately owned utilities brought necessary services to urban areas, but they either could not or would not furnish the needs of rural areas.

The goal of cooperatives is not profit, but reliable service at the lowest price.

This is one of the principal reasons why we have seen co-ops on the forefront of major technological changes and innovative cost-cutting measures.

There are more than 1,000 electric co-ops in this country operating in 46 States. They provide service to 25 million people and cover more than 50 percent of the land area in the United States. Telephone co-ops operate in 30 States and provide telephone service to more than 750,000 people. Co-ops are an indispensable part of rural life and continue to provide opportunities for growth and development.

Unfortunately, it seems that the Internal Revenue Service does not share Congress' enthusiasm for cooperatives. Recent rulings by the IRS have attempted to chip away at their tax exempt status and have placed unnecessary and unreasonable financial burdens on cooperatives.

Today, I am introducing legislation which will preserve equitable IRS tax treatment of rural cooperatives in an effort to keep utility rates at reasonable and affordable rates. The bill would reinstate traditional IRS tax treatment of income from pole rentals and telephone directory advertisements. The bill would alter recent IRS rulings which concluded that income from pole rentals and "yellow page" advertisements were not related to co-op business endeavors and thus not exempt from taxation.

In order to bring service to the greatest number of people at the lowest possible cost, electric, and telephone co-ops have entered into reciprocal agreements to share the cost of their poles.

Joint use minimizes costs and encourages efficient use of rights-of-way. Electric co-ops in many areas were the first to build poles, and thus over the years have received income from telephone co-ops for the rental of the right-of-way. The revenue is not significant in terms of overall cooperative income, and the IRS has traditionally treated pole rentals as business-related income and thus nontaxable.

Late last year, I was informed by Mr. Fred Key, general manager of the Middle Tennessee Electric Membership Cooperative in Murfreesboro, Tenn., that the IRS had shifted its longstanding policy and was going to begin taxing pole rental income. In its letter to Mr. Key, the IRS informed him of a recent technical advisory ruling which concluded that income from pole rentals bears "no substantial causal relationship" to co-op's tax-exempt purpose. Mr. Key estimates that this IRS policy reversal could cost his customers \$50,000 next year. This is not a great deal of tax revenue for the IRS, but it is the type of unnecessary cost that forces rates to soar.

The IRS apparently believes that the joint use of poles is not related to the purpose and goals of rural co-ops. This is completely illogical. The purpose of co-ops is to provide wide ranging low-cost service. One means to achieve this is to share the costs of putting up poles. The rental revenue received, say by the electric co-op, is money that the telephone co-op would normally have to spend on putting up its own poles. The

revenue is not unrelated to the purpose of the co-op—it is essential to the purpose. Duplication of poles is of course ludicrous, but the IRS ruling seems to be encouraging that practice.

The telephone co-ops are faced with a similar problem with income derived from directory advertisements. The IRS has ruled that income from "yellow page" advertisements is not related to the telephone co-op purpose and, therefore, is taxable.

It would seem fairly obvious that the small amount of income from such advertisements should be used to help offset the costs of printing. Certainly the telephone co-op is not competing with any other business in publishing the yellow pages and it is difficult to argue that yellow pages are unrelated to the business of telephone co-ops. Unfortunately, the IRS does not see it that way.

The bill that I have introduced would alter IRS tax treatment of related business income such as pole rentals and directory advertisements. The legislation would exclude those activities from unrelated business income which are customarily provided by rural telephone and power companies. The bill will insure that the IRS will tax only those activities, for example, investment income, which are properly taxable and unrelated to co-op activities.

Mr. Speaker, I think it is time to put a halt to the IRS campaign against cooperatives.

I applaud IRS efforts to tighten the tax laws, but I am afraid their efforts in this area are totally misguided. The tax revenue from these rulings which the IRS expects to gain from cooperatives is negligible in the aggregate, but it translates into significant costs for the co-ops and frustrates their efforts to meet the needs of their customers.

I hope Congress will move swiftly on this legislation. ●

INTRODUCTION OF INTELLIGENCE IDENTITIES PROTECTION ACT

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. MAZZOLI. Mr. Speaker, yesterday I joined with the chairman and members of the Intelligence Committee to introduce legislation which is designed to meet head on a particularly troubling and destructive phenomenon—the deliberate disclosure of the names of undercover U.S. intelligence officials.

Such disclosures have been on the increase in recent years, and are coming at a time when an effective intelligence collection capability is perhaps more necessary to the well-being of our Nation than ever before in our history. Needless to say, blowing the covers of intelligence agents can only serve to destroy such a capability.

Not only are lives threatened, but legitimate intelligence collection activities are rendered useless, the careers of dedicated intelligence officers are dis-

rupted, service morale is lowered, and the taxpayer's money is wasted.

Those engaged in publicly identifying undercover intelligence officers claim to be patriotic Americans and contend that their actions are based on the best motives. The sincerity of their motives may well be beyond question. However, the plain fact is, they are wrong. No useful or legitimate purpose whatsoever is served by exposing the identities of undercover intelligence officials engaged in legitimate and useful intelligence activities.

The legislation, the "Intelligence Identities Protection Act," has been carefully crafted to respond to the problem with which we are faced.

It prescribes criminal penalties for the unauthorized disclosure of information that identifies certain undercover U.S. intelligence personnel. If the alleged offender has had authorized access to classified information which identifies undercover intelligence personnel, the penalty would be 10 years imprisonment or a fine of \$50,000, or both.

If the offender has had no such access, the penalty would be imprisonment for 1 year or a fine of \$10,000, or both. In addition, for this latter category, the Government would have to prove a specific intent to impair or impede the foreign intelligence activities of the United States.

These provisions were not quickly or easily drafted. It is fully recognized that the act would operate to restrict speech and publication and thus will raise first amendment concerns. To that extent, it is unfortunate that we must act at all. But the problems are there and must be dealt with effectively—no matter how much controversy ensues.

To state that the proposed legislation touches on first amendment issues is not to say that such issues cannot be resolved in a manner consistent with our constitutional principles. I trust that by introduction of this bill we will engender a healthy public debate that will focus the attention of our people and the Congress on the disclosure problem and the appropriate remedy. ●

IMPORTANT CAUCUS MEETING

HON. RONALD M. MOTT

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. MOTT. Mr. Speaker, I urge my Democratic colleagues to attend an important Democratic caucus meeting at 10 a.m. next Tuesday, October 23, at which two significant matters will be before us.

One item of business will be a resolution to put the caucus on record as favoring enactment by Congress of legislation giving the President standby authority to impose wage and price controls. A second matter is election of a Member to fill a vacancy on the Committee on Ways and Means.

Neither of these items can be acted upon unless enough caucus members are present to establish a quorum.

I personally believe that the President should have authority to impose wage and price controls, because inflation is clearly getting out of hand. But regardless of our individual views, if the caucus is to be an effective tool for using our party's substantial House majority to influence national issues, we must take interest in its activities and meetings.

Again, I urge my Democratic friends to attend Tuesday's meeting.●

SARA HAMPTON—WOMAN OF
ACHIEVEMENT, 1979-80

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. ANDERSON of California. Mr. Speaker, each year the San Pedro Business and Professional Women's Club recognizes outstanding contributions made in service to the local community by naming a "Woman of Achievement." It is a privilege to bring to the attention of my colleagues the news that Sara Hampton has been selected by her peers to receive this special award this year.

To her many friends in San Pedro and the entire South Bay area, Sara Hampton is known as a person always willing to lend a helping hand. The numerous positions she has held on citizen boards and committees is evidence of her never-ending generosity and concern for others. In the past, she has served as a member of Mayor Tom Bradley's advisory council for the Fort McArthur/cannery project, chairperson for the Wilmington Community Council Advisory Board, and president of the Harbor Area YWCA board of directors.

Her dedication toward positive community work continues as she now holds officer positions in the following organizations and committees: Harbor Area Planning Committee, San Pedro Business and Professional Women's Club, and the West Channel/Cabrillo Beach Recreation Complex Committee. In addition to these heavy responsibilities, she is currently a participating member of the American Red Cross board of directors, the United Way Advisory Council, the Salvation Army Advisory Board and Auxiliary, Los Angeles, the Department of Motor Vehicle Panel, the L.A. Police Forum, the South Bay Women's Insurance Club, the San Pedro Historical Society, the Harbor Area Ethnic Coalition, the Friday Morning Club, and the San Pedro Coordinating Council.

Sara Hampton has won the respect and admiration of many, not only for her involvement in community affairs, but also for the accomplishments of her professional career as an insurance underwriter. Through her persistence and by her competence, she broke into a field where employment opportunities for professional women are not widespread. Her performance has truly been inspiring.

My wife, Lee, joins me in congratulating Sara Hampton for the recognition

she is about to receive. We extend our heartfelt best wishes and appreciation for the contributions she has made to her profession and to the people and community of the South Bay. We also send to her and her brother, George, and sister, Lois, our sincere hopes for a bright and prosperous future.●

HARNEY PEAK WILDERNESS

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. ABDNOR. Mr. Speaker, this morning I appeared before the Subcommittee on Public Lands in support of enactment of my bill, H.R. 5301, to designate the Harney Peak Wilderness.

It is my understanding the subcommittee intends to put together a number of the less controversial areas proposed for wilderness designation under the RARE II process and to act relatively quickly to pass the necessary legislation to approve these areas.

I believe the Harney Peak Wilderness is one such area. I hope it will be included in the legislation which is recommended for enactment.

Following is the text of my remarks to the subcommittee:

Mr. Chairman and Members of the Subcommittee, it is a pleasure for me to appear before you today in support of my bill, H.R. 5301, to designate the Harney Peak Wilderness on 10,700 beautiful acres in the Black Hills National Forest in my Congressional district.

In appearing before you, I am fully cognizant that the large majority of my constituency reacts negatively to the very concept of "Wilderness." They perceive the designation in terms of a lock-up of potentially needed resources. They are violently opposed to the continued expansion of the authority of the Federal Government, and they are particularly concerned when such expansion takes the form of increased ownership or control of a basic and precious resource; that is, our land.

On the other hand, my constituents know that I am anything other than a wild-eyed, environmentalist rabble-rouser. While I would acknowledge that we have abused our environment unduly in far too many instances, I truly believe that the worst examples and the large bulk of the cases of such abuses are associated with our urban areas—not rural areas, like South Dakota. As such, I sincerely resent the holler-than-thou attitude many of our urban cousins take in suggesting that they know better than local rural people what should be done with our nation's abundant Federal public lands.

Personally, I am a staunch supporter of multiple-use management of our public lands—not just in some cases or even in most cases, but in virtually every case for which there is not an obvious and compelling reason for a more limited use, such as is provided under the Wilderness designation. In terms of the best interests of my state and rural America in general, I strongly believe the balance of needs is tilted far more toward the developmental side of the scale than toward the preservationist side. Indeed, rural America has a vast abundance of undeveloped resource potential which can and must be realized if our nation is to main-

tain its standard of living, much less sustain a position of preeminence in the world economy.

Even so, I have absolutely no qualms about recommending wilderness designation to this particular tract of national forest land. I do not regard it as necessarily inconsistent to believe that rural development is receiving too little attention and rural preservation, relatively speaking, too much, and yet to believe that the Harney Peak area in particular should be preserved in its current state of natural beauty—forever. I honestly believe that the large majority of my constituents, who are opposed to wilderness in principle, would take that very position. In fact, I know of no one who has voiced the opinion that the Harney Peak area should not remain unspoiled by the works of man.

Very much to the contrary, there was a great deal of opposition expressed in regard to designation of the so-called Beaver Park area of the Black Hills, which was the initial recommendation of the Forest Service as a potential representation of the Black Hills Ponderosa Pine in the Wilderness System. Due to the degree of local opposition expressed, I suggested and the President agreed in his recommendations to Congress to substitute the Harney Peak area for Beaver Park.

There are a number of unique features which justify inclusion of the 10,700-acre Harney Peak area in the Wilderness System. The area boasts some of the highest elevations east of the Rocky Mountains, ranging from 4,050 to 7,242 feet above sea level. Rolling hills, two lovely mountain lakes, granite walls, and stands of Ponderosa Pine contribute to the splendor and provide habitat, as well as a breathtaking backdrop, for a variety of wildlife. Wildlife which populate the area and add to the wilderness experience of human visitors include Rocky Mountain goats, elk, deer, grouse, turkey, as well as other nongame birds and mammals. ■

The Harney Peak Wilderness will comprise about one-third of the existing Norbeck Wildlife Preserve, which was created by Congress in 1920. As such, I requested the Department of Agriculture to draft the legislation, which I introduced as H.R. 5301, in such fashion as to address any potential conflicts between the wildlife preserve and wilderness designations. We are assured that the two need not be in conflict, that the wilderness designation will not disrupt management policies necessary for the Norbeck area as a whole, and, finally, that the original intent of Congress to recognize the Norbeck area as a geographically complete unit of nature will be preserved.

The "Norbeck core" area initially considered by the Forest Service under the RARE II process for inclusion in the Wilderness System comprised 9,400 acres. In making their final review of the area prior to furnishing the draft legislation, however, the Forest Service concluded that the 10,700-acre unit to be authorized by H.R. 5301 reflects the logical, natural boundaries, without major addition to the area initially considered.

The name, "Harney Peak Wilderness," has been suggested by the Department of Agriculture and describes the area geographically since its most distinctive feature is Harney Peak. Senator McGovern has suggested the nomenclature, "Black Elk Wilderness," however; and I have written a large number of my constituents on this issue. Until such time as I have a better idea of the will of my constituency, I would request that the Committee maintain the "Harney Peak" nomenclature. If the committee acts and we subsequently tend to favor the "Black Elk" designation, there should be no problem in having it adopted by the Senate.

Again, Mr. Chairman and Members of the Subcommittee, I urge enactment of H.R. 5301, to designate the Harney Peak Wilderness. The 10,700-acre area it would protect is certainly not in any immediate or foreseeable danger of desecration, but its merits for inclusion in the Wilderness System are obvious.

The Subcommittee and my constituency may be assured I will continue to work to achieve a greatly increased degree of development of the vast natural resources of South Dakota, but the conclusion is inescapable that the highest and best use of the Harney Peak Wilderness is now and will continue to be to preserve it in the most natural state possible. That is the aim of H.R. 5301. I am delighted to be associated with this important legislative effort, and I am anxious to see it concluded successfully. The Harney Peak Wilderness will be a credit to the Wilderness System, and it represents a fitting legacy for the future of the Black Hills ecosystem. ●

TRIBUTE TO THE 200TH ANNIVERSARY OF THE DEATH OF POLISH PATRIOT GEN. CASIMIR PULASKI

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. DINGELL. Mr. Speaker, on the 200th anniversary of the death of Gen. Casimir Pulaski, I would like to call attention to the growing presence of the Polish spirit.

The courage of Pulaski is well known to all and requires no lengthy recital. His own words best exemplify his spirit—

I came here to sacrifice everything for the independence of America. I wish to live in a free country and I will fight for that country's freedom.

Pulaski was a man of Polish nobility, who gave up a comfortable life and came to the foreign shores of a newly emerging nation to fight for the common cause of liberty. His bravery and valor remain etched in America's early history. Needless to say, the name of Pulaski inspires pride in each and every person of Polish descent.

But, Pulaski does not stand alone in the annals of prominent Poles. Copernicus, Paderewski, Chopin, and Madame Curie are a distinguished few from a long list of famous compatriots. Poles have made an indelible mark in all fields of human endeavor: Business, politics, science, law, medicine, the arts. Moreover, this country has witnessed only recently the respect and love of the American people for yet another Polish visitor—one who came to our shores carrying the message of world peace and brotherhood.

I refer to none other than His Holiness, Pope John Paul II. Pope John Paul is the embodiment of the Polish spirit. His presence is living testimony to the intelligence, industry, charity, humility, and strength of the Polish people.

While the visit of the Pope buoys and rekindles our ethnic pride, it is a poignant reminder of the brotherhood of all mankind. Just as Pulaski gave of his life in battle for those universal princi-

ples of human rights, the Pope's appeal is to a universal understanding that we are our brother's keeper and that we must share those bounties that God has so richly bestowed.

The Polish people are proud of who and what they are. Their character and moral fiber have made them a great people. The sufferings of their fathers both here and abroad have been an unforgettable lesson that we must heed the call of those in need and bear responsibility for our fellow man.

We are indeed fortunate to live today in a nation that allows individual and collective expression of pride, self-accomplishment and self-determination. We are also fortunate to have reaped the inheritance of a land blessed with the fruits of plenty.

The Polish people have been responsible for weaving much of the fabric of freedom and progress in this country. They are a compassionate people whose work and labors continue in the greater good of all mankind.

It is my firm belief that the Polish people are the salt of this Earth. But, just as salt is composed of individual grains, our common bonds are no stronger than the virtue of each and every individual who is proud to call himself Polish. ●

STARVATION IN CAMBODIA IS STILL AVOIDABLE BUT THE PRESENT EFFORT IS INADEQUATE

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. SOLARZ. Mr. Speaker, Dr. Jean Mayer, the distinguished president of Tufts University, the Vice Chairman of the President's Commission on World Hunger, today issued a statement deploring the existing efforts in Cambodian relief as "wholly inadequate—financially, logistically, and diplomatically."

Dr. Mayer who is one of the world's most experienced specialists on famine, was formerly involved in the international relief efforts in Bangladesh and Biafra. He has long been an outspoken critic of the use of hunger as a weapon of war, and he severely criticized both parties in Cambodia for their use of this most awful weapon.

Mr. Speaker, I ask that this summary of Dr. Mayer's remarks today at the Federation of American Scientists Washington office be printed in today's RECORD, so that my colleagues might have the opportunity to review them when they consider what action we must take in the Congress on this crisis of hunger in Cambodia.

STATEMENT ON STARVATION IN CAMBODIA

(By Dr. Jean Mayer)

I call upon every American to personally support the efforts of UNICEF, Oxfam-America and the International Red Cross to feed the starving people of Cambodia. The situation is acute. In addition to the famine, there is a very immediate danger of widespread epidemics that might not be confined to

Southeast Asia. UNICEF and the Red Cross have reached a tenuous understanding with the Heng Samrin Government in Phnom Penh that the food and medicine will not go to military units but will be targeted to civilians, in particular the most vulnerable and malnourished. As always in famines, that is the women and young children. Most of the children under five have already died. We may still be able to save some 600,000 between five and nine years old, if we act quickly, and on a massive scale. If we do not, the Khmer nation, the great majority of the people of Cambodia, will be eliminated by starvation.

We are flying in 50-60 tons a day. A ship with 1,500 tons has landed; 6,000 tons are on the way. But it is nowhere near enough.

Initially we need to send in the order of 1,000 tons of food a day. To adequately feed these people we should eventually send about 2,500 tons a day, but at this point we do not have the capacity to distribute this much.

The only way to get adequate food to the area quickly is by ship. We should immediately send to Cambodia grain ships now on the high seas headed for areas that have grain reserves and can wait a few weeks for another shipment, as was done once before in the famine in Bangladesh.

Compared with the Sahelian desert, where we had a very successful relief operation four years ago, it is easy to distribute food in Cambodia. There are roads, whatever their condition. But in addition to more food, there must be the right equipment. Unloading at Phnom Penh is done by hand. We need ships with unloading equipment. We need small boats to take the food up rivers and trucks with the right spare parts so they can be repaired. Cargo planes are still essential, and at some point helicopters will be useful, although in areas where fighting is going on that may be counterproductive at present.

At this point UNICEF, which is in overall charge of relief operations, is getting about 5 percent of the necessary support. For example, our government committed \$2 million and \$5 million in commodities. We need twenty times that much. Approximately half of that will have to come from the United States.

The President has committed us up to the level of his authority. There is a Congressional ban on direct aid to Cambodia. In addition, there is no money left in Title II, the relief budget of PL 480. But there is plenty left in Title I, allocated to sponsored programs. It is up to Congress to lift the ban and to pass a supplemental appropriation, or to indicate by vote that the necessary funds can be transferred from Title I to Title II. I call upon our representatives and senators to act immediately, in the name of humanity.

The whole responsibility does not rest with the United States. Both sides in the Cambodian conflict have been contemptible in their utter neglect for human life. The international community should assume responsibility in the face of this outrage. If our relations with the Soviet Union and the People's Republic of China mean anything, we can act together in this crisis. The United States should take the initiative in calling an emergency meeting with Russia and China, the Secretary-General of the United Nations and UNICEF, to see to it that enough food and medical supplies get into Cambodia and to the refugees.

The situation is complicated by two facts. The Vietnamese themselves are short of food by as much as 2 million tons. Sending the food by ship rather than overland we can make certain it reaches the refugees. The Thais are producers of rice. We must insure that the relief operations do not make their situation worse. We can do that partly by

buying rice from the Thais for the refugee camps. But if human life means anything in the international community, we must act.

For some years I have been urging an international convention against the use of hunger as a tool of war and for the right of international relief organizations to feed and care for civilian refugees without asking permission of the combatants. At best what we have in Cambodia, after months of horror, is a toleration that each side will not interfere with the other's food shipments.

Situations like that in Cambodia can no longer be tolerated. We have the knowledge to prevent famines, we have the technological means to do so. Man-made famines should never again be permitted to happen. I call upon the nations of the world to take action. ●

EDUCATIONAL ASSISTANCE

HON. MICKEY LELAND OF TEXAS

IN THE HOUSE OF REPRESENTATIVES
Thursday, October 18, 1979

● Mr. LELAND. Mr. Speaker, I would like to include in the RECORD an article recently published in the October, 1979 edition of Glamour magazine. This article contains valuable sources for information on financial assistance for college or graduate school. I commend Glamour magazine on providing this information to its readers.

Because of our tight money situation and the cutback in available State and Federal educational assistance programs, these resources are invaluable. I hope that my colleagues will distribute this information to their interested constituents.

WHERE TO LOOK FOR EDUCATIONAL ASSISTANCE, ON CAMPUS, ON THE JOB

Whether you need money for college, graduate school, to write a book or produce a film, there are thousands of sources of funding that you may not be aware of. Following are names of organizations and books to turn to.

The Foundation Center publishes *Foundation Grants to Individuals*, which you can find in your public library or purchase by sending a check or money order for \$15 to: The Foundation Center, 888 Seventh Ave., New York N.Y. 10019. Write to them also for a list of the libraries they maintain in over seventy cities which contain useful publications.

Your public or university library is a great source of information. Look in the card catalog under "Grants," "Grantsmanship," "Financial Aid," "Scholarships," "Fundraising." Ask the reference librarian for guidance. Besides the volume mentioned above, look for *Grants and Aid to Individuals in the Arts*, edited by Daniel Millsaps (Washington International Arts Letter Editors, \$13.95, paper) and the *Grants Register*, edited by Roland Turner (St. Martin's Press, \$26.50). The latter provides information on scholarships, research grants, fellowships, travel grants, competitions and prizes.

The Business and Professional Women's Foundation publishes a helpful booklet, "Financial Aid: Where To Get It, How To Use It." Write to them, enclosing a check or money order for \$1, at 2012 Massachusetts Ave. N.W., Washington, D.C. 20036. Write also for information on three scholarship programs they administer, Career Advancement Scholarships are awarded to women at least twenty-five years old whose studies have been interrupted and who plan to return to school part-time. Kelly Services Second Career

Scholarships support study in business fields for women at least thirty years old who have become displaced homemakers through divorce or the death of their husband. Clairrol Loving Care Scholarships provide funds for full-time study in many areas for women over thirty. For all, you must be a U.S. citizen.

For sources of financial aid for graduate and post-graduate science education, consult "A Select List of Major Fellowship Opportunities for U.S. Citizens." Write to: Publications Office, National Science Foundation, Washington, D.C. 20550.

For information on scholarships based on financial need, write: A Student Consumer's Guide, Box 84, Washington, D.C. 20044. ●

NOBEL PEACE PRIZE CARRIES AN IMPORTANT MESSAGE

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES
Thursday, October 18, 1979

● Mr. EDGAR. Mr. Speaker, I want to take this opportunity to call to the attention of my colleagues the following article on the work of Mother Teresa, winner of the Nobel Prize for peace.

The Order of the Missionaries of Charity, founded by Mother Teresa in 1950, symbolizes better than anything I know the concept of personal sacrifice for the greater good. The Nobel Committee has performed a service by focusing our attention on this concept in a time when individual preoccupation and greed seem to be on the rise.

All of us have an obligation to ourselves, but we all have social obligations as well. Charity may begin at home, but it never should end there.

Mother Teresa is a true inspiration to all of us, but I remind everyone that respect for her work will mean nothing unless all of us identify ways in which we can further her mission of peace and love.

The article follows:

[From the New York Times, Oct. 18, 1979]

STUBBORN FIGHTER FOR THE POOREST OF THE
POOR: MOTHER TERESA

(By Judith Cummings)

Ambulance drivers of Calcutta once risked beatings by angry crowds when occasionally they were caught dumping a dying man or woman back on the streets, instead of confronting the futility of overcrowded hospitals. Into this desperation and hopelessness came an Albanian nun, Mother Teresa, to found a mission that gave to thousands something their lives could never promise before, a dignified place to die.

A stubborn fighter who wears the sari of her adopted India, Mother Teresa discovered her calling in helping "the poorest of the poor" and threw herself into the task. She founded a new Roman Catholic order, the Missionaries of Charity.

The outgrowth has been a worldwide network with 158 branches, spread from Papua, New Guinea to the South Bronx. Its mercy missions include medical centers that care for 53,000 lepers in Africa and Asia, schools for destitute children, food centers to distribute rice and powdered milk to families that lack the barest means of survival.

"GOD'S WORK, NOT MINE"

While regarded almost as a saint in India, where her admirers stretch across all reli-

gious, caste and ethnic barriers, for years she was little known in the West. But when Pope Paul VI, more than a decade ago, wanted to establish a home for the poor of Rome, the 20,000 nuns there were passed over as he sent a message to the subcontinent for Mother Teresa to take up the challenge. Her efforts won her the first Pope John XXIII Award, and her characteristic reply to such recognition and praise has been that it is "God's work, not mine."

The 1,800 sisters of the order live under a demanding code that requires them to not merely accept their service to the poor but to welcome it.

"The great thing about the poor," Mother Teresa has said, "is that they are not discontented. They don't hate us despite their immense suffering. It is a mystery we cannot understand."

And in the face of India's struggles to deal with a population of 650 million, she has maintained her support of Roman Catholic prohibitions on abortion and birth control.

The people "can have babies whenever they want," she says. "We have helped 30,000 babies in the past three years. We have destroyed nothing."

Agnes Gonxha Bojaxhiu, the daughter of an Albanian grocer and his wife, was born on Aug. 27, 1910, in Skopje, then in the Ottoman Empire and now in Yugoslavia.

By the time she was 12, a pupil in a non-Catholic school but inspired by the guidance of the village priests, she knew she would become a nun. Missionaries from her country were joining in the work of the Sisters of Loretto, an Irish order in India, and at the age of 17 she set sail. She took her first vows May 24, 1928.

The school for the daughters of prosperous families where she taught for 20 years was a sheltered oasis in the squalor of Calcutta, and at the age of 36, while riding a night train to Darjeeling, she received what she recognized as her call. "The message was clear," she once recalled. "I was to leave the convent and help the poor, while living among them."

ORDER BEGAN IN 1950

Her initial request for ex-cloisteration was turned down, but she waited a year and tried again, this time gaining temporary approval from Rome to take a tiny room with a Christian family. Embarking on the teaching of slum children wherever crude shelter was available, she was told by her superiors that her challenge was not only to give a needed service but also to prove that she could attract others to toil in her wake.

The Order of the Missionaries of Charity received canonical sanction Oct. 7, 1950, and Mother Teresa took Indian citizenship.

"I have been told I spoil the poor by my work," the gray-eyed nun has said. "Well, at least one congregation is spoiling the poor, because everyone else is spoiling the rich." ●

BUFFALO SCHWABEN VEREIN CELEBRATES 100 YEARS OF SERVICE TO THE WESTERN NEW YORK GERMAN-AMERICAN COMMUNITY

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES
Thursday, October 18, 1979

● Mr. KEMP. Mr. Speaker, on October 21, 1979, the Buffalo Schwaben Verein, under the capable leadership of its Presi-

dent, Karl Schwartz, celebrates 100 years of dedicated service to the western New York German-American community.

Founded on August 2, 1879 by German immigrants to help other immigrants feel at home in their new country, the group originally named itself the Surtemberger Schwaben Unterstuetzungs Verein. A cultural group as well as a center for assistance for newcomers, the Schwaben Verein nurtured the lively and colorful heritage of these new citizens who came primarily from the Schwabish area of Germany.

One of the most important functions of the Schwaben Verein during the 100 years of its existence has been its program to help its members in times of sickness, unemployment and death. Since its founding, when insurances and government supports in time of need did not exist, the society has given \$59,769 in sick benefits to its members, \$76,580 to families of deceased members, over \$10,000 to western New York charities, and sizeable donations to an orphanage and home for children in Wuerttemberg, Germany.

It is a privilege for me to honor the members of the Buffalo Schwaben Verein and its hardworking officers—Karl Schwartz, Ludwig Weber, Robert Wiesenmayer, Ludwig Muerder, and Gottlieb Sterr—as they celebrate a centennial of service to the German-American community of western New York.●

LEJ'S COMMISSIONER OF EDUCATION OPPOSES FEDERAL TESTING LEGISLATION

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. GOODLING. Mr. Speaker, as you are aware, the Elementary, Secondary, and Vocational Education Subcommittee has scheduled markup for October 24, 1979, on the proposed Federal testing legislation. Numerous persons have contacted me regarding the enormous consequences at stake in this legislation. On October 11, 1979, during one of our hearings, the subcommittee had the good fortune of receiving testimony from Harold Howe, the former Commissioner of Education during the Johnson administration. I am inserting former Commissioner Howe's testimony for the Members' review since his remarks represent a responsible and sober assessment of this legislation. In essence, Mr. Howe noted that:

*** Two bills before the committee constitute overkill in reaching for solutions to whatever problems exist in the testing field. In my view, the enactment of such legislation is unwarranted and unwise. Although I believe that you have done education a service to open up this subject, I strongly recommend that you not rush into detailed national legislation concerning it.

*** I am not saying that there are no problems and no abuses in the field of testing, but I do assert that they are not sufficiently serious to warrant legislation which fundamentally alters the nature of institutional freedom for schools and colleges and moves federal authority further toward domination of the educational scene ***●

JUVENILE JUSTICE REFORM

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. RODINO. Mr. Speaker, I had the privilege of participating in the second annual conference at the Peter W. Rodino Institute of Criminal Justice Conference of Jersey City State College on October 12th. The topic for this year's conference was "juvenile justice reform, and among those distinguished participants were Attorney General Benjamin Civiletti, New Jersey, Attorney General John Degnan, New Jersey Public Advocate Stanley Van Ness, Prof. Andrew von Hirsch of Rutgers University, School of Criminal Justice, Jerome Miller of the National Center on Institutions and Alternatives, Prof. Alan Dershowitz of Harvard Law School, Allen Breed, Director of the National Institute of Corrections, the Honorable John P. Collins of the Superior Court of Pima County, Tucson, Ariz., the Honorable Bertram Polow of the Appellate Division of Superior Court, Somerville, N.J., the Honorable Orman W. Ketcham of the National Center for State Courts, Williamsburg, Va.

Mr. Speaker, I believe that Mr. Civiletti's remarks to the conference reflect careful thought and deep insight into the problems confronting our system of juvenile justice, and I would urge my colleagues to read them.

Mr. Speaker, I insert Attorney General Civiletti's remarks at this point in the RECORD as follows:

ADDRESS OF THE HONORABLE BENJAMIN R. CIVILETTI

I am pleased to have the opportunity to address this conference, because the very distinguished people here today are considering a grave subject. It is a self-evident truth that a nation which fails its children cannot long survive. My own association with the Department of Justice in the last several years, commencing with my position as head of the Criminal Division, has convinced me of how critical it is that conferences such as this one be held, that they involve those people who are responsible for the making of the laws and their execution on both a national and local level.

In surveying the current state of affairs, several facts present themselves which, in this International Year of the Child, are sobering indeed.

In 1974, Congress passed the Juvenile Justice and Delinquency Prevention Act, to which I shall return later in my remarks. Section 101(a) of that legislation summarizes the initial findings which motivated the enactment of the Bill and which are as valid,

if not more so, today. It reads, in part, as follows:

1. Juveniles account for almost half the arrests for serious crimes throughout the United States today;

2. Understaffed, overcrowded juvenile courts, probation services, and correctional facilities are not able to provide individualized justice or effective help;

3. Present juvenile courts, foster and protective care programs, and shelter facilities are inadequate to meet the needs of the countless, abandoned and dependent children, who, because of this failure to provide effective services, may become delinquents.

The three points covered here, namely the high incidence of juvenile crime, the problems surrounding detention, and the failure of the juvenile justice system itself, are still the major moral and legal issues facing us today. Let me elaborate.

First, we have not only the figure of 50 percent given in the 1974 Act, but a whole host of alarming statistics to support the impression which most of us get that our young people are responsible for a disproportionately high percentage of the crimes which are committed in the United States. To be sure, I think that the picture may be exaggerated to some extent. For example, the 93 percent rise in arrests of juveniles for violent crimes exhibited in the decade from 1967 to 1976 has been slowed considerably, and in the case of some crimes, may actually have been reversed since then. Recent figures show that violent crime arrests account for roughly only 10 percent of all juvenile arrests. Nevertheless, it would be both wrong and foolhardy to take much comfort from these slowing trends.

I would therefore strenuously maintain that, irrespective of what figures you choose to cite, there is a serious and continuing problem to be confronted by prosecutors, judges, and correctional officers with respect to the high incidence of crime committed by adolescents.

The second observation in the 1974 Act concerned the abysmal conditions under which juvenile offenders are incarcerated. Behind this general observation lurk a number of specific ills which cry out for attention.

I need not rehearse here the many difficulties besetting correctional institutions throughout the United States. With respect to juveniles, the difficulties are the most troublesome.

Status offenders are a major part of these difficulties. It should be pointed out that, according to the Children's Defense Fund, 18 percent of the juveniles currently being held in jails in this country have not been accused or convicted of a crime for which an adult would be held criminally accountable. Four percent have not even committed any offense whatsoever.

Although a study done by LEAA has shown that the population of public juvenile facilities has declined somewhat in recent years, it is also estimated that as many as 500,000 juveniles may be admitted to adult facilities each year. There they may be molested, assaulted, or tragically led to take their own lives.

Principally, it is highly probable that any criminal inclinations they have may be heightened and solidified. Add to this the fact that blacks and Hispanics are represented among juvenile criminals far in excess of general population percentages, and it is evident that the systems for detaining problem youths, far from serving the interests of the nation, are likely to undercut them.

The third observation in the 1974 Act was directed at the juvenile justice system itself, at the procedures followed in family courts and other judicial bodies which hear cases involving minors. In the past, it was widely assumed that juvenile delinquency was a social disorder which required appropriate treatment rather than punishment.

The practice of keeping juvenile cases away from regular prosecutorial channels, and entrusting them instead to social workers in a nonadversarial process was largely based on this assessment and outlook. As we now know, however, this system, despite its good intentions, did not work very well. Curiously, it came under attack increasingly from all sides and persuasions. The system was considered overly paternalistic at the expense of some of the basic rights accorded those accused under our legal system. The juvenile justice system seemed to have become another instance of an institution designed to protect a certain class of people which unexpectedly worked against their interest.

As a result, changes began to appear. In the last few years several states have "re-criminalized" juvenile delinquency, redefining it as a crime rather than a social disorder. Prosecutors have been given more authority to deal with juvenile cases, and the adult courts are playing a larger role as well. The problem is that the system still lacks uniformity of purpose and outlook and is therefore as unpredictable, if not more so, than it was several years ago. Different states may have procedures which bear no resemblance to each other. Needless to say, it is far from clear that this situation will provide a greater deterrent effect. At any rate, the present lack of predictability and uniformity undermines our ability to inculcate in our youth a respect for justice and the legal system.

These are formidable problems, and perhaps the point which emerges most clearly is that they are not susceptible to facile solutions. We will have to look afresh at our outlook on the legal system and our expectations from our system of criminal justice. We will need to balance the very real needs and rights of society to security, against the interests of the juvenile offenders, which are, in the final analysis, the interest of us all. We will need to come up with programs which can be applied uniformly and consistently, without arbitrariness or caprice. None of this will be easy to accomplish, but it is clear that all attempts at piecemeal or reflex solutions have failed.

Good starts have already been made on many levels. Many local task forces have been formed around the country to consider courses of action in the communities. I am also pleased that private foundations have taken an interest in this field and have provided sorely needed supplements to public funding of projects in delinquency prevention. Most to the point is the 1974 Juvenile Justice and Delinquency Prevention Act, to which I have been referring. That Act created within the LEAA the Office of Juvenile Justice and Delinquency Prevention (OJJDP) which has for five years assisted state and local governments in this area, and done the kind of first class research which is essential for an understanding of the hurdles confronting us. The three year authorization of OJJDP was renewed by amendment of the Act in 1977, and the further renewal will be required next year. In fact, the Department of Justice is proposing a set of amendments to the Act for passage in 1980, which will not only extend the authorization for OJJDP until 1984, but will also facilitate the tack-

ling of the three knotty problems which I have noted.

I would like to share with you my reflections on what should and will be done to improve the current state of affairs, and I will address the problems in reverse order. First, the difficulties resident in the juvenile justice system itself: The OJJDP is committed to develop training programs for judicial and juvenile facilities personnel in order to ensure that the judicial process from start to finish considers carefully the interests of all segments of society and does not lead to the unintended consequences which have plagued the system up until now. Recognizing the validity of many of the criticisms of the juvenile courts, the Justice Department will be doing its part to facilitate dialogue on what our objectives should be, and the development of a system which will accomplish those objectives.

Let me state unequivocally that this is not and should not be a partisan or ideological issue. As a nation, we must come to grips with a process which has not only failed to protect us from disruptive youths, but has hampered us from developing the energies and talents of even the noncriminal juveniles. OJJDP is committed to cooperating with people like you across the country to correct this malady. Better state representation on the National Advisory Committee for Juvenile Justice and Delinquency Prevention, provided by the proposed amendments for 1980, will further this cooperative spirit and will hopefully lead to greater uniformity of philosophy and practice in different regions of the country.

With respect to correctional facilities, there is much to be addressed. OJJDP will do a considerable amount of research to determine whether, and to what extent, racial discrimination operates indirectly in the criminal justice system, so as to account in part for the disproportionate appearance of minority youths in houses of detention. Most important, the Department of Justice will reaffirm its goal of deinstitutionalizing juvenile offenders, particularly status offenders, to the fullest possible degree. Despite some unfortunate local moves to allow the detention of some juveniles in adult prisons, a major objective will be the removal of all juveniles from those institutions, and the diversion of criminal minors, whenever possible, to community-based residences near their homes. An LEAA study has already shown an increase in the number of group homes, shelters, and other noninstitutional settings. These "open" facilities now represent some 40 percent of all juvenile facilities, and that is a very encouraging sign.

A very important provision of the 1980 amendments would clarify Section 223(a) (12) (A), so as to clearly prohibit the placement of juveniles who have not been charged with or adjudicated for offenses that would be criminal if committed by an adult in facilities that are secure or that are used for the lawful custody of adult offenders. This change in the Act should permit states to continue their progress toward full deinstitutionalization of noncriminal juveniles. In those cases where the practices of states and localities are in violation of the law, the Department will take action to enforce its provisions.

Finally, the Department has been actively supporting the passage of S. 10 and H.R. 10 in the United States Congress, which would give standing to the Attorney General to sue state institutions which are not providing inmates with treatment rehabilitation, and sanitary conditions which are their constitutional rights. If enacted, this Bill would do a great deal for the improvement of the lot of juveniles confined to state facilities.

I have deliberately saved for last the most difficult problem of all, which is the unacceptably high incidents of criminal acts by juveniles in the first place. In a sense, all the other problems I have discussed are derivative of this one; yet it is so vast and elusive as to seem nearly insoluble.

Nevertheless, there is much that we can do and much that the Department of Justice can provide leadership for.

The reauthorization of OJJDP proposed in the 1980 amendments will allow that Agency to continue and to expand its research into types of juvenile crimes, including violent assaults, sexual crimes, and drug abuse. Such studies have proved valuable in determining causal links between behavior and other factors, but important as they are, they are unlikely to lead to any solutions by themselves. Nor are attempts to attack isolated parts of the problem likely to be fruitful. We will need a concerted and holistic approach which respects the extremely complex nature of the present crisis.

It will be necessary to reshape even the community-based facilities being advocated for juvenile offenders so as to provide effective education and treatment and thereby lessen the likelihood that correctional facilities will breed repeat offenders. OJJDP stands ready to work with all parties involved to accomplish this goal. Obviously, the control of narcotics trafficking is another crucial element in the attempt to address juvenile crime, and both the Drug Enforcement Administration and the Criminal Division will be actively pursuing that goal.

Above all, however, the assertion of the inviolability of every child's right to quality education will do more than anything else to guarantee that youths will perceive their own stake in society, in its discipline, in its orderliness. Children who need an equal start in life, and who are at the age when perceptions of society and government are formed for a lifetime must be given that fair opportunity.

These are just some of the ways in which we can intelligently and creatively come to grips with the problems of juvenile crime. I am proud that the Justice Department has been taking a leadership role in this field. Twenty-five hundred years ago, in another democracy, Socrates paid his accuser this great compliment: "Of all our political men, he is the only one who seems to me to begin in the right way, with the cultivation of virtue in youth; he is a good husbandman, and takes care of the shoots first . . . that is the first step; he will afterwards attend to the elder branches; and if he goes on as he has begun, he will be a very great public benefactor."

I am pleased to affirm the commitment of the Justice Department to that concept, to ask you to join in that commitment, and to invite you to call upon our assistance in your efforts.

Thank you. ●

COMPARATIVE RISK FOR A MORE BALANCED GOVERNMENT AP- PROACH TO PROBLEM SOLVING

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. RITTER. Mr. Speaker, our concerns about protecting the environment have had laudable success, but, I fear,

only when narrowly considered. Now we have the advantage of experience and are taking broader looks at the consequences of our corrective environmental actions. Unfortunately, in some cases, the overall results of well-intentioned actions sometimes have had a net harm to the public. Some corrective actions have decreased economic competitiveness, thereby resulting in loss of U.S. jobs in the face of international competition.

These important concerns were the subject of my recent talk on the occasion of the 1,800th meeting of the Philosophical Society of Washington, a 108-year-old scientific society in Washington. I wish to share the gist of my talk with my colleagues.

Let me be more specific with an example from my home district. The Environmental Protection Agency (EPA) mandated a limiting of the overall gaseous emissions from the Bethlehem Steel Corp. plant in Bethlehem, Pa. The limit was administered by the State of Pennsylvania. To help meet certain limits, a contrivance called the "Blue Goose" was built on an oversized railroad car to receive coke from coke ovens and, in the process, to collect and clean the puff of emitted gases.

All of this appears reasonable and beneficial. But when we consider the different costs involved in avoiding these puffs of gas, it turns out that each "Blue Goose" costs \$5 to \$6 million. Each consumes 1,200 gallons of diesel oil per day for operation. More than a dozen of these will be required. Such huge quantities of heavy construction and of fuels do not simply materialize. On the contrary, the many different adverse effects on public health and safety from manufacturing and fueling this flock of "Blue Geese" might well turn out to be greater than from the puffs of gas they eliminated.

In cases where the cure is more harmful than the ailment, we should reconsider the cure. This is particularly true when we add the economic cost of the cure. "Blue Geese," for example, are costly. These costs can be recovered only in the cost of the steel produced. Not only does this add to inflation by increasing the cost of steel products, but it puts the already-beleaguered U.S. steel producers at a greater price disadvantage compared to imported steel. Loss of production translates into a loss of U.S. jobs.

This is not an isolated example. There are others in my district, just as there are doubtless others in the districts of my colleagues. An example for many of us is the impact of emission controls on motor vehicles, first for automobiles and soon for trucks. A National Academy of Sciences report for the Congress in 1973 estimated the average cost of each catalytic converter to be \$233 and to decrease automobile mileage by 25 percent. Some recent scientific studies cast doubt on whether certain emission controls have significantly reduced harm to public health or property. However, there is no doubt about the harm resulting from 25 percent reduced mileage, like the risks

from increased petroleum transport, including supertankers, the worsened U.S. balance of trade, and the increased need for petroleum from precarious sources like the Middle East. All of these should enter into our consideration of the net risks from emission controls.

We now have had a good deal of experience with environmental cures. The Nation today has a wealth of trained environmentalists and risk analyzers. What we need to do is to use them to help us make sensible public analyses and comparative risks. These overall comparisons of risks are badly needed and have been neglected for too long. To help correct this, I have introduced a bill, H.R. 4939, to encourage better use of comparative risks by Government. The bill requires that risks from proposed "cures" be compared with the original risks they were meant to address. It also requires comparison between the risks within various groups of alternatives, such as between the various choices of foods, of transportation, and of energy.

In our competitive technological age, the United States must make much better use of comparative risks. It must look beyond just the risks from some present problem without first comparing them with the risks that would flow from the proposed solution itself, and from alternative routes. The Government should make these risk comparisons as a matter of policy as it considers proposed legislative and regulatory actions. I urge the interest of my colleagues in this effort, which will go a long way toward determining what kind of society we will live in in the 1980's and beyond. ●

DUST IS UNCONTROLLABLE AND NOT HARMFUL

HON. CHARLES E. GRASSLEY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. GRASSLEY. Mr. Speaker, as you know, I am deeply concerned that the policymakers and regulation writers at EPA have decided that we in Iowa and those in other agricultural States must now spend money to somehow clean up the dirt on our farms. "Dust is dust" they say, and dust counts as a pollutant whatever the source. They admit that we have no health problem but they are only trying to safeguard our general welfare. This is so, even if we must clean up the dirt on our farms.

I think it is time to put some public focus on this issue—in the House Agriculture Committee, in the Interstate and Foreign Commerce Committee, with my colleagues, with the farming community and with the mayors and county officials of the agricultural areas of this country.

That is why yesterday I introduced a bill which would direct EPA to recognize that dust in Iowa and other agricultural

States is a fact of life, that it is not harmful and that it is basically uncontrollable. The rationale behind this legislation is eloquently expressed in an article written by Mr. William Burger, chairman of the Iowa Development Commission. I include a copy of this article in the RECORD at this point:

[From the Des Moines Register,
Aug. 3, 1979]

DUST IN IOWA IS A FACT OF LIFE

(By William Burger)

The Environmental Protection Agency's tentative rejection of two key provisions in Iowa's clean-air plan is a classic example of bureaucratic short-sightedness. While clinging to misconceptions about Iowa's rural-oriented economy and the requirement for mandatory pollution control equipment, EPA has lost hold of an indispensable tool—common sense.

Although it conditionally approved Iowa's clean-air plan, EPA rejected the plan's fugitive-dust provision and its lack of legislation requiring "reasonably available control technology" in areas where pollutants must be reduced. The move was ill-conceived.

Since the Clean Air Act amendments of 1977 were passed, requiring states to submit revised implementation plans, EPA has twice gone on record stating that rural fugitive dust requires "special consideration" when incorporated into clean-air plans. EPA has not decided—contrary to some reports—that dust is dust and has to be counted, whatever the source. If anything, EPA has decided not to decide on a singular fugitive-dust policy. But even that remains unclear.

Last April, officials of Iowa's Air Quality Commission and representatives from the Kansas City and Washington, D.C., EPA offices met to discuss the dust issue. EPA officials from both offices stated that their fugitive-dust policy was designed to give states as much latitude as possible in dealing with non-traditional sources of dust. They went a step further, telling Iowa officials that the policy was purposely left vague to allow for case-by-case review.

Iowa's Air Quality Commission proceeded accordingly. Recognizing Iowa's unique character as a farm state, the commission developed an implementation plan that would achieve the primary health standard and realistically recognize the role and character of fugitive dust. The proposed plan has obtained non-partisan endorsement from Iowa's congressional delegation.

Yet, contrary to all previous written and stated policy and common sense, EPA rejected the two key provisions.

Common sense has a large hand in Iowa's fugitive-dust policy for several reasons, the most prominent being that Iowa's industry is already meeting the standards and cleaning up its share of pollutants. Iowa's Department of Environmental Quality's annual report states that, "90 percent of all major industries were in compliance with emission standards, and another 5 percent were on compliance schedules."

If the state's industry is already cleaning up its share, who's going to clean up the fugitive dust EPA wants washed from Iowa's air? The taxpayer will, at a cost of billions.

If EPA's rejection of the fugitive-dust provision goes unchallenged, Iowa cities and counties will be forced to spend enormous sums on "offset" projects designed to reduce sources of dust, such as paving dirt and gravel roads. EPA estimates that 3.95 pounds

of dust are generated for each vehicle-mile traveled on an unpaved road. More than 78,000 miles of Iowa's 112,619 miles of highways are unpaved. Putting concrete on these roadways (assuming one mile of concrete costs about \$165,000) would cost Iowa taxpayers more than \$13 billion. Asphalt or blacktop wouldn't be much cheaper.

Add to these costs the financial burden of requiring industry to install additional control technology, and you have a severely crippled state economy.

A hint of audacity also underscores EPA's demand for specific legislation to be passed by the Iowa Legislature. Debate should be left up to the elected representatives of Iowa.

The heart of the issue needs to be addressed: Iowa is an agricultural state, with 94 percent of its land devoted to agricultural use. Natural "background" pollutants account for roughly one-third of Iowa's air quality, while cities and industries add approximately another third. The rest is rural fugitive dust, which the wind carries into urban townships.

Dust in Iowa is a fact of life. It is uncontrollable—a lid can't be put on it, filters can't catch it, and pavement can't be poured over all of it. Farmers, as resourceful as they are, can't grow corn from concrete.

Iowans and DEQ have developed a clean-air plan that is sound and healthy for Iowa. The state should defend its position vigorously and resist any EPA changes, challenging the federal agency in court, if necessary. Then, at least the issue will be settled in an arena of justice, fairness and, above all, common sense.

I am hopeful that this legislation will help begin to focus debate on this issue right now, before agricultural States find themselves greatly disadvantaged by this unrealistic and wrong headed policy. The EPA already has the authority to change its policy in this area. I suggest they do it before they have to defend it before the representatives of the farm States of the country.●

SISTER CAROLYN LOPEZ OF DENVER; A DISSENTER TO POPE JOHN PAUL II

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mrs. SCHROEDER. Mr. Speaker, the recent visit of Pope John Paul II to the United States was a grand tribute to a fundamental right of all Americans: the freedom of religion. During his visit, the Pope issued declarations of love, equality, and compassion. However, there were also reactionary condemnations of birth control, divorce, abortion, homosexuality, and the exclusion of women from full participation in the Catholic ministry. Just as we honor one's right to worship as he or she chooses, so we must honor the right of those to express dissenting views within their own religion. There are many Catholic women

who do not agree with all of the Pope's pronouncements and who have not had an opportunity to express their views.

It is to all Christians that we address a fresh and insistent call to action. It is not enough to recall principles, state intentions, point to crime, injustices, and other prophetic denunciations. These words will lack real weight unless they are accompanied for each individual by the lively awareness of personal responsibility and by effective action.—A letter addressed to Cardinal Maurice Roy, May 1971, Pope Paul VI.

I would like to submit the following letter sent by Sister Carolyn Lopez of Denver, one of the dissenters, to Pope John Paul II explaining her position:

OCTOBER 11, 1979.

DEAR POPE JOHN PAUL II: It is only days since your visit to our United States of America. You came with words of challenge to us. You addressed the ills of our society: discrimination, materialism, the arms race, and irresponsibility to the destitute. You came among us and allowed us to touch you and pray with you. Thank you.

You addressed so well the realities of the world community, but where is the challenge of human rights of the people of God in the Roman Catholic Church? Our Church has emerged from a patriarchy era which no longer exists today as before. Are we to remain a "sexist" institute and call it "ordained"? Where are the faithful to go with talents in management, education, and preaching? No longer can we continue to deny participation to those whose lives are directly affected by major decisions made by Church leaders.

I write to say clearly where I stand and I do not stand alone. I stand in solidarity with all women out of love and concern for the Church. I stand to call the church to repentance for the injustice of sexism and belief that she can change. I stand against oppression in a society where women and children suffer and are denied their rights. I stand against oppression where sexism, racism and classism are interrelated and morally wrong. I stand that the Church may be challenged to address sexist structures and the reinforcement of those structures. I stand to challenge the Church to question the exclusion of women from sacramental ministry, thus limiting our potential for fullness of service. I stand against clericalism that stifles the richness of all God's people to answer the call to minister in the fullness of the Spirit.

Women have nurtured much of the life of the Church over the centuries and so I ask that you consider carefully the potential of women. As Life came to the world through a Woman, so today I believe, in the Spirit of Mary, life can continue to be manifested. The time is ending that women will continue to endure the psychological experience of second-class citizens before God, and be spectators in the balcony of the Church.

"* * * if one member suffers, all the members suffer with it." (I Cor. 12:16) The time has come for the suffering to stop and the healing to begin. I ask that you continue to be a leader for the world and also to our Church. May you lead all your brother priests to embrace all God's people with the conviction that "all are created equal" before the Creator.

Todo es gracias!

Sister CAROLYN LOPEZ, O.L.V.M.●

THE MISSING 30,000

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1979

● Mr. HALL. Mr. Speaker, today the Subcommittee on International Organizations, on which I am honored to serve, will hold the last in a series of hearings on the phenomenon of disappearances.

The increasing "disappearances" of real or imagined opponents of repressive regimes is a new and alarming trend in human rights violations. In an article in today's Washington Post, our distinguished subcommittee chairman, DON BONKER, describes this latest challenge to international respect for human rights.

I commend Chairman BONKER's excellent article to the attention of my colleagues:

[From the Washington Post, Oct. 18, 1979]

THE MISSING 30,000

(By DON BONKER)

It is 7 a.m. Five men in civilian clothes burst into a home and seize a 23-year-old man. The chief of the gang tells the young man's mother that her son has been named a subversive by a prisoner under custody and is being taken in for questioning. She is told that she can inquire about her son the following day. But the next day—and a thousand days later—the police deny knowing anything about him.

In another incident, a 31-year-old woman who lives through the terror of imprisonment and returned to tell about it reports: "I was told by my captors I was not detained, nor disappeared. I was just absorbed, kidnapped, sucked up."

Scenes from "Holocaust"? No, these incidents are examples of a new phenomenon in the violation of human rights called the "disappeared person." This brutal and cynical practice is occurring almost daily in a significant number of countries. It is further evidence that the 20th century has not spent itself of horrors.

Though the phenomenon of the "disappeared person" is prevalent worldwide, most documentation comes from South and Central America. At a recent human-rights conference in Chile, the secretary general of Amnesty International estimated that in the last decade some 30,000 Latin Americans have disappeared. The number of documented missing reaches the hundreds in parts of Africa and Asia, as well as in Brazil, Uruguay and Paraguay. These numbers soar to the thousands in Chile and Argentina.

Since the military coups in Chile and Argentina, many thousands have disappeared without a trace after arrest by police, security forces or parapolice. In certain cases, husbands and wives have been taken together, sometimes with their young children.

Tragically, a substantial number of unaccounted-for children have been abducted or have been born in captivity to pregnant kidnap victims. No attempts have been made by governments to investigate such disappearances, and these abuses continue unchecked.

After a recent visit to Buenos Aires, V. S. Naipaul wrote: "There is still, for the distinguished or well-known, legal arrest on specific charges. But below that there is no

law. People are taken away and no one is responsible. The army refers inquirers to the police and the police refer them back to the army. A special language has developed: an anxious father might be told that his son's case is 'closed.' No one really knows who does what or why; it is said that anyone can now be made to disappear, for a price."

In Argentina, one does not need to be a terrorist to be arrested, tortured or murdered. It is enough to have belonged to a trade union or a student organization or to have helped persons classified by the military as "subversive." People are simply picked up, some to return as corpses, minus their heads and hands to prevent identifica-

tion. A few are released and warned not to speak, but most are subjected to brutal conditions in secret camps.

Until recently, little international attention focused on this terrifying violation of human rights. In the last session of the United Nations General Assembly, a resolution was passed asking for intergovernmental cooperation to search and account for the disappeared.

More recently, a subcommission of the United Nations adopted a resolution stating that disappearances continue to occur and that the "dangers involved for such persons warrant urgent reaction." If the situation were to continue, the subcommission recom-

mended, some form of emergency remedy must be applied by the international community.

The House International Organizations Subcommittee will hold today the last in a series of hearings on the phenomenon.

If, as President Carter has said, human rights is the "soul of American foreign policy," then we as a nation steeped in traditions of freedom and justice must respond to the mounting evidence. We must let the word go forth to the relatives of the disappeared, to those locked in secret detention camps and to the exiles around the world that "if you are silenced, we will speak for you." ●

SENATE—Friday, October 19, 1979

(Legislative day of Monday, October 15, 1979)

The Senate met at 12 noon, on the expiration of the recess, and was called to order by Hon. HOWARD M. METZENBAUM, a Senator from the State of Ohio.

PRAYER

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

Let us pray.

O God of men and nations, we come to Thee with thanksgiving for our precious heritage. We know that freedom comes not as an individual attainment but as an obtainment—Thy gift to man as part of his createdness. We know too that individual worth and dignity derive not from the State but from the Creator Spirit and that every man has value because he is an immortal soul with an eternal destiny. Then wilt Thou give us grace and wisdom to comport ourselves according to the high vision of the Founding Fathers? Be with all who serve in the Government keeping our inner life pure and our outer life strong.

Through Him who gave His life for the many. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 19, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HOWARD M. METZENBAUM, a Senator from the State of Ohio, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

THE JOURNAL

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

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

LOW INCOME ENERGY ASSISTANCE

Mr. ROBERT C. BYRD. Mr. President, skyrocketing energy prices, coupled with double-digit inflation, are forcing each of us to make difficult choices. Family budgets are strained to the very limit. With winter approaching, the poor and the elderly fear that they will not be able to afford to heat their homes. Faced with the frightening choice between food and heat, many American families are desperately in need of assistance to offset the impact of excessive heating bills and other energy costs.

On October 18, the Senate acted to insure that adequate and immediate funding will be provided for energy assistance for low-income families. In approving an amendment sponsored by the distinguished Senator from New York (Mr. JAVITS) and the distinguished Senator from Massachusetts (Mr. KENNEDY) to the Interior appropriations bill, the Senate expressed a real concern and sensitivity for the plight of a significant portion of this Nation's population. Through the adoption of this amendment, which provides \$1.2 billion to the Community Services Administration for assistance to the elderly and certain low-income families for home heating bills, the Senate indicated a commitment to providing for the needs of those most affected by increased energy costs.

On Tuesday, I joined with Senator HUDDLESTON, the distinguished floor manager, in opposing the Javits amend-

ment as originally written. The amendment, as introduced, made transfers from one account to another which we found undesirable.

Subsequently, I was pleased to work with Senators JAVITS and HUDDLESTON to modify the amendment.

The amendment was modified to provide for a direct appropriation, rather than a transfer of funds. I supported adoption of the amendment in that form.

I was pleased to do so. There were a great many other Senators who also, having taken the previous position, joined in supporting the modified version.

According to information recently provided by the Department of Energy, while the Consumer Price Index for the years 1972 to 1978 increased 55.9 percent overall, fuel prices increased 151 percent. In 1978, the average middle-income family spent 10.4 percent of their income on direct expenditures for energy, while low-income families spent more than one-fourth of their income on such expenses. Last year, home heating oil averaged 45 cents a gallon; this year the price is expected to exceed 80 cents a gallon. This means that some families will spend almost 50 percent of their income to heat their homes and drive their cars. As energy prices have far outstripped increases in income for most Americans, these soaring prices mean genuine hardship and sacrifice for many of our citizens.

The funds which the Senate approved, together with the \$250 million already approved in the Labor-HEW appropriations bill, will provide energy assistance to those who need it as soon as possible. The Community Services Administration has already issued regulations to get this program moving. This money will allow us to deal with the critical problem which we are about to face, while allowing other committees to develop more permanent assistance programs.

Both the Senate Finance Committee and the Labor and Human Resources Committee are preparing legislation to provide for low-income energy assistance and it is expected that these meas-

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.